

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Abbeville County

J. Mark Hayes, II, Circuit Court Judge

Opinion No. 4957 (S.C. Ct. App. filed March 28, 2012)

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SEP 07 2012

S.C. Supreme Court

THE STATE,

PETITIONER,

V.

JIMMY PAUL MCKERLEY,

RESPONDENT

Appellate Case No. 2012-212272

PETITION FOR EXTENSION OF TIME TO FILE
THE RETURN OPPOSING THE STATE'S MOTION
TO SEAL ALL DOCUMENTS ON APPEAL AS OVERBROAD

The undersigned counsel respectfully requests a **five day extension, until September 12, 2012**, in which to file the return opposing the state's motion to seal all documents on appeal as overbroad in the above-referenced case. Counsel will explain the reasons for requesting this extension in the return to be filed next Wednesday, September 12, 2012. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The return opposing the state's motion to seal all documents on appeal as overbroad in this case is due to be served and filed today.

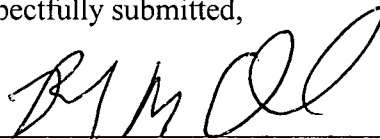
2. Counsel is filing the petition for writ of certiorari and accompanying appendix in the **death penalty case** of Marion Alexander Lindsey v. State (with Co-Counsel David Alexander) **with this Court today, September 7, 2012**. In addition, Counsel is preparing to file the petition for writ of certiorari and accompanying appendix in the **death penalty case** of James Robertson v. State (with Co-Counsel Matt Bogan, pro bono, of the Nelson Mullins firm) with this Court next Friday, September 14, 2012. Counsel filed the petition for rehearing in the case of State v. Randy Vickery with the Court of Appeals on September 6, 2012. Counsel had a remand hearing on September 4, 2012, in State v. Richard Gagnon, on a motion for a new trial based on after-discovered evidence in that murder case in Conway, South Carolina. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Robert Jolly with the Court of Appeals on August 27, 2012. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Anthony Wade with this Court on August 23, 2012. Counsel filed the brief of petitioner in the case of Adams Gibson v. State with this Court on July 23, 2012. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Richard Bernard Moore v. State, (capital case) with Co-Counsel Susan Hackett, with this Court on July 18, 2012. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Charles E. Copeland v. State with this Court on July 9, 2012.

3. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

WHEREFORE, the undersigned counsel would respectfully request a **five day extension, until September 12, 2012**. Counsel respectfully requests that the time limits for filing the return

opposing the state's motion to seal all documents on appeal as overbroad be held in abeyance pending a ruling on this motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R M Dudek", written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

September 7, 2012

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THE STATE,

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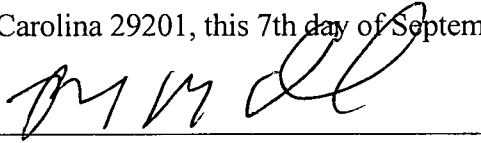
V.

JIMMY PAUL MCKERLEY,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the petition for extension to file the return opposing the state's motion to seal all documents on appeal as overbroad in the above referenced case has been served upon Christina Catoe, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 7th day of September, 2012.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR PETITIONER.

SUBSCRIBED AND SWORN TO before me
this 7th day of September, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013 .