

**RECEIVED**

JAN 07 2019

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

SC 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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THE STATE,

Respondent,

vs.

MITCHELL MONROE WEATHERALL,

Appellant.

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**MOTION FOR FOURTH 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 today. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, January 7, 2019 as per this Court's Order dated December 7, 2018 granting Respondent's third extension request. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since December 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 filed the Order of Dismissal in the Richland County post-conviction relief matter of Frankie McGee v. State of South Carolina, 2015-CP-40-01657 on December 10, 2018;

3. Counsel filed Respondent's Reply to Response to Motion for Summary Judgment in the matter of Elbert Wallace, #264322 vs. Randall Williams, C/A No. 0:18-01837-DCN-PJG on December 11, 2018;

4. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Gregory Thomas Pencille, #312332 vs. Aaron Joyner, C/A No. 1:18-02904-RMG-SVH;

5. Counsel is also preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Matthew T. Hinton, #345044 vs. Randall Williams, C/A No. 5:18-2617-BHH-KDW;

6. Counsel is also preparing the Return to Petition for Writ of Certiorari in Henry Antonio Burgess vs. State of South Carolina, Appellate Case No. 2018-000740, a Lexington County post-conviction relief appeal matter now pending in the South Carolina Supreme Court; and

7. Counsel is also preparing a proposed Order of Dismissal for the Honorable Paul Burch, Circuit Court Judge in Andre T. Boone v. State of South Carolina, 2013-CP-40-6702, a Richland County post-conviction relief matter.

However, due to counsel's medical condition, and counsel's involvement in these and other matters, counsel is unable to timely complete the Initial Brief of Respondent.

WHEREFORE, extraordinary circumstances 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

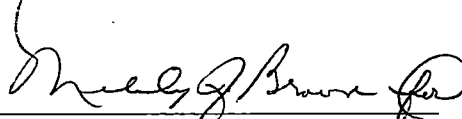
DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

J. ANTHONY MABRY  
Senior Assistant Attorney General  
No. 11973

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

By:

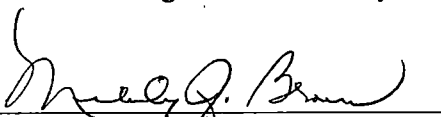


J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

January 7, 2019.

I support the finding of extraordinary circumstances having been shown.

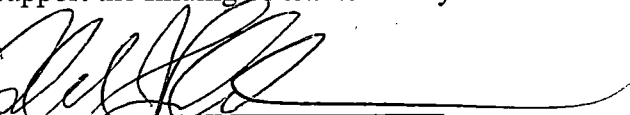
By:



MELODY J. BROWN,  
Senior Assistant Deputy Attorney General

I also support the finding of extraordinary circumstances having been shown.

By:



DONALD J. ZELENKA  
Deputy Attorney General

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**PROOF OF SERVICE**

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I, Donna D'Alessio, Legal Assistant to J. Anthony Mabry, counsel for the Respondent, certify that I have served two (2) copies of the motion for a fourth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorney of record, J. Falkner Wilkes, Esq., 114 Whitsett Street, Greenville, South Carolina 29601.

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

This 7<sup>th</sup> day of January 2019.



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



ALAN WILSON  
ATTORNEY GENERAL

January 7, 2019

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 Fourth Extension of Time to File Initial Brief of Respondent and Designation of Matter*, along with Proof of Service in the above-referenced case.

Sincerely,

J. Anthony Mabry  
Senior Assistant Attorney General

JAM:dmd  
Enclosures

cc: J. Falkner Wilkes, Esq. (w/two copies of encls.)

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JAN 07 2019

SC Court of Appeals

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