

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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MAY 26 2015

SC Court of Appeals

Appeal from Fairfield County  
Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

Respondent,

v.

DEREKEE JOHNSON,

Appellant.

Appellate Case No. 2014-000920

MOTION TO ENLARGE TIME FOR  
FILING INITIAL BRIEF OF RESPONDENT AND  
DESIGNATION OF MATTER

The Respondent, above-named, hereby makes a third motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until June 25, 2015. The Initial Brief of Respondent in the above action is due to be filed today, May 26, 2015. Respondent's below-signed counsel submits that good cause has been shown:

I.

This motion is made because the Respondent has not been able to respond within the allotted time for the following reasons:

1. Counsel for the undersigned has had a number of other commitments in State and Federal court that have precluded timely completion of the Return. Counsel for the undersigned has had a number of other commitments in State and Federal court that have precluded timely completion of the Initial Brief of Respondent. In the last

month, below-signed counsel below-signed counsel was also actively preparing for a merit hearing on April 27, 2015 in the Stephen Stanko v. State PCR action related to the Georgetown convictions, but due to an intervening issue is no directly longer directly involved in the handling of the matter other than through supervision because of a medical issue. Respondent has filed a Supplemental Return in Deborah Sanders v. State, on April 29, counsel had filed a status report response in the federal habeas corpus action in Lentigus Floyd v. Warden per court order and on May 1, 2015 counsel filed a court ordered amended response and motion for summary judgment in the Kevin Mellette v. Warden federal habeas corpus action due May 4, 2015; filed a court-ordered amended return and amended motion for summary judgment on May 4, 2015 in Ismael Cruz v. Warden federal habeas corpus action; and on May 6, 2015 filed a return and memorandum of law in the federal habeas matter of Joshua Manning v. Warden; on May 12 in State v. Marvin Brown - STATE APPEAL filed an Initial Brief of Appellant; on May 12, 2015 had a hearing in John Wood v. State, a death penalty PCR action before Judge Mark Hayes concerning the state's motion to dismiss; on May 14 in State v. Antonio Gordon filed a Final Brief of Respondent; on May 14, 2015 prepared a Court-ordered response to motion for transcript in State v Prince Snipes in the South Carolina Court of Appeals for filing on May 18, 2015; **on May 17, 2015 traveled to Raleigh, N.C. for a May 18 for a de bene esse deposition in Quincy Allen v. State – DP PCR hearing;** on May 20, 2015 filed a federal habeas corpus Return and Memorandum of Law in Curtis Pratt v. Warden . Traveled to Moncks Corner for a hearing on counsel appointment in the death penalty guilt has PCR action in Jesse Sapp v. State of South Carolina before Judge Nettles. Counsel also is preparing the Return in James Russell for filing on May 27,

a reply to the response in Stephen Beckham v. Warden due May 26 and petitions for rehearing in Binney v. State , Kamel Evans v. State , and John K. Hughey v. State due May 28.

2. On April 21, 2015, below-signed counsel had a heart procedure at Richland Heart Hospital and was on medical leave through April 28, 2015.
3. Respondent's below signed counsel's current calendar presently has the following projected matters due in the next thirty days.
  - a. **\*May 26, 2015 – State v. Derekee Johnson - Initial Brief of Respondent.**
  - b. **May 26, 2015 – Stephen Beckham v. Warden - Rsply to Response for Motion for Summary Judgment**
  - c. May 26 - Samuel Stokes v. Warden – Federal Habeas Return .
  - d. May 26 – Stephen Beckham – FHC – Reply to Response to Motion for Summary Judgment.
  - e. May 27 – State v. John James Bell –DNA Appeal – Return to Petition for Certiorari
  - f. May 27 - James Russell v. Warden – Federal Habeas Return
  - g. May 28, 2015 – John Hughey v. State – Petition for Rehearing.- Supreme Court
  - h. May 28, 2015 – Kamell Evans v. State – Petition for Rehearing. – Supreme Court
  - i. May 28, 2015 – Jonathan Binney v. State – Petition for Rehearing – Supreme Court
  - j. June 1 – Terry Davis – FHC Return.
  - k. June 8 – State v. Ernest Daise – Initial Brief of Respondent

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- l. June 8 – Steven Roberts – FHC Return.
- m. June 17 – State v. Armando Chestnut – Initial Brief of Respondent
- n. June 19 - Landis Moragne v. Warden – Federal Habeas Return –
- o. June 19 – State v. Jeffrey Chronister – Initial Brief of Respondent
- p. June 22, 2015 – Donald Weatherhall v. Warden - FHC Return
- q. June 26 – State v. Kevin Howard – Initial Brief of Respondent
- r. June 26 – Samuel Stokes v. Warden – Federal Habeas Corpus Return.
- s. June 26, 2015 – State v. Derekee Johnson – Initial Brief of Respondent –  
projected date.

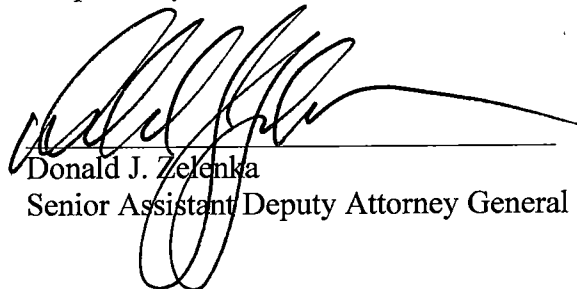
II.

Counsel has contacted the office of opposing counsel, R. Morrison M. Payne and she consents to this request on behalf of her client.

III.

Wherefore Respondents respectfully request an extension of a period of thirty (30) days up to and including June 25, 2015 to complete the Initial Brief of Respondent upon a showing of good cause for the request.

Respectfully submitted,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General

May 26, 2015

I concur that good cause has been shown.



John W. McIntosh, Chief Deputy Attorney General.

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**CERTIFICATE OF SERVICE**

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I, **Donald J. Zelenka**, hereby certify that I have served the Motion to Enlarge Time for Filing Initial Brief of Respondent and Designation of Matter in the foregoing action by depositing copy of same in the United States Mail to R. Morrison M. Payne, Esquire. P.O. Box 315, Walterboro, SC 29488 and the InterAgency Mail to Robert M. Dudek, Chief Appellate Defender, SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201, this 26<sup>th</sup> day of May, 2015.

  
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DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General