

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Horry County  
Edward B. Cottingham, Circuit Court Judge

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RECEIVED  
OCT 28 2015  
SC Court of Appeals

STATE OF SOUTH CAROLINA,

Respondent,

v.

JOSHUA GRIFFITH,

Appellant

Appellate Case No. 2014-000066

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RESPONDENT'S MOTION TO EXTEND TIME TO FILE  
INITIAL BRIEF OF RESPONDENT

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The Respondent, above-named, hereby makes a fourth motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until November 27, 2015. The Initial Brief of Respondent in the above action is due to be filed October 28, 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. Undersigned Counsel has had a number of other commitments in State and Federal court that have precluded timely completion of the Initial Brief of Respondent. Since the last request, below-signed counsel: Counsel has had a number

of other commitments in State and Federal court in the matters assigned to him that have precluded timely completion of the Petition for Writ of Certiorari. Counsel notes that state government offices were closed on October 5, 6, 8, 9 due to the flooding occurring in South Carolina and particularly in Columbia.

Recently, below-signed counsel completed:

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- a. on September 15, 2015 attended a motion hearing in another capital matter, Bayan Aleksey v. State before Judge Early in Barnwell, S.C. on the state's motion to dismiss the application, opposition to motion to stay and state motion for a mental retardation - intellectual disability evaluation;
  - b. on September 16, 2015 prepared for filing a return and motion in the federal habeas corpus matter of Andre Martin v. State;
  - c. on September 13, 2015 filed Initial Brief of Respondent in State v. Armando Chestnut.
  - d. Derek Brown v. State – Supreme Court of the United States – reviewed petition for brief in opposition review and waiver letter prepared – Sept. 17, 2015.
  - e. State v. Thomas Stewart, S.C.S.Ct. – filed petition for writ of certiorari - Sept, 21, 2015.
  - f. John Garvin v. Warden – Supreme Court of the United States– preparation and review of certiorari petition and waiver preparation - September 22, 2015.
  - g. State v. Marcus Roberts – Final Brief of Respondent – filed September 24.
  - h. Raymond McCarter v. Warden – federal habeas Return – preparation for filing October 30.
  - i. On October 2, 2015 filed a Return and Motion for summary judgment in Terrence Goodman v. Warden – federal habeas corpus matter.
  - j. On October 2, 2015, filed a Final Brief of Respondent in State v. Derekee Johnson in the South Carolina Court of Appeals.
  - k. October 8, 2015 – James Robertson v. State – Oral Argument – South Carolina Supreme Court - prepared to argue portion and attended though did not argue.
  - l. October 9, 2015 – Andre Martin v. Warden - filed Federal habeas corpus Return.
  - m. October 13, 2015 – State v. Demetriss Glenn – oral argument- SC Court of Appeals – prepared and attended but did not argue.
  - n. October 13, 2015 – State v. Blaton Smith – Initial Brief of Appellant – South

Carolina Court of Appeals -prepared and filed this date.

- o. October 13, 2015 – State v. Shaheed Hayes – Initial Brief of Respondent – South Carolina Court of Appeals prepared and filed this date.
- p. October 14, 2015 – Donna Redding v. Warden - Federal Habeas Court – prepared and filed court-ordered Reply to Response to Motion for Summary Judgment.
- q. October 20, 2015 - State v Earnest Daise - direct appeal - travel to Beaufort County Courthouse for exhibits review
- r. October 22, 2015- prepared and filed applications for an extension of time to file petitions for writs of certiorari in three separate post-conviction relief death penalty appeals in the United States Supreme Court in No. 15A456 – South Carolina v. Kamell D. Evans (on certiorari to the Court of Common Pleas for Greenville County) (SCSCt Docket 2011-188687); No. 15A455 – South Carolina v. Jonathan Binney (on certiorari to the Court of Common Pleas for Cherokee County Court of Common Pleas) (SCSCt 2011-188687); No. 15A454 – South Carolina v. John Kennedy Hughey (on certiorari from the Court of Common Pleas for Abbeville County) (SCSCt 2015-MO-029) (petitions initially due November 4, 2015 – extended to January 3, 2016)
- s. October 23, 2015 – Stephen Corey Bryant v. South Carolina, No. 15-6215 – Supreme Court of the United States – Brief in Opposition filed in death penalty post-conviction relief action.
- t. October 26, 2015 – Raymond McCarter v. Warden – Federal habeas corpus Return.(1)
- u. October 27, 2015 – Mar-Reece Hughes v. State – York County death penalty PCR status conference and motion for evaluation hearing – death penalty PCR – Judge Burch – Darlington Courthouse.
- v. October 27, 2015 – Donald Jones v. State – Lancaster County death penalty PCR status conference and motion for evaluation hearing – death penalty PCR – Judge Burch – Darlington Courthouse.

2. Petitioner's below signed counsel's current calendar presently has the following projected matters due in the relevant time period.

