

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County
W. Jeffrey Young, Circuit Court Judge

RECEIVED
MAR 07 2016
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL VERNON BEATY,

APPELLANT,

Appellate Case No. 2015-000718.

**PETITION TO EXCEED PAGE LIMIT AND
MOTION FOR SECOND EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

I. Petition to Exceed Page Limit

The undersigned counsel for Respondent would respectfully ask this Court to relax Rule 208(b)(5), SCACR, and permit the filing of an Initial Brief of Respondent exceeding the fifty page limit for the following reasons:

a.) Rule 208(b)(5), SCACR, provides that "Except in cases in which a sentence of death has been imposed, principal briefs shall not exceed fifty (50) pages, and reply briefs shall not exceed twenty-five (25) pages. On motion, the appellate court may grant a party permission to exceed those limitations." Respondent would ask Court to relax Rule 208(b)(5), and to permit the filing of the Initial Brief of Respondent, estimated to be approximately fifty-five pages long, including the signature page because, it is respectfully submitted, that such a pleading is necessary to appropriately respond to the issues as raised by the Appellant.

b.) Appellant has raised eight issues in the Initial Brief of Appellant, including the denial of a requested jury instruction, the sufficiency of the evidence for a directed verdict, the trial

court's opening remarks to the jury, the circumstantial evidence charge, the admissibility of character evidence, refusal to ask a question in voir dire, closing arguments, and cumulative error. These issues are fact-intensive and require a thorough review of the trial transcript and exhibits.

c.) The Initial Brief of Appellant is fifty-five pages long and the record of all proceedings is over eight hundred pages. Respondent intends to file a proposed Initial Brief of Respondent which is estimated to be fifty-five pages long.

Therefore, Respondent would respectfully ask the Court to grant it permission to file an Initial Brief of Respondent exceeding the fifty page limit.

II. Request for Extension of Time

Respondent also moves this Court for an additional thirty (30) day extension of time in which to file the Initial Brief of Respondent and Designation of Matter. This is Respondent's second request for an extension of time in which to file the brief. In support of the request, undersigned counsel would respectfully show the Court:

a.) Undersigned counsel for Respondent received the Initial Brief of Appellant on January 13, 2016. The Brief of Appellant is fifty-five (55) pages in length and presents eight (8) issues for consideration on appeal.

b.) Undersigned counsel for Respondent has been scheduled for a number of state and federal matters in the last thirty (30) days, that include, but are not limited to, the following: prepared and filed a return and memorandum of law in two federal habeas actions (*Juan Vazquez; Tommy Toomer*); prepared for and presented oral argument before the South Carolina Court of Appeals in a criminal appeal on February 10, 2016 (*State v. Anthony Bailey*); prepared and filed a Return to Petition for Writ of Certiorari in the South Carolina Supreme Court (*James Allen Johnson*).

c.) Due to her case load and the number of issues presented in Appellant's Initial Brief,

undersigned counsel for Respondent has not been able, in a timely fashion, to complete the initial brief in this appeal and would request the additional time in order to do so.

d.) This is the second request for an extension of time in which to file a response.

WHEREFORE, undersigned counsel for Respondent respectfully requests the Court grant permission to file an Initial Brief of Respondent exceeding the fifty page limit and grant an additional extension of thirty (30) days to complete the Initial Brief of Respondent and Designation of Matter.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

SUSANNAH R. COLE
Assistant Attorney General

BY: 

SUSANNAH R. COLE
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Columbia, South Carolina 29211
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March 7, 2016
Columbia, South Carolina

ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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THE STATE,

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MICHAEL VERNON BEATY,

APPELLANT,

Appellate Case No. 2015-000718.


PROOF OF SERVICE

I, Susannah R. Cole, certify that I have served Respondent's Petition to Exceed Page Limit and Motion for a Second Extension of Time on counsel for Appellant, by depositing one copy of same in the United States mail, postage prepaid, to counsel for appellant, addressed as follows:

C. Rauch Wise, Esquire
305 Main Street
Greenwood, SC 29646

E. Charles Grose, Jr., Esquire
404 Main Street
Greenwood, SC 29646

This 7th day of March, 2016



Susannah R. Cole
Assistant Attorney General
SC Bar No. 68383
Office of Attorney General

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ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

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March 7, 2016

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

Re: State v. Michael Beaty
Appeal from Laurens County
Appellate Case No. 2015-000718

Dear Ms. Kitchings:

Enclosed please find the original plus one (1) copy of *Petition to Exceed Page Limit and Motion For Second Extension of Time to File Initial Brief of Respondent and Designation of Matter*, dated March 7, 2016, along with proof of service, in the above-referenced case.

Thank you for your cooperation in this matter.

Sincerely,

Susannah R. Cole
Assistant Attorney General

SRC/pjc

Enclosures

cc: C. Rauch Wise, Esquire
E. Charles Grose, Jr., Esquire
The Honorable David M. Stumbo, Solicitor, Eighth Judicial Circuit
Trisha Allen, Victim Services