

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

RECEIVED  
JAN 09 2019  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ERIC D. MCCALL,

APPELLANT.

APPELLATE CASE NO. 2017-000800

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

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The above-named Respondent, by and through the undersigned attorneys, would respectfully move this Court for a fifth 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, Wednesday, January 9, 2019. Appellant's counsel 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State*, an Aiken County post-conviction relief matter; in the *State vs. James Crews*, South Carolina Court of Appeals' Unpublished Opinion 2018-UP-339, a Dorchester County criminal appeal matter; the *State vs. Preston Shands, Jr.*, Appellate Case No. 2015-001199, a Laurens County criminal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; *State vs. M'Andre Cochran*, a Georgetown County direct appeal matter; *The State vs. Randy Wright*, Appellate Case No. 2017-002130, a Berkeley County direct appeal matter; *The State vs. Angela Greene*, Appellate Case No. 2018-000066, a Greenville county murder appeal matter; *State vs. Randy Wright*, Appellate Case No. 2017-002130, a Berkeley County direct appeal matter, and *Dr. Marie Assa'Ad Faltas' vs. State of South Carolina*, 2017-CP-40-6831;

2. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment in the matter of *Richey L. Boyd, #344612 vs. Warden Perry Correctional Institution*, C/A No. 5:18-01582-BHH-KDW on December 10, 2018;

3. Counsel filed the Initial Brief of Respondent 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 on December 13, 2018;

4. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Vincent Missouri, #197996 vs. Randall Williams, Warden*, C/A No. 8:18-2786-MGL-JDA on December 27, 2018;

5. Counsel filed Respondent's Reply to Petitioner's Response Opposing Respondent's 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 December 27, 2018;

6. Counsel filed the Status Report in the Capital federal habeas matter of *James Robertson vs. Jon Ozmint*, C/A No. 2:11-00063-TMC-MGB on December 31, 2018; and

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Gregory Daniels, #297449 vs. Warden of Lee Correctional Institution*, C/A No. 5:18-cv-3064-RMG-KDW on December 8, 2019.

The undersigned would also note that I am now receiving additional assistance with my workload from the Capital Litigation Unit's law clerk, who has just resumed working here following winter break, in an effort to avoid the necessity of any additional extensions.

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 February 8, 2019. This request is made in good faith, and not for the purpose of delay.

Respectfully Submitted,

ALAN WILSON  
Attorney General

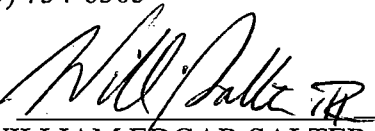
DONALD J. ZELENKA  
Deputy Attorney General

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

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

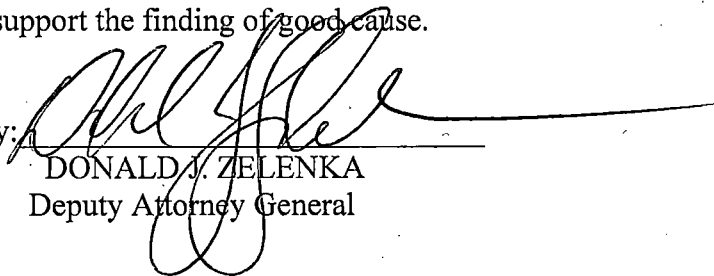
Post Office Box 11549  
Columbia, South Carolina 29211

(803) 734-6305

By:   
WILLIAM EDGAR SALTER, III  
ATTORNEYS FOR RESPONDENT

January 9, 2019.

I support the finding of good cause.

By:   
DONALD J. ZELENKA  
Deputy Attorney General

I also support the finding of good cause.

By: \_\_\_\_\_  
W. JEFFREY YOUNG,  
Chief Deputy Attorney General

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

THE STATE,

RESPONDENT,

v.

ERIC D. McCALL,

APPELLANT.

APPELLATE CASE NO. 2017-000800

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PROOF OF SERVICE

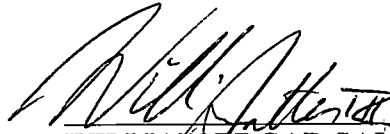
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I, William Edgar Salter, III, counsel for the Respondent, certify that I have served the within Motion for Fifth Extension of Time to File Initial Brief of Respondent on Appellant by depositing two (2) copies of the same via U.S. mail, first class, 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 9<sup>th</sup> day of January, 2019.



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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

January 9, 2019

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

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

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Fifth Extension of Time to File Initial Brief of Respondent, together with Proof of Service, in the above-referenced matter. Counsel for Appellant has consented to this extension request.

Thank you for your assistance in this matter.

Sincerely,

William Edgar Salter, III  
Senior Assistant Attorney General

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JAN 09 2019

SC Court of Appeals

WES:dmd  
Enclosures

cc: Tristan Shaffer, Esq. (w/two copies of encls.)  
Trisha Allen, Victim Advocacy Division (w/ copies of encls.)

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