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4th  
CDD: 12/29  
PDD: 1/28

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Lancaster County  
Brian M. Gibbons, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**  
DEC 29 2015  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA,

Respondent,

v.

QUANELL MARQUAN McILWAIN,

Appellant

Appellate Case No. 2014-002539

\_\_\_\_\_  
**RESPONDENT'S MOTION TO EXTEND TIME TO FILE  
INITIAL BRIEF OF RESPONDENT**  
\_\_\_\_\_

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The Respondent, above-named, hereby makes a fourth and final motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until January 28, 2016. The Initial Brief of Respondent in the above action is due to be filed December 29, 2015.

Counsel has contacted opposing counsel, Appellate Defender David Alexander, and he has consented to this request on behalf of his client.

Respondent's below-signed counsel submits that extraordinary circumstances had 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.

Petitioner's below-signed counsel's recently completed the following matters in court actions in the relevant time period.

- 3  
#2.
- a. December 2, 2015 – State v. Blaton Smith - Final Brief of Respondent –
  - b. **December 2, 2015 – State v. Alexander Hunsberger – Oral Argument – South Carolina Supreme Court.- argued for another lawyer due to her unexpected hospitalization.**
  - c. **December 2, 2015 – State v. Julio Hunsberger – Oral Argument – South Carolina Supreme Court. - argued for another lawyer due to her unexpected hospitalization.**
  - d. **December 3, 2015 – Dickerson v. State – Death penalty post-conviction proceeding – status conference with Judge Cooper – Richland County. - argued for another lawyer due to her unexpected hospitalization.**
  - e. December 7, 2015 – Kevin Walton v. Warden - FHC Return (3) - filed
  - f. **December 7-8, 2015 – Dickerson v. State – death penalty PCR hearing – Judge Cooper – Richland County (Berkeley County case).- argued for another lawyer due to her unexpected hospitalization.**
  - g. December 7, 2015 – State v. Marvin Brown - Reply Brief – SC Court of Appeals.
  - h. December 10, 2015 – Perry Buchanan v. Warden - Federal habeas return – reviewed and filed.
  - i. December 9, 2015 - Michael McKnight v Warden - FHC Return -15-5710 - filed
  - j. December 13, 2015 – Matthew Jameson v. State - FHC Return (2) – filed
  - k. December 16, 2015 – Marshall Miller v. Warden – FHC (3) - filed (74 pages).
  - l. December 18, 2015 – James Bowers v. Warden - Federal habeas corpus

- hearing before Judge Gergel – Federal Courthouse – Charleston, SC
- m. 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.
  - n. December 23, 2015 – Jermel Robinson v. Warden - FHC Return (2) (projected).
  - o. December 28, 2015 – Marshall Miller v. Warden - Federal habeas corpus – court-ordered response to Motion for discovery.
  - p. December 29, 2015 – State v. Quanell McIlwain - Initial Brief of Respondent – (3) – due . extension - requested .
  - q. **December 29, 2015 – State v. Joshua Griffith – Initial Brief of Respondent -- due to be filed December 29, 2015.**
  - r. 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..

2. Respondent's below-signed counsel has the following matters projected due in the next month.

- a. **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 State s Supreme Court .**
- b. **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 ;**
- c. **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 .**
- d. January 4, 2015 – State v. Tony Jordan - Initial Brief of Respondent (extended).
- e. **January 4, 2016 – State v Ryan Deleston, Oral Argument – SC Court of Appeals.**
- f. January 6, 2016 – State v David Penn – Oral Argument – SC Court of Appeals
- g. **January 13, 2016 – John Wood v. State 2013-CP-23-5190 – DP PCR – Motion Hearing – Judge Mark Hayes.**
- h. January 13, , 2016 – Lance Lyles v. Warden - federal habeas return.
- i. January 19, 2016 – State v. Kevin Choice- Initial Brief of Respondent
- j. **January 20, 2016 – Charles Christopher Williams v. State – Brief of Respondent – death penalty PCR appeal on certiorari – South Carolina Supreme Court (2) –**

k. **January 28, 2016 - State v. Quanell McIlwain - Initial Brief of Respondent – (4) – projected.**

III.

Wherefore Respondents respectfully request an extension of a period of thirty-four (34) days up to and including January 28, 2016 to complete the Initial Brief of Respondent upon a showing of extraordinary circumstances for the request.

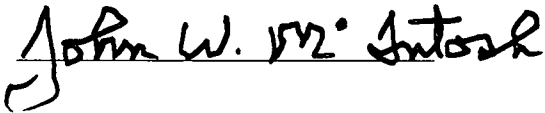
Respectfully submitted,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General  
S.C. Bar # 5758  
Attorney for Respondent

December 29, 2015

I concur that extraordinary circumstances have been shown.



John W. McIntosh

Chief Deputy Attorney General

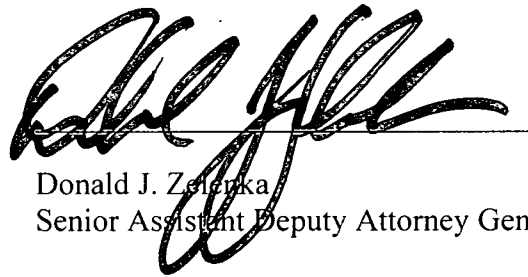
**CERTIFICATE OF SERVICE**

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 addressed as follows:

David Alexander  
Appellate Defender  
SCCID/Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211

**RECEIVED**  
DEC 29 2015  
**SC Court of Appeals**

This 29<sup>th</sup> day of December, 2015.



Donald J. Zelenka  
Senior Assistant Deputy Attorney General



ALAN WILSON  
ATTORNEY GENERAL

December 29, 2015

**RECEIVED**

DEC 29 2015

**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. Quanell Marquan McIlwain  
Appellate Case No. 2014-002539

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: David Alexander, Esquire