

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Lancaster County  
Brian M. Gibbons, Circuit Court Judge

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**RECEIVED**  
NOV 25 2015  
SC Court of Appeals

STATE OF SOUTH CAROLINA,

Respondent,

v.

QUANELL MARQUAN McILWAIN,


Appellant

Appellate Case No. 2014-002539

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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 third motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until December 29, 2015. The Initial Brief of Respondent in the above action is due to be filed November 25, 2015.

Counsel has contacted opposing counsel, Appellate Defender David Alexander, and he has consented to this request on behalf of his client.

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:

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. Counsel for the undersigned has had a number of other commitments in State and Federal court that have precluded timely completion of the Return. Recently, below-signed counsel completed:

- a. October 13, 2015 – State v. Demetriss Glenn – oral argument- SC Court of Appeals – prepared and attended but did not argue.
- b. October 13, 2015 – State v. Blaton Smith – Initial Brief of Appellant – South Carolina Court of Appeals -prepared and filed this date.
- c. October 13, 2015 – State v. Shaheed Hayes – Initial Brief of Respondent – South Carolina Court of Appeals prepared and filed this date.
- d. October 14, 2015 – Donna Redding v. Warden - Federal Habeas Court – prepared and filed court-ordered Reply to Response to Motion for Summary Judgment.
- e. October 20, 2015 - State v Earnest Daise - direct appeal - travel to Beaufort County Courthouse for exhibits review.
- f. 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)
- g. 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.
- h. October 26, 2015 – Raymond McCarter v. Warden – Federal habeas corpus Return.(1)
- i. 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.
- j. 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.
- k. State v. Earnest Daise – murder direct appeal in case tried as death penalty case – seven issues 3100 page trial transcript – 88 pages brief filed November 6, 2015.

- l. November 13, 2015 – Ron Finklea v. State – death penalty PCR status and hearing – Judge Keesley – Lexington.
- m. November 16, 2015 – Jonell Parker v. Warden – Federal Habeas Return (2)
- n. November 18, 2015 – Frank Tolan v. Warden - FHC Return (3) – no further extensions allowed\*.
- o. Nov. 23, 2015 – Jermel Robinson v. Warden - FHC Return (1) – working on Return.
- p. Nov. 23, 2015 – State v. Quanell McIlwain - Initial Brief of Respondent – (2) – working on Brief.

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

- a. Nov. 23, 2015 – Jermel Robinson v. Warden - FHC Return (1).
- b. Nov. 25, 2015 – State v. Quanell McIlwain - Initial Brief of Respondent – (2)
- c. **November 30, 2015 – Otis Compton v. Warden - Federal habeas corpus Return (1) – working on Return for filing 11/30..**
- d. **November 30, 2015 - State v. Joshua Griffith – Initial Brief of Respondent –(4) – working on brief for filing 11/30**
- e. December 2, 2015 – State v. Tony Jordan - Initial Brief of Respondent (extended).
- f. **December 4, 2015 – Kevin Walton v. Warden - FHC Return (3)**
- g. December 10, 2015 – Perry Buchanan v. Warden - Federal habeas return.
- h. December 9, 2015 - Michael McKnight v Warden - FHC Return -15-5710 -
- i. December 13, 2015 – Matthew Jameson v. State - FHC Return (2) (projected)
- j. December 14, 2015 – Lance Lyles v. Warden - federal habeas return.
- k. December 16, 2015 – Marshall Miller v. Warden – FHC (3) .
- l. December 20, 2015 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court (1)
- m. December 23, 2015 – Jermel Robinson v. Warden - FHC Return (2) (projected).
- n. December 29, 2015 – State v. Quanell McIlwain - Initial Brief of Respondent – (3) – projected.
- o. **December 29-31, 2015 – William Bell v. State, Death Penalty Merits Hearing – Judge McIntosh – Anderson S.C.**
- p. **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.**
- q. **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;**
- r. **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.**
- s. January 4, 2016 – State v Ryan Deleston, Oral Argument – SC Court of Appeals.
- t. January 6, 2016 – State v David Penn – Oral Argument – SC Court of Appeals
- u. January 11, 2015 – John Wood v. State 2013-CP-23-5190 – DP PCR – Motion Hearing – Judge Mark Hayes.

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III.

Wherefore Respondents respectfully request an extension of a period of thirty-four (34) days up to and including December 29, 2015 to complete the Initial Brief of Respondent upon a showing of extraordinary circumstances for the request.

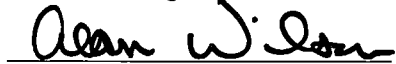
Respectfully submitted,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General  
S.C. Bar # 5788  
Attorney for Respondent

November 25, 2015

I concur that good cause has been shown.



Alan Wilson

Attorney General



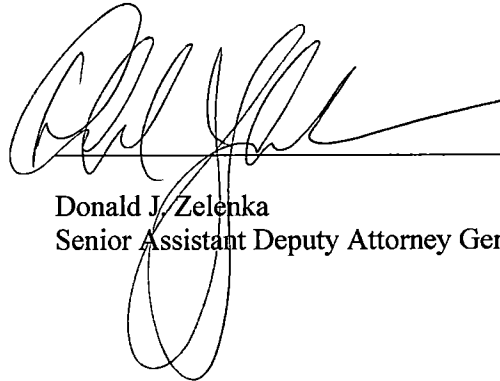
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**CERTIFICATE OF SERVICE**

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 addressed as follows:

David Alexander  
Appellate Defender  
SCCID/Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211

This 25<sup>th</sup> day of November, 2015.



Donald J. Zelenka  
Senior Assistant Deputy Attorney General

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SC Court of Appeals



ALAN WILSON  
ATTORNEY GENERAL

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SC Court of Appeals

November 25, 2015

Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211

Re: The State v. Qunaell Marquan McIlwain  
Appellate Case No. 2014-002539

Dear Ms. Kitchings:

Enclosed please find a Motion to Enlarge Time for filing Initial Brief of Respondent and Designation of Matter in the above-captioned matter for filing in your office. By copy of this letter, I am serving opposing counsel with same.

Sincerely,

Lonetta B. Brawley  
Legal Assistant to Donald J. Zelenka  
Senior Assistant Deputy Attorney General

/lbb  
Enclosure

cc: David Alexander, Esquire