

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

THE STATE,

RESPONDENT,

v.

JOHN MCCARTY,

APPELLANT,

Appellate Case No. 2017-002377

**MOTION FOR FOURTH 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 fourth 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. Marie Assa'Ad Faltas, MD, MPH v. State of South Carolina*, 2018-CP-40-01798 and 2017-CP-40-6831; *State v. Angela Pressley Greene*, Appellate Case No. 2018-000066, a Greenville County murder appeal matter;

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State vs. Randy Wright, Appellate Case No. 2017-002130, a Berkeley County direct appeal matter; *State v. Charles Thomas Riley*, an Orangeburg County direct appeal matter; *State vs. Wyatt Altman*, a Florence County direct appeal matter; *State vs. Marshall Hill*, a Greenville County criminal appeal matter; *State vs. Daniel Martinez Herrera*, Appellate Case No. 2016-002523, a Laurens County criminal appeal matter; *Ernest Toney vs. State of South Carolina*, Appellate Case No. 2017-000063, a direct appeal from Lee County; *Jonathan O. Batchelor vs. State of South Carolina*, a Spartanburg County post-conviction relief matter; *The State vs. Trey Chavez Brown*, Appellate Case No. 2016-000526, an Abbeville County direct appeal matter; *Carnie Norris vs. State of South Carolina*, Case No. 2012-CP-42-4651, a Spartanburg County post-conviction relief matter; *Timothy Allen Lemacks v. State of South Carolina*, Appellate Case No. 2016-002387, a Colleton County appeal matter;

2. Counsel appeared before Judge Benjamin H. Culbertson in Georgetown County on February 7, 2019 for arguments on Respondent's Motion to Dismiss the successive application for post-conviction relief in the matter of *Anthony Woods v. The State*, Case No. 2018-CP-14-382, a Clarendon County death penalty post-conviction relief matter pending in the Clarendon County Court of Common Pleas;

3. Counsel filed on February 8, 2019 an Initial Brief of Respondent and Designation of Matter in the matter of *The State v. Eric McCall*, Appellate Case No. 2017-000800, a Berkeley County murder appeal matter pending in the South Carolina Court of Appeals;

4. Counsel filed on February 15, 2019 a Response to Applicant's Interrogatories and Response to Applicant's Requests for Production of Documents in the matter of *James D. Robertson v. The State*, Case No. 2011-CP-46-072, a York County death penalty post-conviction

relief matter pending in the York County Court of Common Pleas;

5. Counsel filed on February 19, 2019 a Supplemental Memorandum in Support of Return and Motion to Dismiss in the matter of Anthony Woods v. The State, Case No. 2018-CP-14-382, a Clarendon County death penalty post-conviction relief matter pending in the Clarendon County Court of Common Pleas;

Due to counsel's involvement in these and other matters pending in state and federal court, counsel has been unable to timely complete the brief in this proceeding and would request a thirty (30) day extension within which to do so. This request is made in good faith, and not for the purpose of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests a thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

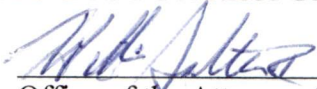
Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

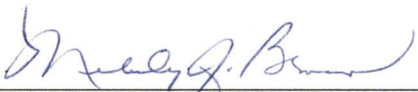
MELODY J. BROWN
Senior Assistant Deputy Attorney General

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

By: 
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-6305

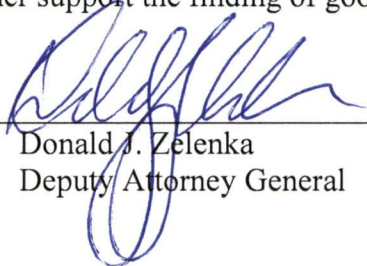
March 4, 2019.

I support the finding of good cause.

By: 

MELODY J. BROWN
Senior Assistant Deputy Attorney General

I further support the finding of good cause.

By: 

Donald J. Zelenka
Deputy Attorney General

STATE OF SOUTH CAROLINA
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CERTIFICATE OF SERVICE

I, William Edgar Salter, III, certify that I have served Respondent's Motion for a Fourth 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 4th day of March 2019.



WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT

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ALAN WILSON
ATTORNEY GENERAL

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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 Fourth 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 Salter, III
Senior Assistant Attorney General

WES/ab

Enclosures

cc: Susan B. Hackett, Esq.
Victim Advocacy Division

✓

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William Edgar Salter, III, Senior Assistant 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**