

STATE OF SOUTH CAROLINA
In the Supreme Court

CAPITAL CASE
Appeal from Spartanburg County
Roger L. Couch, Circuit Court Judge

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OCT 19 2015

S.C. Supreme Court

The State of South Carolina,

Respondent,

v.

Ricky Lee Blackwell,

Appellant,

Appellate Case No.: 2014-000610.

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

Respondent, the State, moves this Court for an additional thirty (30) day extension of time in which to file the Initial Brief of Respondent and Designation of Matter. This is Respondent's fifth request for an extension of time in which to file the brief. However, undersigned counsel has completed substantial work on the brief and believes that absent extraordinary circumstances, the brief will be filed within the time request. In support of the request, undersigned counsel would respectfully show the Court:

1. Undersigned counsel for Respondent has been scheduled for a number of state and federal matters in the last thirty (30) days, that include, but are not limited to, the following: prepared and filed returns and memoranda of law in support of motion for summary judgment in two (2) federal habeas actions (*Anthony Wilson; Tyquan Jones*); prepared for and presented argument in this Court in a non-capital murder direct appeal (*David Johnson*); prepared and filed a motion to strike/dismiss claim in a capital PCR action, and a reply to the response in opposition to the motion (*William Dickerson*); prepared for and attended a motions hearing, participated in a status conference, and prepared a motion for

an order allowing release of a criminal history run and proposed order, in the same capital PCR action (*William Dickerson*); reviewed and approved a listing of documents for the joint appendix, and reviewed the brief of petitioner, in another federal habeas matter in the Fourth Circuit Court of Appeals (*Charles Richey*); reviewed and approved joint status report filed in a capital federal habeas action presently stayed pending resolution of a successive capital PCR action which undersigned counsel has been advised will not be decided until this Court rules upon *Robertson v. State* (*Brad Sigmon*); and, prepared and filed in circuit court a motion to dismiss a PCR action, where the inmate was granted a re-trial in his capital case and no conviction presently exists to sustain the collateral action (*Steven Barnes*). Further still, in light of an evidentiary hearing previously scheduled to begin October 19, 2015 in one of the capital cases in PCR listed above, counsel had been preparing for the hearing and engaging in completion of discovery; however, due to multiple pre-trial issues left unresolved and the inability to address some matters due to inclement weather resulting in closings of offices and the Richland County courthouse, and an inability to transport the inmate due to flooding and road closures, counsel has worked with the presiding judge and opposing counsel to reschedule the evidentiary hearing before the end of the year (*William Dickerson*). However, substantial work in preparation for that prior date was completed as it was a priority given the scheduled evidentiary hearing. Even so, counsel has worked on the instant brief and has made substantial progress in completing the remaining issues to be addressed.

2. Due to her heavy case load, agency closures due to inclement weather, and rescheduling of priorities based on same, undersigned counsel has not been able to complete the initial brief in this appeal. However, counsel has made completion of the instant brief a priority, and has obtained extensions for work in other courts so that she may concentrate on completing the briefing.

3. This is the fifth request for an extension of time in which to file a response. This request is not made for simple delay but from necessity for the above listed reasons.

THEREFORE, undersigned counsel for Respondent respectfully requests an additional extension of thirty (30) days to complete the initial brief of respondent and designation of matter.

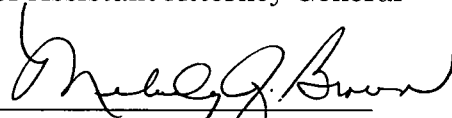
Respectfully submitted,

ALAN WILSON
Attorney General

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DONALD J. ZELENKA
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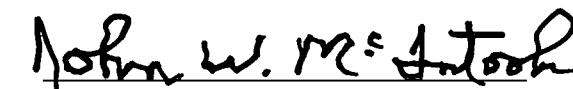
October 19, 2015.
Columbia, South Carolina.

ATTORNEYS FOR RESPONDENT

I have reviewed and approved this request.

I have reviewed and approved this


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General


JOHN W. MCINTOSH
Chief Deputy Attorney General

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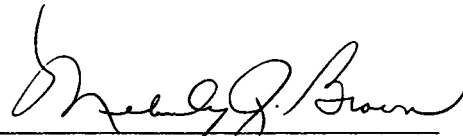
Appellate Case No.: 2014-000610.

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served Respondent's Motion for a Fifth Extension of Time on counsel for Appellant, by depositing one copy of same in the United States mail, postage prepaid, to counsel for appellant, addressed as follows:

Robert M. Dudek, Chief Appellate Defender
David Alexander, Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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This 19th day of October, 2015.



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ATTORNEY FOR RESPONDENT