

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County
Honorable William A. McKinnon, Circuit Court Judge
Appellate Case No. 2019-000470
Trial Court Case No. 2018GS4607326

RECEIVED
SEP 16 2019
SC Court of Appeals

THE STATE,

Appellant,

vs.

HAROLD GENE WHITE, III

Respondent.

**MOTION OUT OF TIME FOR THIRD EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Appellant (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I. REQUEST FOR EXTENSION OUT OF TIME

Appellant’s Initial Brief and Designation of Matter in the above-captioned appeal was due to be filed and served on September 13, 2019. However, due to a clerical error, the due date for these items was listed for today, September 16, 2019, the date on which this Court issued its previous extension. Appellant intended to request a third extension of thirty days to file its initial brief based on a heavy workload. Due to this clerical error, Appellant neglected to file an extension with this Court on September 13, 2019.

Accordingly, Respondent requests this Court relax the rules in order to file, out of time, a request for a thirty-day extension in which to prepare and submit its Initial Brief and Designation of Matter. *See* Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). This is Respondent’s third extension request in this case.

The undersigned counsel apologizes for any inconvenience this request has caused the Court and Respondent. However, Appellant does not believe this request will result in any prejudice to Respondent should it be granted.

II. MERITS OF REQUEST

This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The Brief in the above case has required significant research into the classification of drugs under South Carolina law and into DHEC regulations involving the various schedules of illegal drugs. The undersigned is currently working on the Brief in this case and hopes to have it completed in a timely manner. I would therefore request an extension of time within which to serve and file the Brief.

III. PRAYER FOR RELIEF

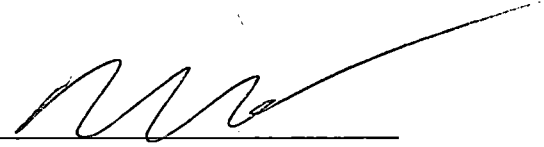
WHEREFORE, Appellant respectfully asks this Court to relax the rules to permit filing of this motion and thereby grant a third and final extension until **October 13, 2019**, thirty-days from the date on which the initial brief/request for the third extension was originally due based upon the above circumstances.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM F. SCHUMACHER, IV
Assistant Attorney General

By: _____



William F. Schumacher, IV

By: _____

William M. Blich, Jr.
Senior Assistant Deputy Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

September 16, 2019

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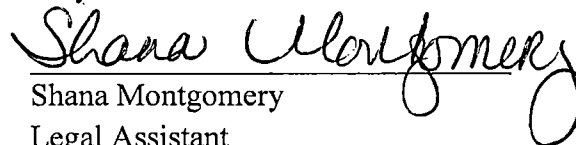
Respondent.

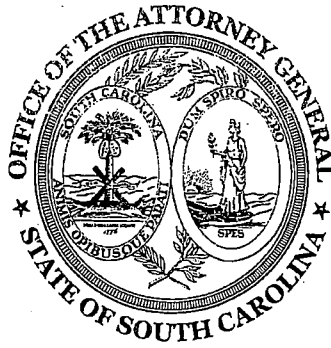
PROOF OF SERVICE

I, Shana Montgomery, certify that I have served the within Motion Out of Time for Third Extension of Time Within Which to Serve and File Initial Brief of Appellant and Designation of Matter by sending two copies of the same to:

Robert M. Dudek, Esquire
Chief Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211-1589

I further certify that all parties required by Rule to be served have been served this 16th day of September, 2019.


Shana Montgomery
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-0368



ALAN WILSON
ATTORNEY GENERAL

September 16, 2019

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

RE: State v. Harold Gene White, III – Appellate Case No. 2019-000470

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion Out of Time for Third Extension of Time Within Which to Serve and File Initial Brief of Appellant and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

William F. Schumacher, IV
Assistant Attorney General
Bar Number 100231

WFS/sm
Enclosures

cc: Robert M. Dudek, Esquire
Victim Advocacy Division

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SEP 16 2019

SC Court of Appeals