

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JAN 10 2013

Court of Appeals

Appeal from Berkeley County
Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLARENCE J. FISHBURNE,

APPELLANT

APPELLATE CASE NO. 2011-20366

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

Counsel for Clarence J. Fishburne petitions the Court for a **final thirty day extension, until February 11, 2013** in which to file the initial brief of appellant and designation of matter in this case. In support of this petition, counsel shows:

1. The initial brief of appellant and designation of matter are due to be filed with the Court today. This is the seventh extension for Mr. Fishburne.

2. Counsel for Mr. Fishburne respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. **Counsel recognizes that the previous extension for this case was a final extension; however, counsel has been unable to complete this initial brief. Counsel acknowledges that a seventh extension request for an initial brief for appellant and designation of matter is**

in contradiction to the rules of the Court. Counsel hopes to have this initial brief of appellant filed by January 18, 2013.

3. Today, January 10, 2013, counsel is filing the petition for writ of certiorari and accompanying appendix in Darryl Frierson v. State. Counsel argued State v. Steven Barnes in the Supreme Court on Wednesday, January 9, 2013. Counsel filed the initial brief of appellant and designation of matter in State v. Portillo on January 7, 2013. Counsel filed the brief of petitioner in the case of State v. Wesley Smith, the petition for writ of certiorari and accompanying appendix in the case of State v. Doyle Marion Garrett (in the COA), and the Return to the petition for writ of certiorari in the case of Antonio D. Bordeaux v. State all in the Supreme Court on December 27, 2012. Additionally, Counsel filed the petitions for rehearing in the cases of State v. Larry Bradley Brayboy and State v. Marion Stewart in the Court of Appeals on December 27, 2012. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of State v. Travis Teasley (in the COA) in the Supreme Court, as well as the initial brief of appellant and designation of matter in the case of State v. John Wayne Brannon in the Court of Appeals, on December 21, 2012. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Sylvester Davis v. State in the Supreme Court on December 19, 2012. Counsel filed the petition for writ of certiorari to the Court of Appeals in State v. Demetrius Price on December 17, 2012. The initial brief of appellant and designation of matter in State v. Roman Millen was filed on December 13, 2012. Counsel filed the return to petition for writ of certiorari in State v. Daniel Jenkins on December 7, 2012. Counsel filed the initial brief of appellant and designation of matter in State v. Frankie McGee and had an oral argument in State v. Timothy Wallace on December 5, 2012.

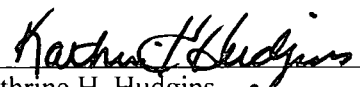
4. Counsel has not had time to complete the initial brief of appellant and designation of matter in this case. As a result, counsel respectfully asks this Court for a **final thirty day extension, until February 11, 2013** in which to file the initial brief of appellant and designation of matter. Counsel is striving to limit the number of extensions requested. Counsel is attempting to complete the cases with the most number of extensions first.

5. As indicated by signature below, Salley Elliott, of the South Carolina Attorney General's Office, does not oppose this request.

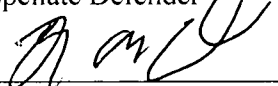
6. Counsel makes this request in good faith and not for purposes of delay.

Counsel respectfully requests a **final thirty day extension, until February 11, 2013** in which to file the initial brief of appellant and designation of matter in this case based upon the above circumstances.


Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender



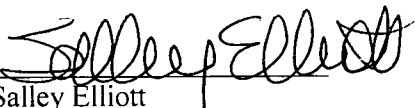
Robert M. Dudek
Chief Appellant Defender



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

January 10, 2013

I do not oppose:



Salley Elliott