

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

CERTIORARI TO SPARTANBURG COUNTY  
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

---

Appellate Case No. 2016-000262

**RECEIVED**  
MAR 08 2019  
SC Court of Appeals

DAVID DWIGHT SMITH,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

---

**MOTION FOR FIFTH EXTENSION OF TIME TO FILE  
BRIEF OF RESPONDENT**

---

The undersigned counsel would respectfully request a fourteen (14) day extension in which to file the Brief of Respondent in the above-referenced case. Respondent has consulted with opposing counsel, Lara M. Caudy, who has graciously consented to this request. In support of this motion, counsel would respectfully show the Court the following:

- 1: The Brief of Respondent is due today, March 8, 2019 as per this Court's Order dated February 13, 2019 granting Respondent's fourth extension request. The undersigned attorney for the Respondent has had a number of matters to attend to in addition to counsel's role as Deputy Attorney General for the office's Criminal Division. Counsel has begun working on the Brief of Respondent

and reviewed the PCR hearing and brief of Petitioner. Below-signed counsel recently undertook this matter due to prior assigned counsel leaving the office without prior knowledge of the case or issues.

2. Counsel filed the Brief of Respondent in the matter of The State v. Billy Phillips, Appellate Case No. 2018-000977, a Jasper County murder appeal matter pending in the South Carolina Court of Appeals on February 21, 2019;

3. Counsel filed the Return to the Pro Se Petition for Extraordinary Relief Under SCACR Rule 245 in the matter of Leroy Staton v. The State, Appellate Case No. 2018-001731, a Marlboro County DNA application matter pending in this Court on February 25, 2019;

4. Counsel has also been preparing orders in pending PCR matters in cases involving prior employees this month.

WHEREFORE, counsel respectfully requests a fourteen (14) day extension of time to serve and file the Brief of Respondent. This request is made in good faith, and not for the purposes of delay and based upon extraordinary circumstances.

Respectfully Submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Deputy Attorney General  
No: 5758

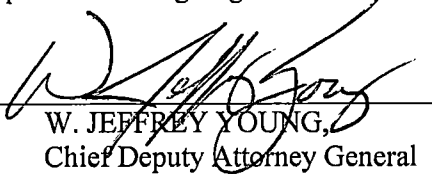
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

By:   
DONALD J. ZELENKA  
ATTORNEYS FOR RESPONDENT

March 8, 2019.

I support the finding of good cause and extraordinary circumstances have been shown.

By:



W. JEFFREY YOUNG,  
Chief Deputy Attorney General

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

CERTIORARI TO SPARTANBURG COUNTY  
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

---

Appellate Case No. 2016-000262

**RECEIVED**

MAR 08 2019

SC Court of Appeals

DAVID DWIGHT SMITH,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

---


**PROOF OF SERVICE**

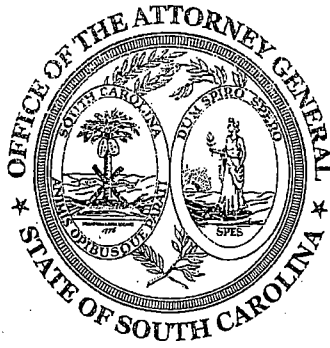
---

I, Angela Bennett, Administrative Coordinator, certify that I have served two (2) copies of the motion for a fifth extension to file the Brief of Respondent via U.S. mail to Appellant's attorney of record, Lara M. Caudy, Esquire, SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, South Carolina 29201.

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

This 8<sup>th</sup> day of March, 2019.

  
ANGELA BENNETT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

March 8, 2019

RECEIVED  
MAR 08 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: David Dwight Smith v. State of South Carolina  
Appellate Case No. 2016-000262

Dear Ms. Kitchings:

Enclosed for filing in your office is the original and six (6) copies of Respondent's Motion for Fifth Extension of Time to File the Brief of Respondent 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 Donald J. Zelenka  
Deputy Attorney General

DJZ/ab  
Enclosures

cc: Lara M. Caudy, Esquire  
Victim Advocacy Division

✓