- a. October 28, 2015 - State v. Joshua Griffith – Initial Brief of Respondent –(3) (requested extension)

- b. October 30, 2015 – State v. Earnest Daise – Initial Brief of Respondent. (will be filed on this date).
- c. November 2, 2015 – State v. Tony Jordan - Initial Brief of Respondent.
- d. November 4, 2015 – Kevin Walton v. Warden - FHC Return (2).
- e. November 9, 2015 - Michael McKnight v Warden - FHC Return -15-5710 -
- f. November 12, 2015 – Matthew Jameson v. State - FHC Return (1).
- g. November 16 , 2015 – Marshall Miller v. Warden - Federal habeas Return (2) (extension to be requested this date) (projected)
- h. November 16, 2015 – Jonell Parker v. Warden – Federal Habeas Return (2)
- i. November 18, 2015 – Frank Tolan v. Warden - FHC Return (3) – no further extensions allowed\* .
- j. November 20, 2015 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court.
- k. Nov. 23, 2015 – Jernell Robinson v. Warden - FHC Return (1).
- l. Nov. 23, 2015 – State v. Quanell McIlvain - Initial Brief of Respondent – (2)
- m. November 23, 2015 – State v. Justin Johnson - Initial Brief of Respondent
- n. November 25, 2015 – Otis Compton v. Warden - Federal habeas corpus Return.
- o. November 27, 2015 - State v. Joshua Griffith – Initial Brief of Respondent – (4) (projected)
- p. December 10, 2015 – Perry Buchanan v. Warden - Federal habeas return.
- q. December 14, 2015 – Lance Lylès v. Warden - federal habeas return.
- r. January 4, 2016 - No. 15A456 – South Carolina v. Kamell D. Evans (on certiorari to the Court of Common Pleas for Greenville County) (SCSCt Docket 2011-188687) – petition for writ of certiorari.
- s. January 4, 2016 - No. 15A455 – South Carolina v. Jonathan Binney (on certiorari to the Court of Common Pleas for Cherokee County Court of Common Pleas) (SCSCt 2011-188687) – petition for writ of certiorari;
- t. January 4, 2016 - No. 15A454 – South Carolina v. John Kennedy Hughey (on certiorari from the Court of Common Pleas for Abbeville County) (SCSCt 2015-MO-029) (petitions initially due November 4, 2015 – petition for writ of certiorari.

3. Respondent has outlined the 877 page transcript in this matter but has been unable due to existing priorities to complete the briefing.

#### 4. HIGHEST PRIORITIES

- a. **October 30, 2015 – State v. Earnest Daise – Initial Brief of Respondent. (will be filed on this date).**

- b. November 18, 2015 – Frank Tolan v. Warden - FHC Return (3) – no further extensions allowed by court order.
- c. November 27, 2015 - State v. Joshua Griffith – Initial Brief of Respondent –(4) (projected)
- d. November 20, 2015 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court.

II.

Counsel has contacted opposing counsel Robert Dudek and Hank Ehlies about this request and they have no objection to the request.

III.

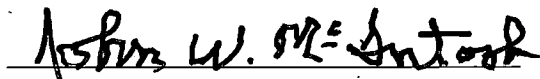
Wherefore Respondents respectfully request an extension of a period of thirty (30) days up to and including November 27, 2015 to complete the Initial Brief of Respondent upon a showing of good cause for the request.

Respectfully submitted,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General  
S.C. Bar #5758  
Attorney for Respondent

I concur that extraordinary circumstances have been shown.



John W. McIntosh

Chief Deputy Attorney General

October 28, 2015

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SC Court of Appeals

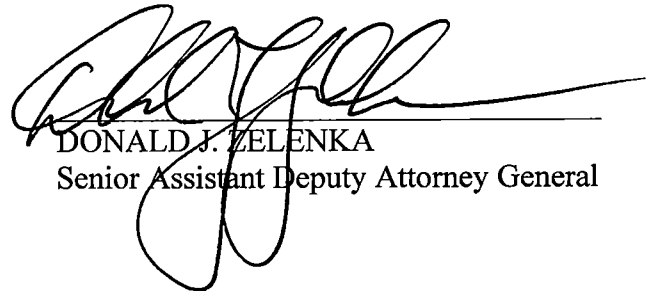
**CERTIFICATE OF SERVICE**

I, **Donald J. Zelenka**, hereby certify that a true copy of the Motion to extend time to file the Initial Brief of Respondent and Designation of Matter in the above referenced case has been served upon counsel for Appellant by depositing one copy of same in the InterAgency Mail to Mr. Dudek and by U.S. mail, with proper first class postage to Mr. Ehlies, respectively at:

Robert M. Dudek, Esq.  
Chief Appellate Defender  
SCCID/Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, SC 29201

William Harry "Hank" Ehlies, II, Esq.  
Ehlies Law Firm  
310 Mills Avenue, Suite 201  
Greenville, SC 29605

This 28<sup>th</sup> day of October, 2015.



DONALD J. ZELENSKA  
Senior Assistant Deputy Attorney General