

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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FEB 18 2016
SC Court of Appeals

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

STATE OF SOUTH CAROLINA,

Respondent,

v.

KEVIN CHOICE,

Appellant

Appellate Case No. 2013-0002735


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

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

- 
- a. January 11, 2015 – John Wood v. State 2013-CP-23-5190 – DP PCR – Motion Hearing – Judge Mark Hayes – Lexington County on Greenville conviction.
 - b. January 13, , 2016 – Lance Lyles v. Warden - federal habeas return.
 - c. January 18, 2016 – State v. Chronister – Final Brief of Respondent
 - d. January 18, 2016 – State v. Mandy Smith – State Petition to Argue Against Precedent.
 - e. January 19, 2016 - Steven Bixby v. State – DP PCR Appeal – Return to Certiorari – assisted primary attorney Melody Brown.
 - f. January 20, 2016 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court (2)
 - g. January 22, 2016 – Kenneth Simmons v. State – DP PCR Appeal - Brief of Respondent – assisted primary attorney Melody Brown
 - h. January 22, 2016 – State v. Brandon Adams – Return to Motion to Be Relieved.
 - i. January 28, 2016 – Alfonso Ware v. State - prepared draft Return and Supplemental Appendix - in DNA Appeal (required extension)
 - j. January 29, 2016 - State v. Quanell McIlwain - Initial Brief of Respondent – (4) .
 - k. February 1, 2016 – Andrea Person v. Warden – prepared draft Return - federal habeas.
 - l. February 1, 2016 – William Bell v. State – DP PCR – out of office meeting with witness preparation and discovery matters.
 - m. February 2, 2016 – State v. Mandy Smith – prepared over weekend and Monday for oral argument – continued from February 2 to February 9.
 - n. February 2, 2016 – State v. Joshua Griffith – Final Brief of Respondent filed.
 - o. February 4, 2016 – State v. Earnest Daise – Amended Brief of Respondent – filed February 4, 2016.
 - p. February 5, 2016 – William Bell v. State – responses to discovery requests to be sent.
 - q. February 9, 2016 – State v.. Mandy Smith – Court of Appeals – oral argument.
 - r. February 11, 2016 – Urato v. Warden - State Objections to report of Magistrate Judge due.
 - s. February 16, 2016 – Ron Finklea v. State – Return to Amended PCR Application - working on draft – not filed.
 - t. February 16, 2016 – State v. Wayne Albion Smith – direct appeal – Return to

Certiorari petition - SCSCCT.

II.

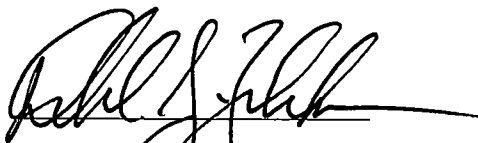
Current counsel present schedule consists of the following:

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#3.
- a. February 18, 2016 – State v. Michael Beaty – IBOR – trip to Greenwood to review exhibits and meet with trial prosecutor on brief.
 - b. February 18, 2016 – State v. Kevin Choice- Initial Brief of Respondent (2) – extension requested.
 - c. February 19, 2016 – Bayan Aleksey v. Warden - DP Federal Habeas Petition - Status Report Due to Federal Court.
 - d. February 19, 2016 -Andres Torres v. State – DP PCR Post-hearing Memorandum (1) – with Melody Brown
 - e. February 22, 2016 - Pamela Teal v. Warden - FHC Return due.
 - f. February 16, 2016 – Ron Finklea v. State – Return to Amended PCR Application - working on amended return and motion due.
 - g. February 25, 2016 – Jabbar Straws v. Warden - SCOTUS – Brief in Opposition due.
 - h. February 29, 2016 – Alfonso Ware v. State – DNA Appeal – Return to Certiorari (2).
 - i. March 2, 2016 – Kenneth Simmons v. State – DP PCR Appeal – oral argument – SC Supreme Court.
 - j. March 2, 2016 - Andrea Person v. Warden – Return - federal habeas corpus
 - k. March 4, 2016 – State v. Tony Jordan - Initial Brief of Respondent –
 - l. March 4, 2016 – Jerry B. Inman v. State – DP PCR motion hearing – Oconee – Judge Macaulay.
 - m. March 5, 2016 – Norman Starnes v. State – DP PCR – Status Conference and hearing – Oconee – Judge Macaulay
 - n. March 9, 2016 – Herman L. Hughes v. State – PCR Appeal – oral argument – S.C. Court of Appeals.
 - o. March 18, 2016 – State v. Kevin Choice – INOR (3) - projected**
 - p. March 22, 2016 – Charles Williams v. State – DP PCR – oral argument South Carolina Supreme Court
 - q. March 23, 2016 – Bobby W. Stone v. State – DP PCR APPEAL – oral argument – S.C. Supreme Court.
 - r. March 31- April 1, 2016 – William Dickerson v. State – death penalty PCR hearing – Judge G. Thomas Cooper.

III.

Wherefore Respondents respectfully request an extension of a period of thirty (30) days up to and including March 19, 2016 to complete the Initial Brief of Respondent upon a showing of good cause for the request.

Respectfully submitted,



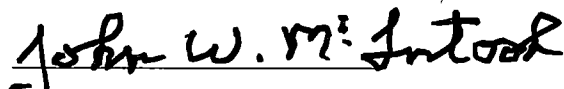
Donald J. Zejenka
Senior Assistant Deputy Attorney General
S.C. Bar # 5758

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3601

Attorney for Respondent

February 18, 2016

I concur that good cause has been shown



John W. McIntosh

Chief Deputy Attorney General

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#4

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:

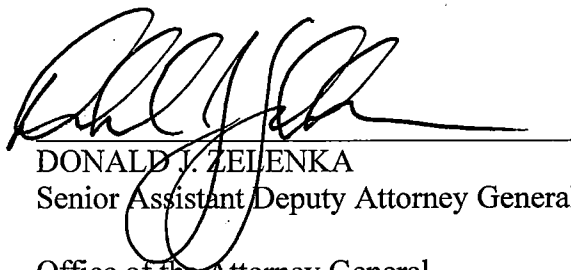
Jeremy A. Thompson, Esq.
Law Offices of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211

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SC Court of Appeals

This 18th day of February, 2016.



DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

Office of the Attorney General

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3601

ATTORNEY FOR RESPONDENT



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ALAN WILSON
ATTORNEY GENERAL

February 18, 2016

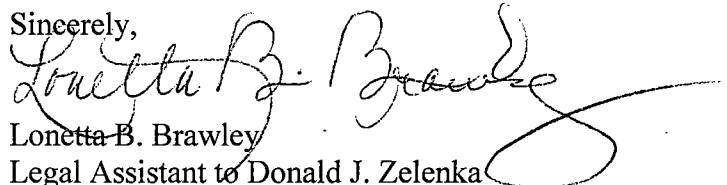
Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

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

Dear Ms. Kitchings:

Enclosed please find a Third 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