

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Horry County  
Larry B. Hyman, Circuit Court Judge

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RECEIVED

AUG - 4 2016

SC SUPREME COURT

STATE OF SOUTH CAROLINA,

Respondent,

v.

LUZINSKI ALLEN COTTRELL,

Appellant

Appellate Case No. 2015-000731

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

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Respondent, the State, 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 up to and including September 6, 2016. This is Respondent's fifth request for an extension of time in which to file the brief. Appellant's counsel Robert Dudek and Keir Weyble have both indicated in an email that they have no objection to my request. In support of the request, undersigned counsel would respectfully show the Court:

1. Undersigned counsel for Respondent completed the following work within the past thirty (30) days:
  - a. Cardell Washington v. Warden - court-ordered response to motion to stay;  
court ordered response to motion to amend – July 11;
  - b. Final Brief of Respondent – State v. Kevin Choice – July 14;
  - c. Sammie Stokes v. State – U.S. Supreme Court - Brief in Opposition to

Petition for Writ of Certiorari – July 15;

- d. Willie Gilmore v. Warden – federal habeas corpus court ordered response by Judge Gergel – July 15.
- e. Michael McKnight v. Warden - response to objections.
- f. Ron Finklea v. State – status conference – Judge Keesley – July 21;
- g. Norman Starnes v State, death penalty status conference – Judge Macaulay – July 26, 2016 – Newberry.
- h. Jerry B. Inman v. State, death penalty PCR motion hearing and status conference – July 26, 2016 – Newberry.
- i. Stephen Stanko v. State, death penalty PCR hearing and argument on Rule 59 motion – Judge Culbertson – Conway SC – August 1, 2016.
- j. **State v Luzinski Cottrell – August 5, 2016**

3. Due to his heavy case load, undersigned counsel for Respondent has not been able to complete the initial brief in this appeal. Counsel in his role as supervisor has also reviewed pleadings prepared in state and federal court for three recent attorneys prior to filing which is not on this list.

Below-signed counsel has Anthony Mabry assisting with him in this matter and drafts of some of the issues have been completed. This is done to attempt to insure no further extensions.

4. This is the fifth request for an extension of time in which to file a response. Counsel is cognizant of this fact and will continue to work diligently to complete the brief.

5. Respondent has consulted with opposing counsel, Mr. Dudek and Mr. Weyble by email who advised undersigned counsel each has no objection to this request by email this date.

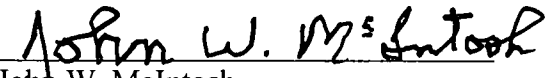
THEREFORE, undersigned counsel for Respondent respectfully requests an additional extension of thirty (30) days to complete the initial brief of respondent and designation of matter.

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

I concur that extraordinary circumstances have been shown

  
John W. McIntosh  
Chief Deputy Attorney General

August 4, 2016

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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STATE OF SOUTH CAROLINA,

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v.

LUZINSKI ALLEN COTTRELL,

Appellant

Appellate Case No. 2015-000731

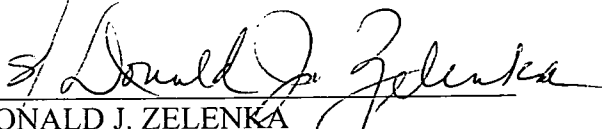
**CERTIFICATE OF SERVICE**

I, **Donald J. Zelenka**, hereby certify that the Fifth 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:

KEIR M. WEYBLE  
Cornell Law School  
Myron Taylor Hall  
Ithaca, NY 14853  
607 255 3805

ROBERT M. DUDEK  
Chief Appellate Defender  
South Carolina Office of  
Appellate Defense  
P.O. Box 11589  
Columbia, SC 292 11  
803 734 1330

This 4<sup>th</sup> day of August, 2016.

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

ATTORNEY FOR RESPONDENT

## **Lonnie Brawley**

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**From:** Keir Weyble <kw346@cornell.edu>  
**Sent:** Wednesday, August 03, 2016 5:38 PM  
**To:** Don Zelenka; Robert M. Dudek  
**Cc:** Anthony Mabry; Lonnie Brawley  
**Subject:** RE: Luzinski Cottrell

No objection.

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**From:** Don Zelenka [<mailto:DZelenka@scag.gov>]  
**Sent:** Wednesday, August 3, 2016 5:06 PM  
**To:** Robert M. Dudek <[RDudek@sccid.sc.gov](mailto:RDudek@sccid.sc.gov)>; Keir Weyble <kw346@cornell.edu>  
**Cc:** Anthony Mabry <[amabry@scag.gov](mailto:amabry@scag.gov)>; Lonnie Brawley <[LBrawley@scag.gov](mailto:LBrawley@scag.gov)>  
**Subject:** Luzinski Cottrell

Bob and Keir –

Do you have any objection to this 5<sup>th</sup> Request for an extension. I have Anthony also working with me on this to get it done.

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