

3rd RFD due 10/26/18

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Spartanburg County  
The Honorable J. Derham Cole, Circuit Court Judge

Appellate Case No. 2017-001974

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THE STATE,

Respondent,

**RECEIVED**

OCT 26 2018

SC Court of Appeals

vs.

HOLMES ANDREW SIMPSON-DAVIS,

Appellant.

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**MOTION FOR THIRD 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 until November 26, 2018 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, October 26, 2018, upon this Court's grant of Respondent's second request for an extension filed on September 26, 2018.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since September 26, 2018. Specifically,

1. Counsel for Respondent has been out of the office on medical leave and is working half days due to health condition;

2. By notification from the Division of State Human Resources, Governor Henry McMaster issued Executive Order, which ordered the closure of Richland State Government office. The closure occurred on October 11, 2018;

3. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Joshua Brandon Phillips, #335243 vs. Warden of Turbeville Correctional Institution, C/A No. 9:18-2066-HMH-BM, which was filed on October 19 2018 in United States District Court;

4. Counsel has also done work and almost completed a proposed Order of Dismissal for the Honorable Paul Burch, in Frank McGee v. State (PCR)[Murder, Burglary 1<sup>st</sup> Degree, Armed Robbery];

5. Counsel has also done work on the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Elbert Wallace v. Warden, (Federal Habeas Corpus) [Murder, Burglary 1<sup>st</sup> Degree, Armed Robbery, Burglary 2<sup>nd</sup> Degree, ABWIK];

6. Counsel has also done some work preparing the Initial Brief of Respondent in this matter;

7. Counsel has assisted in the preparation of the Return and Memorandum of Law on Support of Motion for Summary Judgment in Gary Terry v. Warden (Federal Habeas Corpus)(Death Penalty Case /Murder, Burglary 1<sup>st</sup>, CSC 1<sup>st</sup>) filed October 23, 2018 in U.S. District Court; and

8. Counsel has assisted in the preparation of the Brief in Opposition to the Petition for Writ of Certiorari filed in the United States Supreme Court in Mahdi v. State (Capital 2<sup>nd</sup> PCR) to be filed on or before October 29, 2018 in the U.S. Supreme Court; and, other matters;

9. Opposing counsel through Susan Hackett, Esq. has graciously consented to this extension request.

10. Respondent's attorney is out of the office today, October 26, 2018, having a scheduled ramp echo-cardiogram in Charlotte, N.C.;

Due to counsel's involvement in these and other matters pending in state and federal court, and counsel's medical issues, counsel is unable to timely complete the Initial Brief of Respondent in this proceeding. Thus, for good cause shown, counsel is requesting an extension of time in which to file the Initial Brief in this matter. This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, for good cause shown, counsel hereby respectfully requests a thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter until November 25, 2018.

Respectfully submitted,

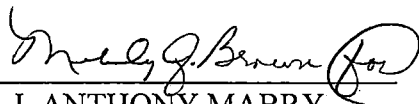
ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

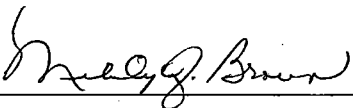
MELODY J. BROWN  
Senior Assistant Deputy Attorney General  
No. 07979

J. ANTHONY MABRY  
Assistant Attorney General  
No. 11973

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

By:   
J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

I agree that good cause has been shown for the requested extension.



MELODY BROWN

Senior Assistant Deputy Attorney General

October 26, 2018.

STATE OF SOUTH CAROLINA  
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PROOF OF SERVICE

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I, Donna D'Alessio, an employee of the Respondent, certify that I have served two (2) copies of the within motion for a second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, Susan B. Hackett, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

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

This 26<sup>th</sup> day of October, 2018.



Donna D'Alessio  
Legal Assistant to J. Anthony Mabry,  
Senior Assistant Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

October 26, 2018

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

Re: *The State v. Holmes Andrew Simpson-Davis*  
Appeal from Spartanburg County  
Appellate Case No. 2017-001974

**RECEIVED**  
OCT 26 2018  
SC Court of Appeals

Dear Ms. Kitchings:

I hereby request an extension of thirty (30) days in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, October 26, 2018. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Initial Brief.

Therefore, I am enclosing an original and six (6) copies of a Motion for Third Extension to File Initial Brief of Respondent and Designation of Matter. Counsel for Appellant has consented to this request.

Sincerely,

Melody J. Brown, Senior Assistant Deputy Attorney  
General on behalf of J. Anthony Mabry,  
Senior Assistant Attorney General

MJB:dmd

Enclosures

cc: Susan B. Hackett, Esq. (w/two copies of encls.)