

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Spartanburg County
The Honorable J. Mark Hayes, II, Circuit Court Judge

THE STATE,

Respondent,

v.

ADRIEL NICHOLAS GARNETT,

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Appellant. MAR 16 2020

Appellate Case No. 2019-000722

SC Court of Appeals

**MOTION FOR SECOND 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, Tommy A. Thomas, Esq. has graciously consented to the request. In support of this motion, counsel would respectfully show the Court the following extraordinary or good cause circumstances:

Respondent's Initial Brief is due today, Monday, March 16, 2020 as per this Court's Order dated February 21, 2020 granting Respondent's first extension request. The undersigned attorney has had a number of state and federal matters to attend since February 14, 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 has had various doctor's appointments due to said on-going health condition [infection at LVAD entry site & changing of medical equipment]; counsel had a doctor's appointment at Duke University Medical Center on **February 27, 2020**; counsel was out of the office on **March 4, 2020** due to picking up medical supplies for said on-going health condition; and counsel was also asked to leave the office on **March 12, 2020**, counsel will be working remotely from home due to safety concerns regarding his immune system and the current situation regarding the Coronavirus.

2. Counsel filed a Response to Motion to Appoint Counsel [ECF #30] in the matter of Timothy Donald Dingle, #298989 vs. Warden of Lieber Correctional Institution, C/A No. 9:19-2426-HMH-BM on **February 14, 2020**;

3. Counsel filed the Respondent's Reply to Objection to Report and Recommendation [ECF #37] in the matter of Jerry L. Scantling vs. Warden Lieber Correctional Institution, C/A No. 6:19-00506-SAL-KFM on **February 14, 2020**;

4. Counsel filed Respondent's Reply to Petitioner's Objections to Report and Recommendation [ECF #43] in the matter of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL on **February 14, 2020**;

5. Counsel filed the Respondent's Response to Petitioner's Supplemental Objection to Report and Recommendation [ECF #49] also in the matter of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL on **February 18, 2020**;

6. Counsel filed the Respondent's Response to Objections to Report and Recommendation in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN on **February 24, 2020**;

7. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Harold Ayton vs. Warden Charles Williams, C/A No. 9:19-3234-DCN-BM, a federal habeas matter on **March 13, 2020**;

8. Counsel has completed a significant amount of work 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. There are nineteen (19) grounds to Mr. Dingle's Petition for Writ of Habeas Corpus, and counsel is diligently working to prepare same in a timely manner;

9. Counsel for Respondent has also done a significant amount of work preparing the Initial Brief of Respondent and Designation of Matter in the matter of The State vs. William T. Gule, Jr., Appellate Case No. 2018-001848; and, undersigned counsel has previously requested two (2) pieces of evidence from the Solicitor's Office relevant to the Brief of Respondent. As noted above, counsel has completed the body of the brief and is working on placing the brief in proper form, proofing, and generally completing the Brief and Designation of Matter for filing with the Court; 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, treatment, and preventative safety measures, 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.

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, for good cause 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

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Columbia, South Carolina 29211
(803) 734-6305

By: 

J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

March 16, 2020.

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PROOF OF SERVICE

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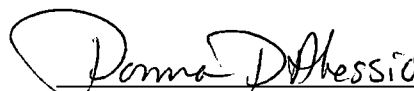
MAR 16 2020

SC Court of Appeals

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 second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's attorney of record, Tommy A. Thomas, Esq., P.O. Box 88, Irmo, South Carolina 29063.

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

This 16th day of March, 2020.



Donna D'Alessio, Legal Assistant to
J. Anthony Mabry,
Senior Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

March 16, 2020

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

Re: *The State v. Adriel Nicholas Garnett*
Appeal from Spartanburg County
Appellate Case No. 2019-000722

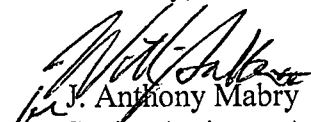
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Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Second 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

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SC Court of Appeals

AJM:dmd
Enclosures

cc: Tommy A. Thomas, Esq. (w/two copies of encls.)