

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

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STATE OF SOUTH CAROLINA,

Respondent,

v.

KEVIN CHOICE,

Appellant

Appellate Case No. 2013-0002735

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

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The Respondent, above-named, hereby make a fourth motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until April 20, 2016. The Initial Brief of Respondent in the above action is due to be filed March 21, 2016. Counsel has contacted the Appellant's counsel, Jeremy A. Thompson, who had advised counsel this date that he has no objections to the fourth request. Respondent's below-signed counsel submits that good cause and extraordinary circumstances have been shown:

I.

This motion is made because the Respondent has not been able to respond within the allotted time for the following reasons. Particularly, during this period, Respondents below-

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SC Court of Appeals

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signed counsel has been involved in expedited litigation in *Sammie Stokes v. Warden* concerning a capital case, oral argument preparation in three death penalty PCR matters, and the preparation of three reply briefs on certiorari before the U.S. Supreme Court.

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 Brief. Recently, below-signed counsel completed:

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- a. February 18, 2016 – State v. Michael Beaty – IBOR preparation – trip to Greenwood to review exhibits and meet with trial prosecutor on brief.
  - b. **February 19, 2016 – Bayan Aleksey v. Warden - DP Federal Habeas Petition - Status Report filed to Federal Court.**
  - c. **February 19, 2016 -Andres Torres v. State – DP PCR Post-hearing Memorandum (1) – with Melody Brown**
  - d. February 25, 2016 – Jabbar Straws v. Warden - SCOTUS – Brief in Opposition – waiver filed.
  - e. February 28, 2016 – Alfonso Ware v. State – DNA Appeal – Return to Certiorari (2).
  - f. **March 2, 2016 – Kenneth Simmons v. State – DP PCR Appeal – oral argument – SC Supreme Court – assisted did not argue.**
  - g. March 2, 2016 - Andrea Person v. Warden – Return - federal habeas corpus
  - h. March 3, 2016 – Aljaquon Drake v. Warden - Federal habeas return filed.
  - i. **March 4, 2016 – Jerry B. Inman v. State – DP PCR motion hearing – Oconee – Judge Macaulay.**
  - j. **March 7, 2016 – Marion Lindsey v. State – SC Supreme Court – Response to Extraordinary Writ.**
  - k. March 9, 2016 – Herman L. Hughes v. State – PCR Appeal – oral argument – S.C. Court of Appeals.
  - l. **March 10, 2016 – Jerry B. Inman v. State – SC S CT – State’s Motion to Expedite Original Extraordinary Writ.**
  - m. March 10, 2016 – State v. Mandy Smith – S.C. Court of Appeals – State’s Petition for Rehearing.
  - n. March 14, 2016 – *State v. Ryan Deleston* - State’s Response to Petition for Rehearing – Court of Appeals.
  - o. **March 13, 2016 – Sammie Stokes v. Warden - Federal District Court – Expedited – State Response to Motion to Stay Execution - death penalty issue.**
  - p. March 16, 2016 – *Gena Beatty v. Warden* - Federal Habeas Corpus – Court Ordered Response to Motion for Reimbursement.
  - q. March 21, 2016 – *State v. Kevin Choice* – IBOR (3) –

II.

Current counsel present schedule consists of the following:

