

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Horry County  
The Honorable Benjamin H. Culbertson, Circuit Court Judge  
Appellate Case No. 2017-002447

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**RECEIVED**  
DEC 05 2018  
SC Court of Appeals

THE STATE,

Respondent,

vs.

MITCHELL MONROE WEATHERALL,

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 in which to file the Initial Brief of Respondent in the above-referenced case. Counsel for Appellant has graciously consented to the request via telephone. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, December 5, 2018 as per this Court's Order dated November 7, 2018 granting Respondent's second extension request. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since November 7, 2018. Specifically,

1. Counsel for Respondent has been out of the office on medical leave and is not working full days due to a health condition;

2. Counsel prepared and sent for approval the proposed Order of Dismissal of Respondent in the matter of Frankie Lee McGee v. State of South Carolina, Case No. 2015-CP-40-024 (Murder & Burglary 1<sup>st</sup> Degree) on November 6, 2018 which was signed by Judge Burch and filed in the Richland County Clerk of Court's Office;

3. Counsel prepared and sent for approval the proposed Order of Dismissal of Respondent in the matter of Thomas E. Dubose v. State of South Carolina, Case No. 2016-CP-40-1062 on November 6, 2018;

4. Counsel filed the Reply to Petitioner's Response to Respondent's Motion for Summary Judgment and Petitioner's Motion for Summary Judgment in the matter of Joshua Brandon Phillips, #335243 v. Warden of Turbeville Correctional Institution, C/A No. 9:18-2066-RMH-BM, on November 9, 2018;

5. Counsel filed the Response to Petitioner's Motion for Summary Judgment in the matter of Joshua Brandon Phillips, #335243 v. Warden of Turbeville Correctional Institution, C/A No. 9:18-2066-RMH-BM, on November 20, 2018;

6. Counsel filed the Return to Petition for Rehearing in the matter of The State v. Ardon P. Cato, II, Appellate Case No. 2016-002081, a murder appeal currently pending in this Court, the South Carolina Court of Appeals, on November 29, 2018;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of William Anthony Butts, #348307 v. Warden of Lee Correctional Institution, C/A No. 9:18-1968-DCC-BM, on November 30, 2018;

8. Counsel is currently preparing the proposed Order of Dismissal in Andre T. Boone v. State, 2013-CP-40-6702 (PCR/Murder)[Richland County] for the Honorable Paul Burch, Circuit Court Judge;

9. Counsel is currently preparing the Initial Brief of Respondent in State v. Holmes Simpson-Davis, in this Court;

And, other matters.

However, due to counsel's medical condition, counsel's involvement in these and other matters, and the Attorney General's Office was closed November 22 & 23, 2018, counsel is unable to timely complete the Initial Brief of Respondent.

WHEREFORE, for good cause having been shown, 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

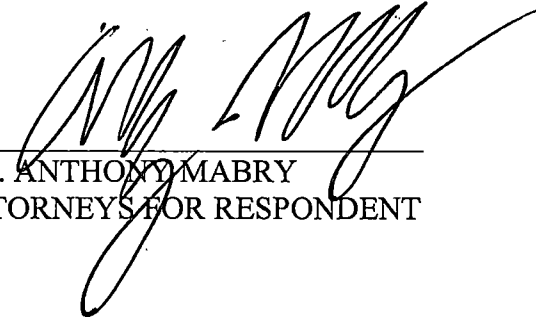
DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

J. ANTHONY MABRY  
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(803) 734-6305

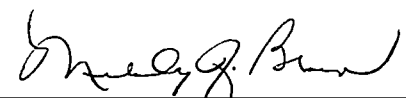
By:

  
\_\_\_\_\_  
J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

November 26, 2018.

I support the finding of good cause having been shown.

By:

  
\_\_\_\_\_  
MELODY J. BROWN,  
Senior Assistant Deputy Attorney General

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**PROOF OF SERVICE**

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I, Angela Bennett, certify that I have served the *Motion for Third Extension of Time to File Initial Brief of Respondent and Designation of Matter* on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to: J. Falkner Wilkes, Esquire, 114 Whitsett Street, Greenville, South Carolina 29601.

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

This 5<sup>th</sup> day of December, 2018.

  
ANGELA BENNETT  
Administrative Coordinator

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

December 5, 2018

**RECEIVED**  
DEC 05 2018  
SC Court of Appeals

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

Re: The State v. Mitchell Monroe Weatherall  
Appellate Case No: 2017-002447

Dear Mr. Kitchings:

Enclosed please find the original and six (6) copies of the *Motion for Third Extension of Time to File Initial Brief of Respondent and Designation of Matter* along with proof of service in the above-referenced case.

Sincerely,

Angela Bennett  
Administrative Coordinator for J. Anthony Mabry  
Senior Assistant Attorney General  
S.C. Bar No: 11973

JAM/ab  
Enclosures

cc: J. Falkner Wilkes, Esquire  
Victim Advocacy Division