

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

RECEIVED

OCT 26 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BILLY RAY SMITH,

APPELLANT

APPELLATE CASE NO. 2015-002543

MOTION FOR AN EXTENSION OF TIME
IN WHICH TO FILE THE INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

Counsel for Billy Ray Smith respectfully requests a **final thirty (30) day extension, until November 25, 2016**, in which to file the Initial Brief of Appellant and Designation of Matter in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a fifth request for an extension. In support of this request, counsel shows:

1. The initial brief of appellant and designation of matter are due to be filed with the Court today. The Court has granted counsel four previous extensions.

2. Counsel for Leonard Jenkins respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. **Counsel is being treated for a chronic health condition which has severely limited his working hours.** Given the number of

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extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

3. Along with co-counsel Chief Appellate Defender Robert M. Dudek and Appellate Defender Lara M. Caudy, counsel filed the Post – Hearing Supplemental Memorandum in the death penalty case of Marion Alexander Lindsey v. State with the Court of Common Pleas Seventh Judicial Circuit on October 21, 2016. Counsel filed the petition for writ of certiorari and accompanying appendix as well as the Johnson petition for writ of certiorari pursuant to Austin v. State in the case of Alexander Lynch v. State in the Supreme Court on October 19, 2016. Counsel filed the Anders brief of appellant and designation of matter in the case of State v. Jason Morton with the Court of Appeals on October 17, 2016. Counsel had an oral argument in the case of State v. Dominique Lavar Williams before the Court of Appeals on October 12, 2016. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Rodney M. Alexander with the Court of Appeals on September 30, 2016. On September 22, 2016, counsel argued motions before the PCR court in Spartanburg, South Carolina, pursuant to the Supreme Court’s remand Order in the death penalty case of Marion Alexander Lindsey v. State. Counsel filed the Anders brief of appellant and designation of matter in the case of State v. Martin Rodriguez with the Court of Appeals on September 19, 2016. Counsel filed the initial brief of appellant and designation of matter in the case of In the Matter of the Care and Treatment of Timothy Groves Oxendine with the Court of Appeals on September 14, 2016. Counsel had an oral argument in the case of State v. Corey Jamal Williams before the Court of Appeals on September 8, 2016. Counsel had an oral argument in the case of State v. Jimmy Turner before the Court of Appeals on September 7, 2016. Counsel filed the Johnson petition for writ of certiorari and accompanying appendix in the case of Dennis F. Sanders v. State with the Supreme Court on September 6, 2016. Counsel filed the initial

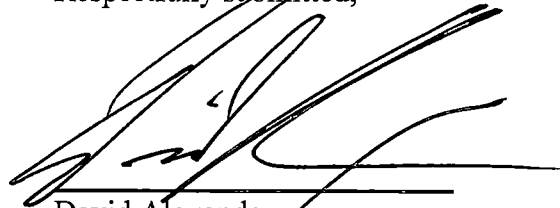
brief of appellant and designation of matter in the case of State v. Jeramy Parks with the Court of Appeals on August 24, 2016.

4. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

5. Counsel for the Attorney General's office consents to this request shown by signature below.

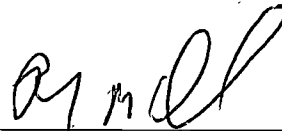
WHEREFORE, the undersigned counsel would respectfully request a **final thirty (30) day extension until November 25, 2016**, in which to file the initial brief of appellant and designation of matter in this case based upon the above exigent circumstances.

Respectfully submitted,

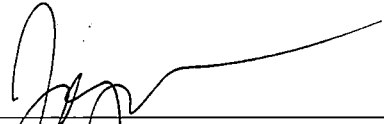


David Alexander
Appellate Defender

Attorney for Appellant



Robert M. Dudek
Chief Appellate Defender



T. Patton Adams
Executive Director/
Hugh Ryan, III
General Counsel

This 26th day of October, 2016.

I consent:



J. Benjamin Aplin, Esquire