

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County
George C. James, Jr. Circuit Court Judge

RECEIVED
JAN 19 2016
SC Court of Appeals

STATE OF SOUTH CAROLINA,

Respondent,

v.

KEVIN CHOICE,

Appellant

Appellate Case No. 2013-0002735

**RESPONDENT'S SECOND MOTION TO EXTEND TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The Respondent, above-named, hereby make a second motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until February 18, 2016. The Initial Brief of Respondent in the above action is due to be filed January 19, 2016. Counsel has contacted the Appellant's counsel, Jeremy A. Thompson, who had advised counsel this date that he has no objections to the second request. 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:

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- a. December 10, 2015 – Perry Buchanan v. Warden - Federal habeas return – reviewed and filed.
 - b. December 9, 2015 - Michael McKnight v Warden - FHC Return -15-5710 - filed
 - c. December 13, 2015 – Matthew Jameson v. State - FHC Return (2) – filed
 - d. December 16, 2015 – Marshall Miller v. Warden – FHC (3) - filed (74 pages).
 - e. December 18, 2015 – James Bowers v. Warden - Federal habeas corpus hearing before Judge Gergel – Federal Courthouse – Charleston, SC
 - f. December 20, 2015 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court (1) – worked on - did not file – extension requested to January 20, 2016 – preparing to file.
 - g. December 23, 2015 – Jermel Robinson v. Warden - FHC Return (2) (projected).
 - h. December 28, 2015 – Marshall Miller v. Warden - Federal habeas corpus – court-ordered response to Motion for discovery.
 - i. December 29, 2015 – State v. Joshua Griffith – Initial Brief of Respondent - filed.
 - j. December 29-31, 2015 – William Bell v. State, Death Penalty Merits Hearing – Judge McIntosh – Anderson S.C. – prepared for hearing, but cancelled by Court on December 15 – rescheduled to March 2016.
 - k. 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 in United States Supreme Court .
 - l. 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 due in US Supreme Court ;
 - m. 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 due in US Supreme Court .
 - n. January 4, 2015 – State v. Tony Jordan - Initial Brief of Respondent (extended) (due this date).
 - o. January 4, 2016 – State v Ryan Deleston, Oral Argument – SC Court of Appeals. January 6, 2016 –

- p. State v David Penn – Oral Argument – SC Court of Appeals – second chair – prepared lead counsel Scrantom – January 8, 2016.
- q. January 11, 2015 – John Wood v. State 2013-CP-23-5190 – DP PCR – Motion Hearing – Judge Mark Hayes – Lexington County on Greenville conviction.
- r. January 13, 2016 – Lance Lyles v. Warden - federal habeas return.

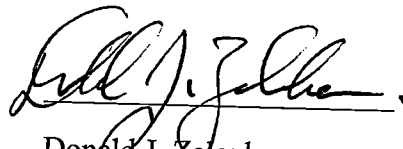
2. Petitioner's below-signed counsel's current calendar presently has the following projected matters due in the relevant time period.

- a. January 19, 2016 – State v. Kevin Choice- Initial Brief of Respondent
- b. January 19, 2016 – State v. Mandy Smith – Petition to argue against precedent.
- c. January 20, 2016 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court (2) – highest priority
- d. January 20, 2016 – Andres Torres v. State – DP PCR Post-hearing Memorandum –
- e. January 28, 2016 - State v. Quanell McIlwain - Initial Brief of Respondent – (4) - priority
- f. January 28, 2016 – Alfonso Ware v. State – DNA Appeal – Return to Certiorari.
- g. February 3, 2016 – State v. Tony Jordan - Initial Brief of Respondent – (3)

III.

Wherefore Respondents respectfully request an extension of a period of thirty (30) days up to and including February 18, 2016 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

January 19, 2016

DPZ
#3

CERTIFICATE OF SERVICE

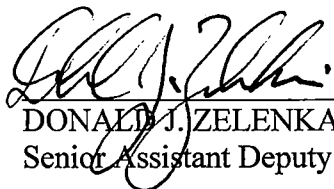
I, **Donald J. Zelenka**, hereby certify that two copies of the Second Motion to Extend time to file the Initial Brief of Respondent and Designation of Matter in the above referenced case has been served upon counsel for Appellant by depositing one copy of same in the U.S.

Mail, postage-prepaid and addressed as follows:

Jeremy A. Thompson, Esq.
Law Offices of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211

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This 19th day of January , 2016.



DONALD J. ZELENKA
Senior Assistant Deputy Attorney General



ALAN WILSON
ATTORNEY GENERAL

January 19, 2016

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JAN 19 2016

SC Court of Appeals


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

Re: The State v. Kevin Choice
Appellate Case No. 2013-002735

Dear Ms. Kitchings:

Enclosed please find a Second 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: Jeremy Thompson, Esquire