

STATE OF SOUTH CAROLINA
In the Court of Appeals

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

THE STATE,

Respondent,

v.

JON PAUL SMART,

Appellant.

Appellate Case No. 2017-001754

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

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 was due Wednesday, September 19, 2018 as per this Court's Order dated August 20, 2018 granting Respondent's third extension request. As per the South Carolina Supreme Court's Order dated September 17, 2018 Re: Hurricane Florence, counsel for Respondent has the due date for filing the Initial Brief of Respondent on Monday, September 24, 2018. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since August 22, 2018. Specifically,

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1. Counsel prepared for and attended the Post-Conviction Relief hearing in the matter of Jerry Buck Inman, #5256 v. State of South Carolina, 2012-CP-39-918, a capital case, which was held before the Honorable Alexander S. Macaulay in Pickens County from Monday, August 20, 2018 through Thursday, August 23, 2018;

2. Counsel filed the Respondent's Reply to "Response to the Respondent's Return and Motion for Summary Judgment" in the matter of Ravell McLaughlin, #356142 vs. Aaron S. Joyner, Warden of Lee Correctional Institution, C/A No. 2:18-184-RBH-MGB on July 31, 2018;

3. Counsel also filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Bernard Dewberry, #278949 vs. Warden Williams, C/A No. 5:18-01315-AMQ-KDW on August 2, 2018;

4. Counsel filed the Final Brief of Respondent in the matter of The State vs. Terrell A. Smith, Appellate Case No. 2017-001178, a Charleston County murder appeal matter on August 7, 2018;

5. Counsel filed the Final Brief of Respondent in the matter of The State vs. Thomas Robert Shewtzuk, Appellate Case No. 2016-001957, a Dorchester County murder appeal matter on August 28, 2018;

6. Counsel filed the Respondent's Reply to Motion of Objection to Respondent Summary Judgment in Bernard Dewberry, #278949 vs. Warden Williams, C/A No. 5:18-01315-AMQ-KDW on September 5, 2018;

7. Counsel filed Respondent's Response to Motion for Default in the matter of Marshall Dewitt McGaha, #155836, a/k/a Marshall D. McGaha, Jr., a/k/a Marshall McGaha, #250923 vs. Bryan P. Stirling, C/A No. 6:18-1736-RMG-KFM on September 10, 2018; and counsel has also done some work preparing the Return and Memorandum of Law in Support of

Motion for Summary Judgment in this matter as well;

8. Counsel filed the Respondent's Reply to Objections to Report and Recommendation in the matter of David W. Watson, #334288 vs. Warden, Lieber Correctional Institution, C/A No. 8:17-3079-DCC on September 20, 2018;

9. Counsel also filed the Respondent's Response to Motion to Stay Pending Exhaustion of State Remedies in the matter of Nathaniel Murray, #313891 vs. Warden Stephan, C/A No. 0:18-960-TLW-PJG on September 20, 2018;

10. Counsel has also done a substantial amount of researching the issues related to the matter of The State vs. Robert Lee Miller, III, appellate Case No. 2017-001347, an Allendale County murder appeal matter currently pending in the South Carolina Court of Appeals;

11. Counsel is also preparing for and researching issues related to a Post-Conviction Relief hearing in the matter of Stephen Corey Bryant, #5252 v. State of South Carolina, 2016-CP-43-828, a capital case, currently scheduled to be held in Horry County beginning Monday, October 1, 2018;

12. 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

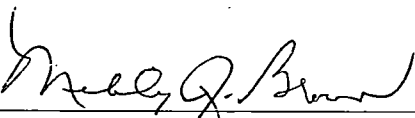
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 

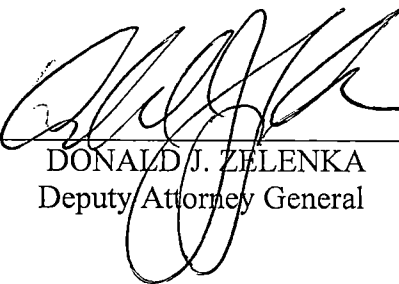
SHERRIE A. BUTTERBAUGH
ATTORNEYS FOR RESPONDENT

September 21, 2018.

I support the finding of good cause.

By: 

MELODY J. BROWN,
Senior Assistant Deputy Attorney General

By: 

DONALD J. ZELENKA
Deputy Attorney General

STATE OF SOUTH CAROLINA
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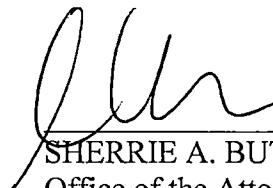
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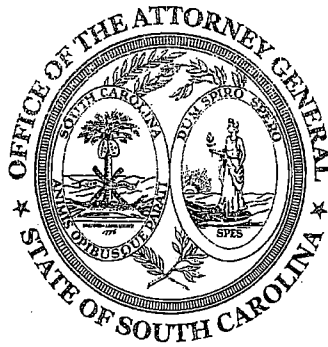
I, Sherrie A. Butterbaugh, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a fourth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorney of record, Joanna K. Delany, Esq., SCCID/Division of Appellate Defense, 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 21st day of September, 2018.



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



ALAN WILSON
ATTORNEY GENERAL

September 21, 2018

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

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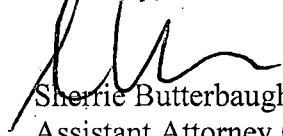
Re: *The State v. Jon Paul Smart*
Appeal from Clarendon County
Appellate Case No. 2017-001754

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Fourth 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

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

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