

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable R. Markley Dennis, Jr., Circuit Court Judge
Appellate Case No. 2014-000766

RECEIVED
AUG 13 2015
SC Court of Appeals

THE STATE,

Respondent,

vs.

DEVIN JOHNSON,

Appellant.

**MOTION FOR FIFTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND
DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a fourteen (14) day extension in which to file the Initial Brief of Respondent in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due tomorrow, Friday, August 14, 2015, upon this Court's grant of Respondent's fourth request for an extension filed on July 31, 2015.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend to. Specifically,

1. Counsel prepared the Final Brief of Respondent in the Lancaster County murder appeal matter of The State vs. Al Martinez Green on July 20, 2015;

2. Counsel prepared the Initial Brief of Respondent in the Horry County murder appeal matter of The State vs. Vivian Lynn Schrader-Falls on July 27, 2015;

3. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Christopher Dean Johnson, #242032 vs. R.H. Mauney, C/A No.: 5:15-01232-MBS-KDW, also on July 27, 2015;

4. Counsel prepared for and attended a hearing in the capital post-conviction relief matter of Gary Dubose Terry, #5054 vs. State of South Carolina. The hearing took place in Berkeley County before the Honorable William P. Keesley, on July 29, 2015;

5. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Michael Lee Montgomery, II, #343230 vs. State of South Carolina, C/A No.: 2:15-2264-RMG-MGB on August 4, 2015;

6. Counsel filed a Status Report in the matter of James Robertson, #5067 vs. Jon Ozmint, C/A No.: 2:11-63-TMC-MGB, a capital Federal Habeas matter now pending in the United States District Court for the District of South Carolina on August 6, 2015;

7. Counsel also filed a Status Report in the matter of Gary Dubose Terry, #5054 vs. William R. Byars, Jr., Commissioner, South Carolina Department of Corrections, C/A No.: 4:12-01798-SB-TER, another capital Federal Habeas matter pending in the United States District Court for the District of South Carolina on August 6, 2015;

8. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of David Molina, #315546 vs. Cecilia Reynolds, C/A No.: 2:15-1263-RBH-MGB on August 11, 2015;

9. Counsel is currently preparing the Initial Brief of Respondent in this matter. However, State's Exhibit 56 is a five (5) hour video interview with the Appellant. Although

Counsel could not initially hear the audio track for this DVD due to the propriety rights of the company that supplied the software, counsel is now able to view the DVD and anticipates filing the Initial Brief of Respondent prior to the requested fourteen days.

However, due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Initial Brief of Respondent in this proceeding. Thus, counsel is requesting an extension of time in which to file the Initial Brief in this matter. This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests a fourteen (14) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully Submitted,

ALAN WILSON
Attorney General

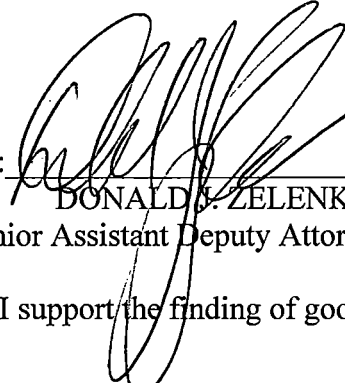
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By: 
WILLIAM EDGAR SALTER, III

By: 
DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I support the finding of good cause.

ATTORNEYS FOR RESPONDENT

I concur that extraordinary circumstance have been shown.

A handwritten signature in cursive script that reads "Alan Wilson". The signature is written in dark ink and is positioned above a horizontal line.

ALAN WILSON
Attorney General

August 13, 2015

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PROOF OF SERVICE

I, William Edgar Salter, III, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a fifth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, Susan Hackett, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

I further certify that all parties required by Rule to be served have been served.

This 13th day of August, 2015.


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