

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Lexington County

William P. Keesley, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

v.

HEIRBERONE HEAVA FOSTER,

RESPONDENT

APPELLANT

Appellate Case No. 2019-000892  
\_\_\_\_\_

PETITION FOR EXTENSION TO FILE  
INITIAL BRIEF OF APPELLANT  
AND DESIGNATION OF MATTER  
\_\_\_\_\_

The undersigned counsel respectfully requests a thirty-day extension in which to file the initial brief of appellant and designation of matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed today.

2. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Arthur Franklin Smith v. The State with the Supreme Court on February 18, 2020. Counsel filed the petition for rehearing in the case of The State v. Timiya Rashad Massey with this Court on February 13, 2020. Counsel filed the initial brief of appellant and designation of matter in the case of The State v. Robert Xavier Geter with this Court on February 3, 2020. Counsel filed the brief of appellant and designation of matter in the case of The State v. Johnnie Lee McKnight with this

**ORIGINAL**  
**RECEIVED**  
FEB 26 2020  
SC Court of Appeals

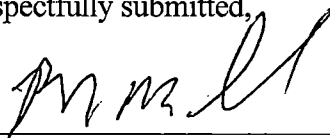
Court on January 28, 2020. Counsel was co-counsel to Lara M. Caudy and Victor Seeger, when a petition for writ of certiorari to this Court and accompanying appendix in The State v. Jonathan Donell Rhodes was filed with the Supreme Court on January 28, 2020. Counsel filed the petition for writ of certiorari and accompanying appendices in the death penalty case of Marion Alexander Lindsey v. The State with the Supreme Court on January 17, 2020 with co-counsel David Alexander and Lara M. Caudy. Counsel filed the petition for rehearing in the case of The State v. Edward Primo Bonilla with this Court on January 14, 2020. Counsel was co-counsel to Lara M. Caudy, when they filed the initial brief of appellant and designation of matter in the case of The State v. Tammy Caison Moorner with this Court on January 6, 2020. Counsel filed the return to the State's petition for writ of certiorari in the case of The State v. Joseph Bowers with the Supreme Court on December 27, 2019. **Counsel has extensive administrative duties as the Chief Appellate Defender, including administrative and Appellate Project oversight, and training four less experienced appellate defenders and reviewing all their filings in advance.**

3. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

4. As indicated by the counsel below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension. Counsel respectfully requests that the time limits for filing the initial brief of appellant and designation of matter be held in abeyance pending a ruling on this motion.

Respectfully submitted,

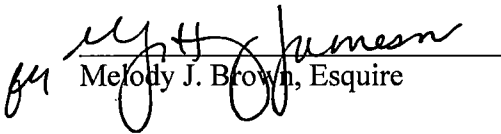


---

Robert M. Dudek  
Chief Appellate Defender

This 26<sup>th</sup> day of February, 2020

I DO NOT OPPOSE:

  
Melody J. Brown, Esquire