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3rd AIB due 11/9/18

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SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Berkeley County
Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ERIC D. McCALL,

APPELLANT.

APPELLATE CASE NO. 2017-000800

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

The above-named Respondent, by and through the undersigned attorneys, would respectfully move this Court for a third extension of time within which to file the return or otherwise plead. The response in the above action is due to be served and filed today, November 9, 2018. Counsel for Respondent has contacted Appellant's counsel, and he has graciously consented to this extension request. However, the undersigned counsel for the Respondent will not be able to respond within the allotted time for the following reasons:

1. Counsel has been reviewing matters due to his involvement as Chairman on the Office of the Attorney General's Appellate Decision Review Committee. The Committee was formed to review all adverse decisions in Capital, Federal Habeas, Direct Appeals, and Post-Conviction relief matters, and to determine whether the State will appeal these rulings. In the last thirty days, counsel has reviewed the following matters: *State vs. Demetrik Maurice Ceaser*, a Florence County direct appeal matter; *The State vs. Frederick Reaves*, a Marion County direct

appeal matter; *Corey Brown vs. State of South Carolina*, 2014-GS-24-1262, a Greenwood County post-conviction relief matter; *Tyrone King v. State*, a Marlboro County direct appeal matter; *Jeffrey Andrews v. State*, a Sumter County direct appeal matter; *Julie Lynn Gordon-Gookins vs. State of South Carolina*, 2017-CP-10-3310, a Charleston County post-conviction relief matter; *John Upson v. State*, an Aiken County post-conviction relief matter; in the *State vs. James Crews*, South Carolina Court of Appeals' Unpublished Opinion 2018-UP-339, a Dorchester County criminal appeal matter; the *State vs. Preston Shands, Jr.*, Appellate Case No. 2015-001199, a Laurens County criminal appeal matter; the *State vs. Johnnie Lee Lawson*, Appellate Case No. 2015-002467, a Lexington County criminal appeal matter; the *State vs. Scott R. Wendelberger*, a Charleston County criminal appeal matter; *State vs. Archie Harden*, Appellate Case No. 2015-000516, an Orangeburg County criminal appeal matter; *State v. Steven Otts*, Appellate Case No. 2014-00274, a Saluda County murder appeal matter; the matter of *In re: Andrew R.*; *The State v. Shannon Scott*, Appellate Case No. 2017-001607, a Richland County murder appeal matter; and *Earnest Maurice Allen, #310134 v. State*, 2017-CP-28-0904, a Kershaw County post-conviction relief matter; *Charlie Ellis Cutshaw v. State*, 2017-CP-46-00190, a Sixteenth Circuit post-conviction relief matter; *Michael W. McCraw v. State*, C/A No. 2017-CP-41-96, a Saluda County Post Conviction Relief matter; *Derekee M. Johnson, #247000 vs. State*, C/A No. 2017-CP-20-152, a Fairfield County post-conviction relief matter; *Mauwell J. Ervin, Jr., #3566337 vs. State of South Carolina*, 2015-CP-24- 01268, a Greenwood County post-conviction relief matter; *Kevin C. Casey vs. State of South Carolina*, Appellate Case No. 2016-001686, a Spartanburg County murder; and *Charlie Ellis Cutshaw, Jr. vs. State of South Carolina*, 2017-CP-46-0190, a York county post-conviction relief matter; *Rico Hartwell, #261299 vs. State of South Carolina*, a Berkeley County post-conviction relief matter; *John M.*

McIntyre and Silver Oak Land Management v. Securities Commissioner of South Carolina, Appellate Case No. 2015-001845, a Securities matter pending in the South Carolina Court of Appeals; *State v. David White*, Appellate Case No. 2016-000616, a Charleston County direct appeal matter pending in the South Carolina Court of Appeals; *Darrell L. Goss v. State*, Appellate Case No. 2016-002186, a Charleston County post-conviction relief appeal matter pending in the South Carolina Supreme Court; and *State vs. M'Andre Cochran*, a Georgetown County direct appeal matter.

