

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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NOV 30 2015

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

SC Court of Appeals

STATE OF SOUTH CAROLINA,

Respondent,

v.

JOSHUA GRIFFITH,

Appellant

Appellate Case No. 2014-000066

**RESPONDENT'S MOTION TO EXTEND TIME TO FILE
INITIAL BRIEF OF RESPONDENT FOR TWO WEEKS**

The Respondent, above-named, hereby makes a final motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter for two weeks until **Monday December 14, 2015**. The Initial Brief of Respondent in the above action is due to be filed November 30, 2015. **No further extensions will be requested.** Respondent's below-signed counsel submits that extraordinary circumstances has been met:

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. Recently, below-signed counsel completed:

- a. 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)
 - b. 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. (Cert denied November 30, 2015)
 - c. October 26, 2015 – Raymond McCarter v. Warden – Federal habeas corpus Return.(1)
 - d. 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.
 - e. 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.
 - f. 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.
 - g. November 13, 2015 – Ron Finklea v. State – death penalty PCR status and hearing – Judge Keesley – Lexington.
 - 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. Nov. 23, 2015 – Jermel Robinson v. Warden - FHC Return (1) – working on Return.
 - k. November 30, 2015 – Otis Compton v. Warden - Federal habeas corpus Return (1) – working on Return for filing 11/30.
2. Petitioner’s below-signed counsel’s current calendar presently has the following projected matters due in the relevant time period.
- a. **November 30, 2015 – Otis Compton v. Warden - Federal habeas corpus Return (1) – working on Return for filing 11/30..**
 - b. **November 30, 2015 - State v. Joshua Griffith – Initial Brief of Respondent –(4) – working on brief for filing 11/30**

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

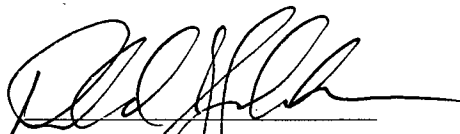
II.

Counsel has contacted opposing counsel Robert Dudek and Hank Ehliens this date by email about this request and they have no objection to the request.

III.

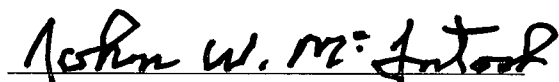
Wherefore Respondents respectfully request an extension of a period of thirty (30) days up to and including December 14, 2015 to complete the Initial Brief of Respondent upon a showing of good cause for the request.

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

November 30, 2015

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

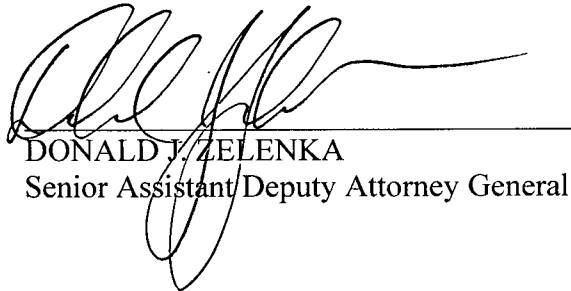
William Harry "Hank" Ehlies, II, Esq.
Ehlies Law Firm
310 Mills Avenue, Suite 201
Greenville, SC 29605

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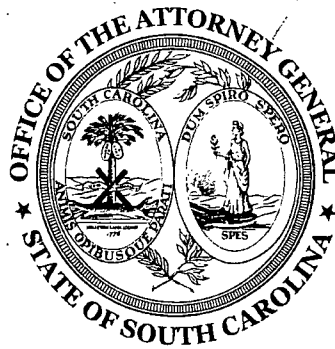
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SC Court of Appeals

This 30th day of November, 2015.



DONALD J. ZELENIKA
Senior Assistant/Deputy Attorney General



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

November 30, 2015

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

Re: The State v. Joshua Griffith
Appellate Case No. 2014-000066

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: Robert M. Dudek, Esquire
William H. Ehliens, II, Esquire