

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County
The Honorable Thomas W. Cooper

THE STATE OF SOUTH CAROLINA,

v.

MELEKE D. STEWART,

Respondent,

Appellant,

RECEIVED
SEP 11 2019
SC Court of Appeals

Appellate Case No. 2018-001916

**MOTION FOR THIRD 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. Opposing counsel was informed of the request via email and graciously consented to the third extension request. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief and Designation of Matter is due today, Wednesday, September 11, 2019 as per this Court's Order dated August 13, 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 August 12, 2019. Specifically,

1. Counsel completed and filed a Response to Petitioner's Rule 59(e), Motion in the matter of Frederick Van Anderson vs. Warden Scott Lewis, C/A No. 5:18-cv-00682-JMC, a federal habeas corpus case, filed August 12, 2019;
2. Counsel completed and filed the Return to Petition for Rehearing in the matter of State vs. Michael Jay Finley, Appellate Case No. 2016-002480, an appeal currently pending before this Court, on August 12, 2019;
3. Counsel prepared for and participated in a status conference on August 15, 2019, in the matter of Bayan Aleksey, #5059 vs. State, 2015-CP-38-764, a death penalty post-conviction relief case currently pending in Orangeburg County;
4. Counsel prepared and filed the Reply to "Response to Summary Judgment and Return" in the matter of Wayne Wells, Jr., #314139 vs. Terrie Wallace, C/A No. 2:19-cv-1284-JFA-MGB, a federal habeas corpus matter, on August 20, 2019;
5. Counsel wrote and filed a Response to the request for an extension of time in the matter of Louis Sanders, #164301 vs. Warden, Perry Corr. Inst., C/A No. 9:18-2783-MGL-BM, a federal habeas corpus matter, on August 20, 2019;
6. Counsel prepared and filed a Response to Petitioner's Objections to the Report and Recommendation in the matter of Sammy K. Cowan, #214656 vs. Michael Stephan, Warden of Broad River Correctional Institution, C/A No. 6:18-2827-TWL, a federal habeas corpus matter, on August 20, 2019;
7. Counsel prepared and filed the Initial Brief of Respondent and Designation of Matter for The State vs. Eric Dale Morgan, Appellate Case No. 2018-001465, on August 23, 2019, a Spartanburg County appeal currently pending before this Court;

8. Counsel researched, prepared, and filed the Return and Memorandum of Law in Support of Summary Judgment in the matter of Matthew Frazier vs. LaVern Cohen, Warden, C/A No. 2:19-cv-1537-DCN-MGB, a federal habeas corpus case, on August 28, 2019;

9. Counsel also prepared and filed the Respondent's Reply to Objections to Report and Recommendation in the matter of Romeo Anthony Brown, #185544 vs. Warden of Lee River Correctional Institution, C/A No. 2:18-01276-DCC, on September 3, 2019;

10. Counsel prepared and filed a joint status report in the matter of Bobby Wayne Stone vs. Bryan Stirling, et al., C/A No. 2:17-cv-01221-MGL-MGB, a Sumter County federal habeas corpus case, on September 6, 2019;

11. Counsel filed a Reply to Objections to Report and Recommendation in the matter of Louis Sanders, #164301 vs. Warden, Perry Corr. Inst., C/A No. 9:18-2783-MGL-BM, a federal habeas corpus case, on September 10, 2019;

12. Counsel has done a substantial amount of work preparing the Initial Brief of Respondent in this matter; and,

13. This case will be reassigned to another Assistant Attorney General shortly given undersigned counsel's pending transfer to another position. Undersigned counsel will coordinate and work with the new attorney to inform them of the particulars of the case.

Due to counsel's involvement in these and other matters, counsel is unable to timely complete the Initial Brief of Respondent.

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. ZELEŃKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

SHERRIE A. BUTTERBAUGH
Assistant Attorney General
No. 101477

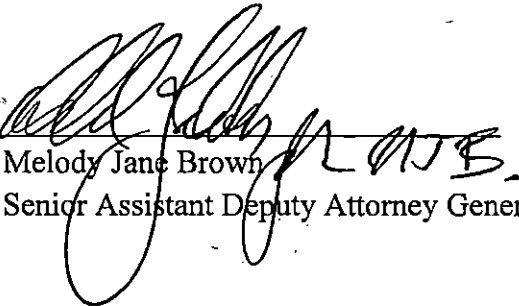
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 

SHERRIE A. BUTTERBAUGH
ATTORNEYS FOR RESPONDENT

September 11, 2019.

I support the finding of good cause:

By: 

Melody Jane Brown
Senior Assistant Deputy Attorney General

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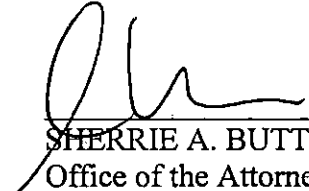
Appellate Case No. 2018-001916

PROOF OF SERVICE

I, Sherrie A. Butterbaugh, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a second extension to file the Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorney of record, Tommy Arthur Thomas, Esq., P. O. Box 88, Irmo, South Carolina 29063.

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

This 11th day of September, 2019.



SHERRIE A. BUTTERBAUGH
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

September 11, 2019

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

Re: *The State v. Meleke D. Stewart*
Appeal from Horry County
Appellate Case No. 2018-001916

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. Opposing counsel has consented to this request.

Thank you for your assistance in this matter.

Sincerely,

Sherrie Butterbaugh
Assistant Attorney General

SB:brb

Enclosures

cc: Tommy Thomas, Esq. (w/two copies of encls.)

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