2. Counsel filed Respondent's Response in Opposition to Motions for Discovery and for Evidentiary Hearing in the matter of *William Cannon Gresham, #349177 vs. Charles Williams*, C/A No. 6:18-938-HMH-KFM on October 18, 2018;

3. Counsel filed the Amended Return and Memorandum of Law in Support of Motion for Summary Judgment; and Amended Motion to Strike Exhibits 1 thru 26, and 28 thru 32 Attached to Petition for Writ of Habeas Corpus in the matter of Gary Dubose Terry, #5054 vs. William R. Byars, Jr., Commissioner, SCDC, et al., C/A No. 4:12-01798-RMG-TER, a Lexington County capital matter now pending in the United States District Court for the District of South Carolina on October 24, 2018;

4. Counsel filed the Respondent's Motion Opposing Petitioner's Discovery Requests [ECFs #64-#66] in the matter of *Derrick Lamar Cheeks, #343108 vs. Alford Joyner*, C/A No. 0:17-2876-DCC on October 26, 2018;

5. Counsel filed the Respondent's Supplemental Status Report and Response to Text Order filed January 30, 2018 [ECF #63] in the matter of *Terriel L. Mack, #312070 vs. Larry Cartledge, Warden*, C/A No. 9:14-295-TMC-BM on October 30, 2018;

6. Counsel filed Respondent's Amended Supplemental Status Report and Response to Text Order filed January 30, 2018 [ECF #63] in the matter of *Terriel L. Mack, #312070 vs. Larry Cartledge, Warden*, C/A No. 9:14-295-TMC-BM on October 31, 2018;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment, and Motion for Summary Judgment in the matter of *Alonda Barren Desaussure, #142994 vs. Warden of Lieber Correctional Institution*, C/A No. 2:18-1955-RBH-MGB, also on October 31, 2018;

8. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment, and Motion for Summary Judgment in the matter of *Johnell Richardson, #355032 vs. Warden Williams*, C/A No. 8:18-1935-DCC-JDA on November 6, 2018; and

9. Counsel is currently preparing the Initial Brief of Respondent and Designation of Matter in the matter of *The State vs. Jermaine Marquel Bell*, Appellate Case No. 2017-001500, a Chester County murder appeal matter now pending in the South Carolina Court of Appeals.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel for Respondent moves this Court to enlarge the time for filing the response by granting a thirty (30) day extension up to and including December 10, 2018. This request is made in good faith, and not for the purpose of delay.

Respectfully Submitted,

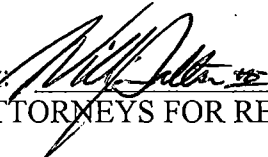
ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

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

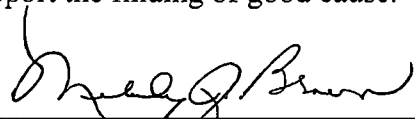
WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
No. 3710

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

By: 
ATTORNEYS FOR RESPONDENT

November 9, 2018.

I support the finding of good cause.

By: 
MELODY J. BROWN,
Senior Assistant Deputy Attorney General

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County
Honorable Kristi Lea Harrington, Circuit Court Judge

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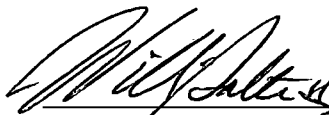
APPELLATE CASE NO. 2017-000800

PROOF OF SERVICE

I, William Edgar Salter, III, counsel for the Respondent, certify that I have served the within Motion for Third Extension of Time to File Initial Brief of Respondent on Appellant by depositing two (2) copies of the same via U.S. mail, first class, postage prepaid to his attorney of record, Tristan Michael Shaffer, Esq., P.O. Box 1027, Chapin, South Carolina 29036.

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

This 9th day of November, 2018.



WILLIAM EDGAR SALTER, III
Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

RECEIVED
NOV 09 2018
SC Court of Appeals

November 9, 2018

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

Re: *The State v. Eric D. McCall*
Appeal from Berkeley County
Appellate Case No. 2017-000800

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, November 9, 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 extension request.

Sincerely,

William Edgar Salter, III
Senior Assistant Attorney General

WES:dmd
Enclosures

cc: Tristan Michael Shaffer, Esq. (w/two copies of encls.)