

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
The Honorable Steven H. John, Circuit Court Judge

Appellate Case No. 2017-002553

RECEIVED
MAR 06 2019
SC Court of Appeals

THE STATE,

Respondent,

vs.

TOMMY LEE BENTON,

Appellant.

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

1. Respondent's Initial Brief is due today, March 4, 2019, upon this Court's grant of Respondent's third request for an extension filed on February 1, 2019.

2. The undersigned attorney for Respondent has had a number of state and federal matters to attend since February 1, 2019, several of those matters being in capital case litigation. Specifically, Respondent notes: Counsel aided in drafting a proposed granting a motion to dismiss in a capital state successive PCR action, Bobby Wayne Stone v. State, C/A No. 2018-CP-43-1025, and has been subsequently working on scheduling and discovery proposals for the one surviving claim; prepared and filed a petition for rehearing and rehearing en banc in another

capital case in federal habeas, Williams v. Stirling, No. 18-2, 2019 WL 332975 (4th Cir. Jan. 28, 2019); prepared and submitted an amendment to the response in opposition to petitioner's Rule 59 motion after unsealing of funding documents in Mikal D. Mahdi v. Stirling, C/A No. 8:16-3911-TMC-BM, a capital case in federal habeas; prepared for and attended a status conference in Georgetown, SC, in another capital case in PCR, Luzinski Cottrell, C/A 2018-CP-26-05709; prepared and submitted a proposed order denying applicant's Rule 59 motion in another capital state successive PCR action, Stephen Corey Bryant v. State, C/A No. 2016-CP-43-828; and, has been working on a proposed order of dismissal in another capital state PCR action, Jerry Buck Inman v. State, C/A No.: 2012-CP-39-918, which was originally due on January 22, 2019, and has been extended to March 11, 2019. Counsel also completed and filed an initial brief of respondent in a non-capital murder direct appeal, Kenneth Strother Collins, Appellate Case No. 2017-002282; and, is presently preparing for argument in another non-capital murder direct appeal to be held in the Supreme Court of South Carolina on Tuesday, March 5, 2019, State v. Robert- Jared Prather, Appellate Case No. 2018-00753. Additionally, counsel maintains supervisory duties for the unit's seven (7) other attorneys, which includes consultation and editing of various other pleadings and briefs filed within the last month.

2. Respondent is cognizant of the number of requests made in this particular case and will diligently work to complete the brief and designation. This request is not for simple delay but made out of necessity given the case load and duties as outlined above.

3. Respondent consulted with opposing counsel, R. Walker Humphrey, II, Esquire, who informed the undersigned's office that he would consent to a one week extension but opposes a full thirty day extension.

WHEREFORE, in light of the foregoing, counsel for Respondent respectfully requests an additional thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.


Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

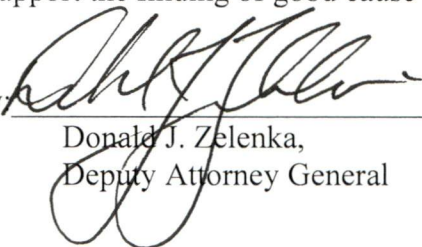
MELODY J. BROWN
Senior Assistant Deputy Attorney General
S.C. Bar No. 14244

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

By: 
MELODY J. BROWN
ATTORNEYS FOR RESPONDENT

March 4, 2019.
Columbia, South Carolina.

I support the finding of good cause having been shown.

By: 
Donald J. Zelenka,
Deputy Attorney General

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PROOF OF SERVICE

I, Angela Bennett, an employee of the Respondent, certify that I have served two (2) copies of the within motion for a fourth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, R. Walker Humphrey, II, Esquire, 133 River Landing Drive, Suite 200, Charleston, South Carolina 29492 and Robert M. Dudek, Esquire, SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

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

This 4th day of March, 2019.



Angela Bennett
Legal Assistant to Melody J. Brown,
Senior Assistant Deputy Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

March 4, 2019

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

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Re: *The State v. Tommy Lee Benton*
Appeal from Horry County
Appellate Case No. 2017-002553

Dear Ms. Kitchings:

Enclosed for filing in your office is the original and six (6) copies of Respondent's Motion for Fourth Extension of Time to File Initial Brief of Respondent and Designation of Matter along with the Certificate of Service in the above-referenced case

Thank you for your assistance in this matter.

Sincerely,

Angela Bennett
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General

MJB/ab
Enclosures

cc: R. Walker Humphrey, II, Esquire
Robert M. Dudek, Esquire
Victim Advocacy Division

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SC Court of Appeals

Melody J. Brown, Senior Assistant Deputy Attorney General
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, South Carolina

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