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- a. March 21, 2016 – State v. Kevin Choice- Initial Brief of Respondent (2) – extension requested.
  - b. **March 22, 2016 – Charles Williams v. State – DP PCR – oral argument South Carolina Supreme Court.**
  - c. March 23, 2016 – Pamela Teal v. Warden - FHC Return due
  - d. **March 23, 2016 – Bobby W. Stone v. State – DP PCR APPEAL – oral argument – S.C. Supreme Court.**
  - e. **March 23, 2016 – Jonathan Binney v. State - US Supreme Court Reply Brief on Certiorari**
  - f. **March 23, 2016 - Kamell Evans v. State - US Supreme Court Reply Brief on Certiorari**
  - g. March 24, 2016 – Supreme Court Common Pleas Docketing Committee.
  - h. **March 25, 2016 – John Hughey v. State – US Supreme Court Reply Brief on Certiorari**
  - i. **March 25, 2016 – Ron Finklea v. State – Return to Amended PCR Application - working on amended return and motion due.**
  - j. **March 25, 2016 – John Wood v. State – DP PCR – Proposed Order Due.**
  - k. March 27, 2016 – David Parker v. Warden - Federal Habeas Corpus Return.
  - l. March 29, 2016 – Joseph URATO v. Warden - Federal Habeas Corpus – Amended Return And Motion for Summary Judgment.
  - m. **March 31- April 1, 2016 – William Dickerson v. State – death penalty PCR hearing – Judge G. Thomas Cooper.**
  - n. April 4, 2016 – State v. Tony Jordan - Initial Brief of Respondent – (5).
  - o. April 4, 2016 – Gary White v. Warden - FHC – State’s Reply to Objections to Magistrate Report.
  - p. **April 4, 2016 – State v. Luzinski Cottrell – Death penalty direct appeal – Initial Brief of Respondent.**
  - q. **April 6, 2016 – John Wood v. Warden - death penalty federal habeas – Status Report to Federal Court.**
  - r. April 6, 2016 – State v. Earnest Daise – Final Amended Brief of Respondent.
  - s. April 11, 2016 – Cardelle Washington v. Warden - Federal habeas return.
  - t. **April 18-22, 2016 – William Bell v. State – Death penalty PCR hearing – Judge McIntosh – Anderson County.**
  - u. April 20, 2016 – State v. Kevin Choice – IBOR – projected.

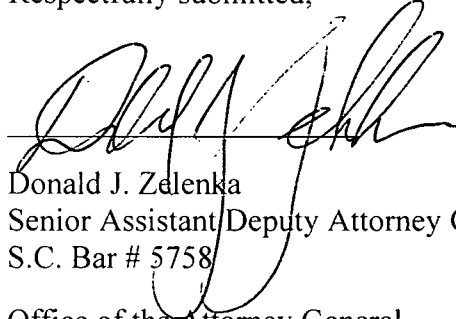
[Death penalty case related matters in bold].

III.

Wherefore Respondents respectfully request an extension of a period of thirty (30) days

up to and including April 20, 2016 to complete the Initial Brief of Respondent upon a showing of good cause for the request.

Respectfully submitted,



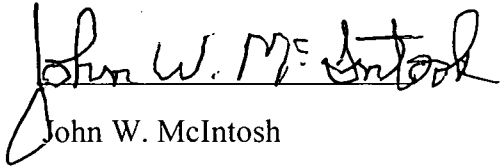
Donald J. Zelenka  
Senior Assistant/Deputy Attorney General  
S.C. Bar # 5758

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

Attorney for Respondent

March 21, 2016

I concur that extraordinary circumstances have been shown



John W. McIntosh

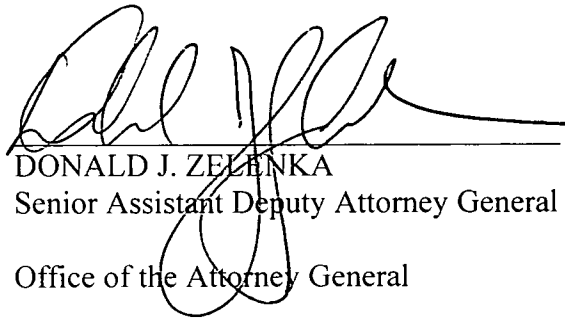
Chief Deputy Attorney General

**CERTIFICATE OF SERVICE**

**I, Donald J. Zelenka**, hereby certify that 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

This 21<sup>st</sup> day of March, 2016.



DONALD J. ZELEENKA  
Senior Assistant Deputy Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3601

ATTORNEY FOR RESPONDENT



ALAN WILSON  
ATTORNEY GENERAL

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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 Fourth 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,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General

DJZ:dmd  
Enclosures  
cc: Jeremy Thompson, Esq. (w/two copies of encls.)