

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Allendale County
The Honorable R. Lawton McIntosh, Circuit Court Judge

RECEIVED

NOV 21 2018

SC Court of Appeals

THE STATE,

Respondent,

v.

ROBERT LEE MILLER, III,

Appellant.

Appellate Case No. 2017-001347

**MOTION FOR FIFTH 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. Counsel for Appellant has graciously consented to the request via email. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, November 21, 2018 as per this Court's Order dated October 25, 2018 granting Respondent's fourth extension request. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since October 22, 2018. Specifically,

1. Counsel filed the Initial Brief of Respondent in the matter of The State vs. Jon

Paul Smart, Appellate Case No. 2017-001754, a Clarendon County murder appeal matter currently pending in the South Carolina Court of Appeals on October 22, 2018;

2. Counsel prepared for and attended an evidentiary hearing in Greenville County for Michael E. Williams, #283356 vs. State of South Carolina, 2018-CP-23-0131, a Greenville County post-conviction relief matter, on October 24, 2018 and prepared a proposed order which was submitted to the judge on November 4, 2018;

3. Counsel also participated in evidentiary hearings for Sylvester K. King vs. State of South Carolina, 2018-CP-23-3013 and Jerald D. Gaskins vs. State of South Carolina, 2017-CP-23-5901, both Greenville County post-conviction relief matters, as well as participated in an evidentiary hearing for Eric W. Watkins vs. State of South Carolina, 2018-CP-39-0469, a Pickens County post-conviction relief matter, on October 24 and 25, 2018 in Greenville County;

4. Counsel filed Respondent's Reply to the Response in Opposition to the Motion for Summary Judgment in the matter of Nathaniel Murray, #313891 vs. Warden Stephan, C/A No. 0:18-960-TLW-PJG on October 26, 2018;

5. Counsel filed Respondent's Reply to "Motion in Opposition to the Motion to Dismiss" 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 November 2, 2018;

6. Counsel prepared for, attended, and questioned witnesses during a two-day evidentiary hearing in Lexington County for Andrew E. Torrence, Jr. vs. State of South Carolina, 2015-CP-32-1993, a Lexington County post-conviction relief matter, on November 5 and 6, 2018;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for

Summary Judgment in the matter of Ronald Lance, #310167 vs. Aaron Joyner, C/A No. 9:18-2500-HMH-BM on November 9, 2018;

8. Counsel filed the Final Brief of Appellant and Final Reply Brief of Appellant in the matter of The State vs. Ronald Hakeem Mack, Appellate Case No. 2017-002441, a Williamsburg county murder appeal matter on November 13, 2018;

9. Counsel filed Respondent's Response to "Motion for Injunction Relief" in the matter of Vashaun Ravenel, a/k/a Vashawn Ravenel vs. Charles Williams, C/A No. 9:18-2112-TLW-BM on November 16, 2018;

10. Counsel has also been preparing the record to file and researched the issues in the matter of Romeo Anthony Brown, #185544 vs. Warden of Lee River Correctional, C/A No. 2:18-cv-1276-DCC-MGB a habeas corpus matter currently pending in federal court and due to be filed on November 30, 2018;

11. Counsel was out of the office on Monday, November 12, 2018 and Tuesday, November 13, 2018 at the South Carolina Solicitor's Association and South Carolina Commission on Prosecution Coordination 2018 Annual Conference in Myrtle Beach, South Carolina; and

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,

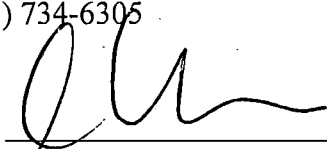
ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

SHERRIE A. BUTTERBAUGH
Assistant Attorney General
No. 101477

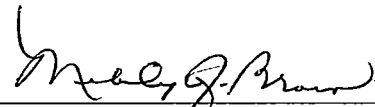
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 

SHERRIE A. BUTTERBAUGH
ATTORNEYS FOR RESPONDENT

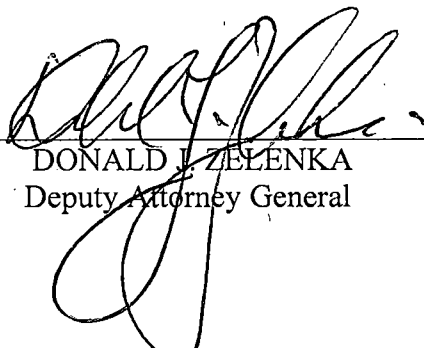
November 21, 2018.

I support the finding of good cause.

By: 

MELODY J. BROWN,
Senior Assistant Deputy Attorney General

I also support the finding of good cause.

By: 

DONALD J. ZELENKA
Deputy Attorney General

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Allendale County
The Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

Respondent,

v.

ROBERT LEE MILLER, III,

Appellant.

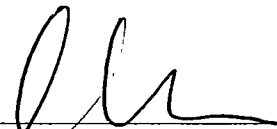
Appellate Case No. 2017-001347

PROOF OF SERVICE

I, Sherrie A. Butterbaugh, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a fifth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorney of record, Susan B. Hackett 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 November, 2018.



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



ALAN WILSON
ATTORNEY GENERAL

RECEIVED
NOV 21 2018
SC Court of Appeals

November 21, 2018

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

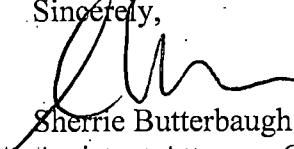
Re: *The State v. Robert Lee Miller, III*
Appeal from Allendale County
Appellate Case No. 2017-001347

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Fifth Motion for Extension of Time to File Initial Brief of Respondent, together with Proof of Service, in the above-referenced matter. Opposing counsel graciously consented to my request via email.

Thank you for your assistance in this matter.

Sincerely,



Sherrie Butterbaugh
Assistant Attorney General

SB:dmd

Enclosures

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