

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County
Honorable Kristi Lea Harrington, Circuit Court Judge
Appellate Case No. 2010-165126

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THE STATE,

SC Court of Appeals

Respondent,

vs.

JUSTIN RYAN HILLERBY,

Appellant.

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

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on November 26, 2012.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the Appellant moves for a fourth extension in the above-referenced criminal appeal. Due to work required in other cases pending before the South Carolina Supreme Court and this Court, I am unable to complete this Brief on time. In the past few weeks, the undersigned has

participated in oral argument at this Court in State v. Tarrence Laron Jordan, has participated in oral argument at the Supreme Court in State v. Danny Cortez Brown, has submitted Initial Briefs to this Court in State v. Moore, State v. Keeling, State v. Walshaw, State v. Logan, State v. McCauley, State v. Hilton, State v. Martin, and State v. Scott, has filed a Brief of Respondent to this Court in State v. Hill and State v. Milledge, has filed a Reply Brief of Petitioner in the Supreme Court in State v. Brown, has filed a Petition for Rehearing in this Court in State v. Blackmon and State v. Price, has filed a Return to Petition for Rehearing in this Court in State v. Salley, has filed a Petition for Certiorari in the Supreme Court in State v. Coaxum, State v. Eaglin, and State v. Jenkins, and has filed a Return to Petition for Certiorari in the Supreme Court in State v. Nash, State v. Massey, State v. Salley, State v. Simmons, and State v. White.

III.

This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The Brief in the above case has required significant research because the case involves three significant evidentiary issues on appeal. The undersigned is currently working on the Brief in this case and hopes to have it completed in a timely manner. Additionally, the undersigned has spoken with counsel for Appellant, and counsel has indicated Appellant has no objection to this extension request. I would therefore request an extension of time within which to serve and file the Brief.


WHEREFORE, Appellant prays that the Court extend the deadline for the service and filing of the Brief of Respondent in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

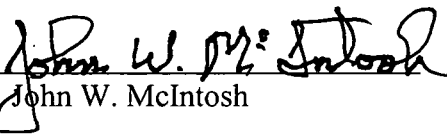
Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 
Mark R. Farthing

By: 
Salley W. Elliott

By: 
John W. McIntosh

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November 26, 2012

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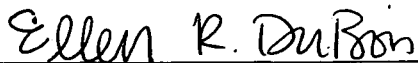
Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion for Fifth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Tricia A. Blanchette, Esquire
Post Office Box 12725
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 26th day of November, 2012.



ELLEN R. DuBOIS
Legal Assistant

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