

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Writ of Certiorari to Berkeley County
Honorable Larry B. Hyman, Jr., Circuit Court Judge
Appellate Case No. 2016-001666

JUSTIN RYAN HILLERBY,

vs.

THE STATE,

RECEIVED
Petitioner **OCT 07 2019**
SC Court of Appeals

Respondent.

**MOTION FOR FOURTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE BRIEF OF RESPONDENT**

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

I.

The Brief of Respondent is due to be served and filed on October 7, 2019.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the State moves for a **fourth** and **final** extension in the above-referenced post-conviction relief appeal and asks for an additional thirty days to complete the brief in this case. In the past few weeks, the undersigned counsel has submitted a Brief of Petitioner to the Supreme Court in State v. John Kenneth Massey, Jr.; has submitted an Initial Brief of Respondent to the Court of

Appeals in State v. Justin Adams, State v. Terrell Freeman, State v. Eric Emanuel English, State v. Orin Jerrell Kemp, State v. William Holmes, and State v. John Fitzgerald Anderson; has submitted a Petition for Writ of Certiorari to the Supreme Court in John Lydon Upson v. State; and has submitted a Return to Petition for Writ of Certiorari to the Supreme Court in Charles Green, Jr. v. State; has submitted a Petition for Rehearing to the Supreme Court in State v. James Scott Cross; and has submitted a Petition for Rehearing to the Court of Appeals in State v. Joseph Bowers.

III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. The Brief in the above-referenced case has required significant research because the case involves an important issue involving expert testimony. The undersigned counsel has nearly completed work on the Brief in this case and intends to have it finished shortly. However, the undersigned counsel has not yet been able to finish the Brief and have it printed and bound as required by our appellate court rules. Accordingly, in order to ensure the Brief is properly researched and prepared, I would therefore request a final additional extension of time within which to serve and file the Brief.

IV.

Prior to seeking this extension request, undersigned counsel consulted with counsel for Petitioner, and Petitioner's counsel has graciously indicated he has no objections to the State's extension request.

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Brief of Respondent in this case for thirty days from the date such relief is granted;

hold the matter in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 

Mark R. Farthing

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

I have reviewed and approved this extension request.

By: 

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

By: 

Donald J. Zelenka
Deputy Attorney General

October 7, 2019

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Honorable Larry B. Hyman, Jr., Circuit Court Judge
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JUSTIN RYAN HILLERBY,

Petitioner,

vs.

THE STATE,

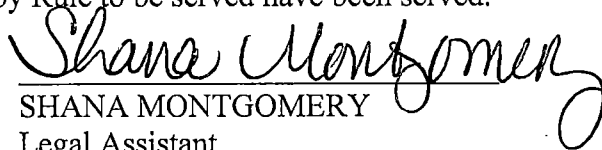
Respondent.

PROOF OF SERVICE

I, Shana Montgomery, certify I have served the within Motion for Fourth Extension of Time Within Which to Serve and File Brief of Respondent on Appellant by sending two copies of the same to:

Jeremy A. Thompson, Esquire
Law Office of Jeremy A. Thompson, LLC
Post Office Box 12891
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 7th day of October, 2019.


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

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OCT 07 2019
SC Court of Appeals



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: Justin Ryan Hillerby v. State – Appellate Case No. 2018-002133

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion for Fourth Extension of Time Within Which to Serve and File Brief of Respondent, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General
Bar Number 76901

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OCT 07 2019
SC Court of Appeals

MRF/
Enclosures

cc: Jeremy A. Thompson, Esq.
Victim Advocacy Division