

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
The Honorable Letitia H. Verdin, Circuit Court Judge

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JAN 02 2019

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

JOHN MCCARTY,

APPELLANT,

Appellate Case No. 2017-002377

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

Respondent, the State, moves this Court for an additional thirty (30) day extension of time in which to file the Initial Brief of Respondent and Designation of Matter. This is Respondent's second request for an extension of time in which to file the brief. In support of the request, undersigned counsel would respectfully show the Court:

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State*, an Aiken County post-conviction relief matter; in the *State vs. James Crews*, South Carolina Court of Appeals' Unpublished Opinion 2018-UP-339, a Dorchester County criminal appeal matter; the *State vs. Preston Shands, Jr.*, Appellate Case No. 2015-001199, a Laurens County criminal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; *State vs. M'Andre Cochran*, a Georgetown County direct appeal matter; *Dr. Marie Assa'Ad Faltas' vs. State of South Carolina*, 2017-CP-40-6831; and *State vs. Angela Greene*, a Greenville County criminal appeal matter pending in the South Carolina Court of Appeals, Appellate Case No. 2018-0066;

2. Counsel was out of the office on Wednesday, December 5, 2018;

3. Counsel responded on December 6, 2017 to Respondent's Interrogatories to the Applicant and Request for Production of Documents in the matter of *James D. Robertson v. The State*, Appellate Case No. 2011-CP-46-72, a York County post-conviction appeal matter pending in the State Supreme Court;

4. Counsel filed on December 10, 2018 a Response to Petitioner's Opposition and Reply to Respondent's Motion for Summary Judgment in the matter of *Richey Lamont Boyd v. Warden, Perry Correctional Institution*, C/A No. 5:18-01582-BHH-KDW, a federal habeas matter pending in the United States District Court for the District of South Carolina;

5. Counsel also filed on December 10, 2018 the Initial Brief of Respondent and Designation of Matter in the matter of *The State vs. Jermaine Bell*, Appellate Case No. 2017-001500, a Chester County murder appeal matter pending in the South Carolina Court of Appeals;

6. Counsel attended an evidentiary hearing on December 17, 2018 in the matter of *Chris A. Liverman v. The State*, C/A No. 2012-CP-40-4870, a Richland County post-conviction relief matter;

7. Counsel filed on December 27, 2018 a Motion for Summary Judgment and Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Vincent Missouri v. Randall Williams*, C/A No. 8:18-cv-2786-MGL-JDA, a federal habeas matter pending in the United States District Court for the District of South Carolina;

8. Counsel also filed on December 27, 2018 a Reply to Petitioner's Response Opposing Respondent's Motion for Summary Judgment in the matter of *Alonda Barren Desaussure v. Warden of Lieber Correctional Institution*, C/A No. 2:18-1955-RBH-MGB, a federal habeas matter pending in the United States District Court for the District of South Carolina; and

9. Counsel is currently preparing a Motion for Summary Judgment and Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Gregory Daniels v. Warden of Lee Correctional Institution*, C/A No. 8:18-3064-RMG-KDW, a federal habeas matter pending in the United States District Court for the District of South Carolina.

This is the second request for an extension of time in which to file a response.

WHEREFORE, undersigned counsel for Respondent respectfully requests an additional extension of thirty (30) days to complete the Initial Brief of Respondent and Designation of Matter.

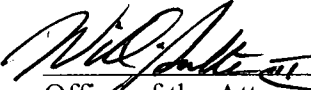
Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
ATTORNEYS FOR RESPONDENT

By: 
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January 2, 2019.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
The Honorable Letitia H. Verdin, Circuit Court Judge

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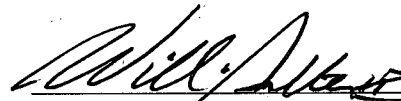
Appellate Case No. 2017-002377

CERTIFICATE OF SERVICE

I, William Edgar Salter, III, certify that I have served Respondent's Motion for a Second Extension of Time on counsel for Appellant, by depositing two copies of same in the United States mail, postage prepaid, to counsel for appellant, addressed as follows:

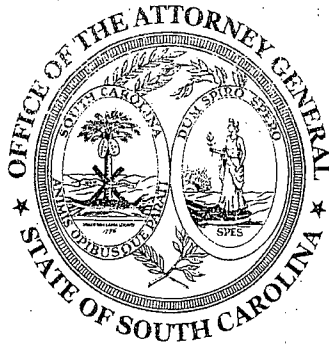
Susan B. Hackett, Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

This 2nd day of January 2019.



WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
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Columbia, SC 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

January 2, 2019

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JAN 02 2019
SC Court of Appeals

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

Re: The State vs. John McCarty
Appellate Case No. 2017-002377

Dear Ms. Kitchings:

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

William Edgar Satter, III
Senior Assistant Attorney General

WES/ams
Enclosures

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