

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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Appeal from Clarendon County  
The Honorable D. Craig Brown, Circuit Court Judge

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**RECEIVED**  
JUL 19 2018  
SC Court of Appeals

THE STATE,

Respondent,

v.

JON PAUL SMART,

Appellant.

Appellate Case No. 2017-001754

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

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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, Thursday, July 19, 2018 as per this Court's Order dated June 18, 2018 granting Respondent's first extension request. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since June 18, 2018. Specifically,

1. Counsel filed the Initial Brief of Respondent in the matter of The State vs. Terrell Artieth Smith, Appellate Case No. 2017-001178, a Charleston County direct appeal matter now

pending in the South Carolina Court of Appeals on June 18, 2018;

2. Counsel filed the Respondent's Response to "Motion for Judicial Notice of Adjudicative Fact Rule 201" in the federal habeas corpus matter of Frederick Van Anderson, #344239 vs. Warden Scott Lewis, C/A No. 5:18-00682-JMC-KDW on July 2, 2018;

3. Counsel also filed the Respondent's Reply to "Objection to Respondent's Motion for Summary Judgment in the Frederick Van Anderson, #344239 vs. Warden Scott Lewis federal habeas corpus matter on July 2, 2018;

4. Counsel filed the Respondent's Reply to Objection to Report and Recommendation in the federal habeas corpus matter of Mark Allen Elliott, #343763 vs. Aaron Joyner, C/A No. 0:17-2745-PMD on July 3, 2018;

5. Counsel filed the Respondent's Reply to Response to Respondent's Motion for Summary Judgment in the federal habeas corpus matter of Howard Lee Sims, #213525 vs. Warden S. Lewis, C/A No. 6:17-3344-AMQ-KFM also on July 3, 2018;

6. Counsel helped prepare and write the Return in Bobby Wayne Stone vs. Brian P. Stirling, et al., C/A No. 2:18-cv-01221-MGL-MGB, a capital federal habeas corpus case currently pending in the United States District Court in the District of South Carolina, which was filed July 10, 2018;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the federal habeas corpus matter of Nathaniel Murray, #313891 vs. Warden Stephan, C/A No. 0:18-960-TLW-PJG on July 13, 2018; and,

8. Counsel has also done a substantial amount of work reading the transcript, writing, and researching the issues related to the Initial Brief of Respondent in the matter of The

State vs. Thomas Robert Shewtzuk, Appellate Case No. 2016-001957, a Dorchester County direct appeal matter now pending in the South Carolina Court of Appeals;

9. Finally, counsel has also done a substantial amount of researching the issues related to this matter.

However, due to counsel's involvement in these and other matters, counsel is unable to timely complete the Initial Brief of Respondent.

WHEREFORE, counsel respectfully requests a thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter. This request is made in good faith, and not for the purposes of delay.

Respectfully Submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

SHERRIE A. BUTTERBAUGH  
Assistant Attorney General  
No. 101477

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

By: 

\_\_\_\_\_  
SHERRIE A. BUTTERBAUGH  
ATTORNEYS FOR RESPONDENT

July 19, 2018.

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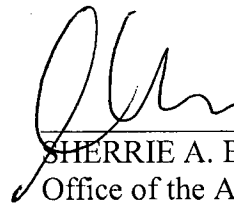
**PROOF OF SERVICE**

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I, Sherrie A. Butterbaugh, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorney of record, Joanna K. Delany, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, South Carolina 29201.

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

This 19<sup>th</sup> day of July, 2018.



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SHERRIE A. BUTTERBAUGH  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

July 19, 2018

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

**RECEIVED**  
JUL 19 2018  
SC Court of Appeals

Re: *The State v. Jon Paul Smart*  
Appeal from Clarendon County  
Appellate Case No. 2017-001754

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Second Motion for Extension of Time to File Initial Brief of Respondent, together with Proof of Service, in the above-referenced matter. I am informing opposing counsel of my request by copy of this letter.

Thank you for your assistance in this matter.

Sincerely,

Sherrie Butterbaugh  
Assistant Attorney General

SB:dmd  
Enclosures  
cc: Joanna K. Delany, Esq. (w/two copies of encls.)