

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
The Honorable Markley Dennis, Circuit Court Judge

Appellate Case No. 2014-002181

THE STATE,

Respondent,

vs.

MARQUIS MCDONALD,

Appellant.

**MOTION FOR THIRD EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND
DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Initial Brief of Respondent in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, June 22, 2016, upon this Court's grant of Respondent's second request for an extension filed on May 25, 2016.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since June 22, 2016. Specifically,

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1. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Carius Kenta Lomas, #262660 vs. Warden Perry Correctional Institution, C/A No. 5:16-00398-MGL-KDW on May 23, 2016;

2. Counsel also prepared the Respondent's Notice of the Return of Served Documents in the matter of Troy Lee Robinson vs. Warden John Pate, C/A No. 5:15-04287-DCN-KDW on June 8, 2016;

3. Counsel presented oral argument before this Court on behalf of the State in the matter of The State vs. Maurice Alphonso Roberts, Jr., a Richland County murder appeal matter on June 15, 2016;

4. Counsel has also spent time reviewing the transcript and researching the issue in preparation for drafting the Initial Brief of Respondent in State vs. Bobby Joe Arflin, a direct appeal in an Anderson County murder case pending before the South Carolina Court of Appeals;

5. Counsel has also prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Derrick Marcell Hollingsworth, #265683 vs. Joseph McFadden, C/A No.: 6:16-1213-RMG-KFM, which is scheduled to be filed on Thursday, June 23, 2016;

6. Counsel has also prepared the Respondent's reply to a Motion for Declaratory Judgment in the matter of Victor Costellos Penny vs. Joseph McFadden, C/A No. 2:15-04817-PMD-MGB, which is scheduled to be filed on Thursday June 22, 2016.

7. Counsel has also spent a significant amount of time reviewing the transcript and researching the issue in preparation for drafting the Initial Brief of Respondent in this matter.

However, due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Initial Brief of Respondent in this

proceeding. Thus, counsel is requesting an extension of time in which to file the Initial Brief in this matter. This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests a thirty (30) day extension of time to serve and file 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
No. 4425

SHERRIE A. BUTTERBAUGH
Assistant Attorney General
No. 101477

Post Office Box 11549
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(803) 734-6305

By: 

SHERRIE A. BUTTERBAUGH

ATTORNEYS FOR RESPONDENT

June 22, 2016.

By: 

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I support the finding of good cause.

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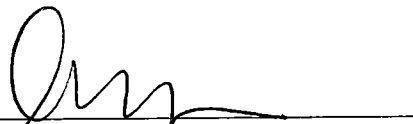
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PROOF OF SERVICE

I, Sherrie A. Butterbaugh, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a third extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorneys of record, Nicholas Daniel Mermiges, Esq., Law Offices of Nick Mermiges, LLC, 1720 Main Street, Suite 202, Columbia, South Carolina 29201; and to Robert Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

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

This 22nd day of June, 2016.



SHERRIE A. BUTTERBAUGH
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(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

June 22, 2016

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

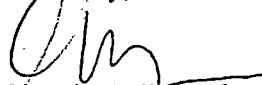
Re: *The State v. Marquis McDonald*
Appeal from Horry County
Appellate Case No. 2014-002181

Dear Ms. Kitchings:

I hereby request an extension of thirty (30) days in which to file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, June 22, 2016. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Initial Brief.

Therefore, I am enclosing an original and six (6) copies of a Motion for Third Extension of Time to File Initial Brief of Respondent and Designation of Matter. Counsel for Appellant has consented to this extension request.

Sincerely,


Sherrie A. Butterbaugh
Assistant Attorney General

SB/dmd

Enclosures

cc: Nicholas D. Mermiges, Esq. (w/two copies of encls.)
Robert M. Dudek, Esq. (w/two copies of encls.)