

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Bamberg County
The Honorable Doyet A. Early, Circuit Court Judge

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OCT 07 2019
SC Court of Appeals

THE STATE,

Respondent,

v.

KWAMAINE JARELLE ROSS,

Appellant.

Appellate Case No. 2018-001212

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

Respondent's Initial Brief is due today, Monday, October 7, 2019 as per this Court's Order dated September 10, 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 September 6, 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. Counsel has been

approved for transplant and placed on the transplant waiting list at Duke University Medical Center; Durham, North Carolina for a heart and kidney transplant. Counsel was out of the office for part of the day on **Tuesday, September 3, 2019** for a Hepatitis B shot which is part of the protocol for transplant. Counsel was also out of the office on **Thursday, September 5, 2019** for an appointment in Charlotte, N.C. at the Carolinas Medical Center (CMC) for treatment of an infection due to the same or related on-going health condition;

2. Counsel filed the Respondent's Reply to Amended Objections [ECF #48] in the matter of Dennis Maurice Temple vs. Warden Scott Lewis, C/A No. 8:18-03258-JFA-JDA on **September 9, 2019**;

3. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Alonzo C. Jeter, III, #282902 v. Barry Tucker, 2:19-cv-1945-MGL-MGB (Federal Habeas Corpus), also on **September 9, 2019**;

4. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #28] in the matter of Jerry L. Scantling vs. Warden Lieber Correctional Institution, C/A No. 6:19-00506-TMC-KFM on **September 19, 2019**;

5. Counsel filed the Respondent's Response to Motion to Strike [ECF #61] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM on **September 26, 2019**;

6. Counsel also filed the Respondent's Response to Motions to Compel [ECF Nos. 62 & 64] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM on **September 26, 2019 and September 30, 2019**;

7. Counsel filed the Respondent's Response to Motion to Strike [ECF #22], and Response to Motion for Extension of Time [ECF #23], as per Text Order ECF #24, in the matter

of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL-MGB on **October 1, 2019**;

8. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #66] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM on **October 2, 2019**;

9. Counsel also filed the Respondent's Second Status Report in the matter of Kinjta Kadeem Sadler, #353966 vs. Charles Williams, Warden, C/A No. 8:19-0113-TMC-JDA on **October 3, 2019**; and

10. Counsel has been involved in working on other matters in state and federal court as well.

However, due to counsel's medical condition and treatment, 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

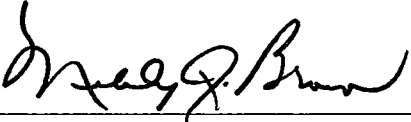
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 

J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

October 7, 2019.

I support the showing of good cause.

By: 

MELODY J. BROWN,
Senior Assistant Deputy Attorney General

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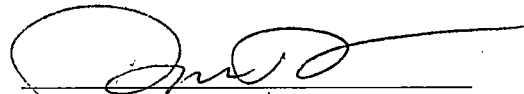
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PROOF OF SERVICE

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 attorney of record, Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite 401, Columbia, South Carolina 29201.

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

This 7th day of October, 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

October 7, 2019

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

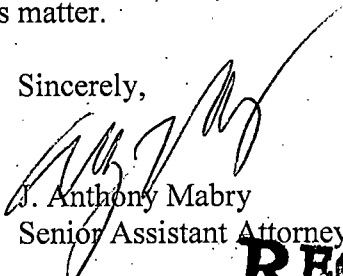
Re: *The State v. Kwamaine Jarelle Ross*
Appeal from Bamberg County
Appellate Case No. 2018-001212

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,


J. Anthony Mabry
Senior Assistant Attorney General

AJM:dmd
Enclosures
cc: Robert M. Dudek, Esq. (w/two copies of encls.)

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