

STATE OF SOUTH CAROLINA
In the Court of Appeals

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

THE STATE,

v.

WILLIAM T. GULE, JR.,

RECEIVED
FEB 11 2020
Respondent
SC Court of Appeals

Appellant.

Appellate Case No. 2018-001848

**MOTION FOR FIFTH 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 on Wednesday, February 12, 2020 as per this Court's Order dated January 15, 2020 granting Respondent's fourth extension request. The undersigned attorney for the Respondent has completed a majority of the Initial Brief of Respondent but has had personal medical issues and has had a number of state and federal matters to attend since January 8, 2020.

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 had two (2) doctor's appointment in Charlotte, North Carolina on **January 9, 2020** due to said on-going health condition [infection at LVAD entry site & changing of medical equipment];

2. Counsel attended the parole hearing in the matter of Faren Gibbs, #222138, a Spartanburg county **murder and armed robbery** matter on Wednesday, **January 8, 2020** [counsel prosecuted the case for the State];

3. Counsel filed the Final Brief of Respondent in the matter of The State vs. James Elbert Daniels, Jr., Appellate Case No. 2018-001630, an Horry County murder appeal matter now pending in the South Carolina Court of Appeals on **January 10, 2020**;

4. Counsel filed the Respondent's Fourth Status Report as per Text Order ECF#33 in the matter of Kinjta Kadeem Sadler, #353966 vs. Charles Williams, Warden, C/A No. 8:19-0113-TMC-JDA [Federal Habeas Corpus] on **January 16, 2020**;

5. Counsel filed a Notice of Filing of Documents from the State Court Record Pursuant to Order [ECF #38] in the matter of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL-MGB [Federal Habeas Corpus] on **January 16, 2020**;

6. Counsel also filed the Respondent's Response to Petitioner's Objection to the Report and Recommendation [ECF #37] in the matter of London Wooden, #357930 vs. Warden, Perry Correctional Institution, C/A No. 4:19-927-SAL-TER [Federal Habeas Corpus](Murder) on **January 21, 2020**;

7. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Quentin R. Jenkins, #326584 vs. Warden, Levern Cohen, C/A No. 9:19-cv-1461-TMC-BM (Federal Habeas Corpus)[Murder (2 Counts)] on **January 21, 2020**;

8. Counsel filed the Respondent's Response to "Motion to Produce" [ECF #88] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM [Federal Habeas Corpus] on **January 22, 2020**;

9. Counsel filed the Final Brief of Respondent in the matter of The State vs. Kwamaine J. Ross, Appellate Case No. 2018-001212, a Bamberg County murder direct appeal matter in the South Carolina Court of Appeals on **January 28, 2020**;

10. Counsel filed the Respondent's Objections to the Report and Recommendation [ECF #39] in the matter of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL-MGB (Federal Habeas Corpus) on **January 24, 2020**;

11. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #21] in the matter of Willie Bell, Jr. vs. Levern Cohen, C/A No. 1:19-2270-MGL-SVH (Murder and Arson) on **January 29, 2020**;

12. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Andre Massey, #229492 vs. Warden, Tallahatchie Correctional Institution, C/A No. 8:19-cv-2876-HMH-JDA (Federal Habeas Corpus) (Armed Robbery [LWOP]) on **January 31, 2020**;

13. Counsel is also preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Timothy Donald Dingle vs. Warden of Lieber

Correctional Institution, C/A No. 9:19-2426-HMH-BM (Murder [2 counts] & Arson 1st Degree [2 counts]);

14. Counsel for Respondent has done a significant amount of work preparing the Initial Brief of Respondent and Designation of Matter in this case; and, undersigned counsel has previously requested two (2) pieces of evidence from the Solicitor's Office relevant to the Brief of Respondent and received one (1) and reviewed the same but was unable to open the other in Drop Box but will obtain the same by other means to complete the Initial Brief of Respondent;

15. 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 was unable to timely complete the Initial Brief of Respondent and Designation of Matter in this matter. Opposing counsel has graciously consented to this extension request.

WHEREFORE, for extraordinary circumstances shown, 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 29210
(803) 734-6305

By: _____

J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

February 11, 2020.

I support the finding of extraordinary circumstances.

By: _____

DONALD J. ZELENKA
Deputy Attorney General

I further support the finding of extraordinary circumstances.

By: _____

W. JEFFREY YOUNG
Chief Deputy Attorney General

STATE OF SOUTH CAROLINA
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Appellant.
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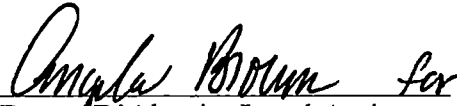
Appellate Case No. 2018-001848

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 fifth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail, postage prepaid to Appellant's attorney of record, Dayne C. Phillips, Esq., Price, Benowitz, LLP, 1614 Taylor Street, Suite D, Columbia, South Carolina 29201.

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

This 11th day of February, 2020.


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

February 11, 2020

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SC Court of Appeals

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

Re: *The State v. William T. Gule, Jr.*
Appeal from Charleston County
Appellate Case No. 2018-001848

Dear Ms. Kitchings:

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

Sincerely,

Angela Brown
Legal Assistant to J. Anthony Mabry
Senior Assistant Attorney General

JAM/ab

Enclosures

cc: Dayne C. Phillips, Esq. (w/two copies of encls.)