

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

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APR 03 2019
SC Court of Appeals

**MOTION FOR FIFTH 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 fifth 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: on March 8, 2019, *State v. Bobby Leon Smith*, Appellate Case No. 2018-000541, a Greenville County criminal appeal matter; *State v. John Kenneth Massey, Jr.*, Appellate Case No. 2015-000431, a York County criminal appeal

matter; and *Robert Osbey v. The State*, Appellate Case No. 2017-001038, a Spartanburg County post-conviction relief matter. On March 22, 2019, *State v. Jeffrey Boyd Cooper*, Appellate Case No. 2016-000189, a Kershaw County direct appeal matter and *Gregory Bernard Roberts v. The State*, Case No. 2017-CP-40-7232, a Richland County post-conviction relief matter.

2. Counsel filed on March 11, 2019 Respondent's Response to Text Order ECF #38: Status Lee Correctional Institution in the matter of *Devan Dwyer v. Warden Aaron Joyner*, C/A No. 9:18-537-MGL-BM, a federal habeas matter pending in the United States District Court for the District of South Carolina;

3. Counsel filed on March 22, 2019 a Supplemental Status Report and Response to Text Order Filed January 30, 2018 ECF#68 in the matter of *Terriel L. Mack v. Larry Cartledge*, C/A No. 9:14-295-TMC-BM, a federal habeas matter pending in the United States District Court for the District of South Carolina;

4. Counsel filed on March 25, 2019 a Response Opposing Motion for Stay of Proceedings in the matter of *Tommy McKnight v. Aaron Joyner*, C/A No. 8:18-1871-JFA-JDA, a federal habeas matter pending in the United States District Court for the District of South Carolina; and

5. Counsel appeared before the Honorable R. Keith Kelly in York County in the matter of *James D. Robertson v. The State*, Case No. 2011-CP-46-0072 regarding a death penalty post-conviction relief hearing on April 2, 2019.

6. The undersigned would also note that I am now receiving additional assistance with my workload from the Capital Litigation Unit's Law Clerk, 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 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,

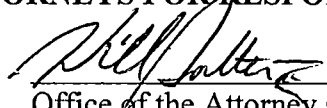
ALAN WILSON
Attorney General

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

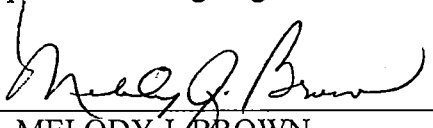
By:


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

April 3, 2019.

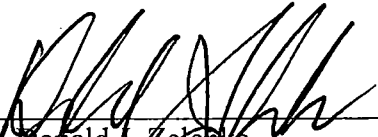
I support the finding of good cause.

By:


MELODY J. BROWN

Senior Assistant Deputy Attorney General

By:


Donald J. Zelenka
Deputy Attorney General

MS
#

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CERTIFICATE OF SERVICE

I, William Edgar Salter, III, certify that I have served Respondent's Motion for a Fifth 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:

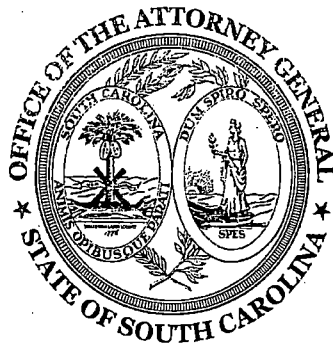
Susan B. Hackett, Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

This 3rd day of April, 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



ALAN WILSON
ATTORNEY GENERAL

April 3, 2019

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SC Court of Appeals

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 Fifth 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,

Angela Bennett
Legal Assistant to William Edgar Salter, III
Senior Assistant Attorney General

WES/ab

Enclosures

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