

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Lancaster County
The Honorable Brian M. Gibbons, Circuit Court Judge
Appellate Case No. 2015-000126

RECEIVED

FEB 29 2016
Respondent,
SC Court of Appeals

THE STATE,

v.

DEMARIO MONTE THOMPSON,

Appellant.

**MOTION FOR FIFTH EXTENSION TO SERVE AND FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

Respondent hereby moves for a fifth, and final, extension of time to file the Initial Brief of Respondent and Designation of Matter to be included in the Record on Appeal. In support of this motion, Respondent submits the following:

1. The Initial Brief of Respondent and Designation of Matter are due to be served and filed February 29, 2016, pursuant to a fourth extension. Respondent requests fifth and final 30-day extension to serve and file these documents, which is not made for the purpose of delay, but due to counsel's unavoidable significant absences from the office relating to a work related injury, including a three week absence associated with a medical procedure. Counsel continues to be on a medically required work restriction, and is only able to work a few hours per day when possible.

2. In addition to the above, and in order to properly prepare the Initial Brief of Respondent and Designation of Matter, counsel requested copies of State's Exhibits 1 & 2, (photographs) from Appellant's counsel which are directly relevant to Respondent's responses to issues raised in Appellant's Brief. The photographs received via email were blurred, and the content of each photograph was indistinguishable. Therefore, counsel contacted the Solicitor's

office requesting copies of State's Exhibits 1 & 2. The Solicitor's office was unable to provide the photographs by email, so the photographs are being provided to counsel on a disk via U.S. mail, which will not be received before the February 29, 2016, deadline to file the Respondent's Initial Brief and Designation of Matter. Counsel is working diligently on the Initial Brief and Designation in this matter, but believes in order to complete the brief, she must review State's Exhibits 1 and 2 as set forth in the Appellant's Designation of Matter. Counsel assures the Court the Initial Brief of Respondent and Designation of Matter will be completed, served, and filed within the 30 days requested.

3. Counsel submits the above constitutes extraordinary circumstances to support the requested extension.

3. The undersigned consulted with counsel for Appellant, and as evidenced by his signature below, he consents to the requested relief.

Based on the foregoing, Respondent respectfully requested that this Court grant a fifth and final 30-day extension in which to file the Initial Brief of Respondent and Designation of Matter, and that all deadlines be held in abeyance pending resolution of this motion.

Respectfully submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

By: 

 Deborah R. J. Shupe
Senior Assistant Deputy Attorney General

By: 


John W. McIntosh
Chief Deputy Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

February 29, 2016

I Consent:



John H. Strom
Assistant Appellate Defender

STATE OF SOUTH CAROLINA

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DEMARIO MONTE THOMPSON,

Appellant.


PROOF OF SERVICE

I, Sally B. Ellison, certify I served the Motion for Fifth Extension to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

John H. Strom
Assistant Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211

I further certify that all parties required by Rule to be served have been served.

This 29th day of February, 2016.



SALLY B. ELLISON
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

February 29, 2016

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
FEB 29 2016
SC Court of Appeals

Re: State v. Demario Monte Thompson
Appellate Case No. 2015-00126

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of a Motion for Fifth Extension to Serve and File Initial Brief of Respondent and Designation of Matter, with proof of service, in the above-referenced appeal.

Sincerely,

for Deborah R. J. Shupe
Senior Assistant Deputy Attorney General

Enclosures

cc: John H. Strom, Assistant Appellate Defender
Victim Services