

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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

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**RECEIVED**  
MAY 24 2019  
SC Court of Appeals

THE STATE,

Respondent,

v.

NICHOLAS JACOB McIVER,

Appellant.

Appellate Case No. 2018-000824

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

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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. Opposing counsel has graciously consented to the request. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, May 24, 2019 as per this Court's Order dated April 25, 2019 granting Respondent's second extension request. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since April 24, 2019. Specifically,

1. Counsel for Respondent has been out of the office on medical leave and is on a reduced work schedule due to a continuous and on-going health condition;
2. On Wednesday, April 3, 2019 counsel left his residence in Simpsonville, South Carolina for travel to Durham, North Carolina. On Thursday, April 4, 2019, counsel was at the Duke University Medical Center, in Durham for a screening for a heart and kidney transplant;
3. Counsel prepared the Return to Petition for Writ of Certiorari in the matter of The State vs. Ardon Percival Cato, II, Appellate Case No. 2019-000042, an Horry County murder appeal matter now pending before the South Carolina Supreme Court on **April 29, 2019**;
4. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Arthur L. Singleton, #300109 vs. Warden of Lee Correctional Institution, C/A No. 9:18-cv-3300-DCN-BM on **May 1, 2019**;
5. Counsel filed Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #31] in the matter of Dennis Maurice Temple vs. Warden Scott Lewis, C/A No. 8:18-03258-JFA-JDA on **May 2, 2019**;
6. Counsel prepared a proposed Order of Dismissal for the Honorable Paul Burch, Circuit Court Judge in Andre T. Boone v. State of South Carolina, 2013-CP-40-6702 [murder] , a Richland County post-conviction relief matter on **May 3, 2019**;
7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Maxwell E. Sipes, #320502 vs. Warden of Tyger River Correctional Institution, C/A No. 8:18-2842-RBH-JDA on **May 9, 2019**;
8. Counsel filed the Respondent's Motion to Stay, Hold in Abeyance, or Dismiss Without Prejudice in the matter of Kinjta Kadeem Sadler, #353966 vs. Charles Williams, Warden, C/A No. 9:19-0113-TMC-JDA on **May 14, 2019**;

9. Counsel filed the Final Brief of Respondent in the matter of The State vs. Mitchell Monroe Weatherall, Appellate Case No. 2017-002447, an Horry County murder appeal matter now pending in the South Carolina Court of Appeals on **May 21, 2019**;

10. Counsel has also completed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Jerry L. Scantling, #259057 vs. Warden of Lieber Correctional Institution, C/A No. 6:19-cv-506-TMC-KFM which is currently due to be filed on May 31, 2019; and

11. Counsel is also currently preparing a proposed Order of Dismissal in the matter of Brian Allen Clarke vs. State of South Carolina, 2012-CP-32-1530, a Lexington County post-conviction relief matter.

However, due to counsel's medical condition, and counsel's involvement in these and other matters, counsel is unable to timely complete the Initial Brief of Respondent and Designation of Matter in this matter.

WHEREFORE, counsel respectfully requests a thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter. This request is made in good faith, and not for the purposes of delay.

Respectfully Submitted,


ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

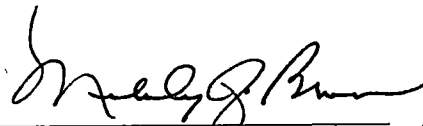
J. ANTHONY MABRY  
Senior Assistant Attorney General  
No. 11973

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

By:   
J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

May 24, 2019.

I support the finding of good cause.

By:   
MELODY J. BROWN

Senior Assistant Deputy Attorney General

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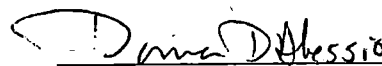
**PROOF OF SERVICE**

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I, Donna D'Alessio, an employee of the Respondent and legal assistant to J. Anthony Mabry, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a third extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorneys of record, William G. Yarborough, III, Esq., 522 North Church Street, Greenville, South Carolina 29601, and to Lauren C. Hobbis, Esq., c/o William G. Yarborough, II, Attorney at Law, LLC, 522 North Church Street, Greenville, South Carolina 29601.

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

This 24<sup>th</sup> day of May, 2019.



Donna D'Alessio, Legal Assistant to  
J. Anthony Mabry  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

May 24, 2019

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

**RECEIVED**

MAY 24 2019

SC Court of Appeals

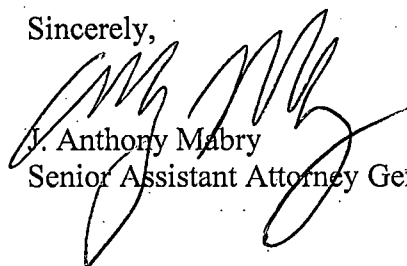
Re: *The State v. Nicholas McIver*  
Appeal from Horry County  
Appellate Case No. 2018-000824

Dear Ms. Kitchings:

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

Thank you for your assistance in this matter.

Sincerely,

  
J. Anthony Mabry  
Senior Assistant Attorney General

JAM:dmd  
Enclosures

cc: William G. Yarborough, III, Esq. (w/two copies of encls.)  
Lauren C. Hobbis, Esq. (w/two copies of encls.)