

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Apr 24 2020

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

SC Court of Appeals

THE STATE,

Respondent,

v.

ADRIEL NICHOLAS GARNETT,

Appellant.

Appellate Case No. 2019-000722

**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, 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, Friday, April 24, 2020. The undersigned attorney has had a number of state and federal matters to attend since March 25, 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 has had a doctors' appointments at Duke University Medical Center; counsel was out of the office on various days to pick 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 the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Dennis Rodger Davis, Jr. vs. Bryan Sterling; Tonya James; Jeannine Price, C/A No. 0:19-2720-TLW-PJG on **March 31, 2020**;

3. Counsel filed the Respondent's Response to Motion to Stay in the United States Court of Appeals for the Fourth Circuit in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, Case No. 20-6345 on **April 2, 2020**;

4. Counsel filed the Amended Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Alfonso Staton vs. Michael McCall, C/A No. 5:12-02483-BHH-KDW, as per ECF #122 on **April 21, 2020**;

5. Counsel filed the Status Report in the matter of Arthur L. Singleton, #300109 vs. Warden of Lee Correctional Institution, C/A No. 9:18-3300-RBH-BM, as per ECF #48, also on **April 21, 2020**;

6. Counsel filed 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 on **April 23, 2020**;

7. 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, which will be filed today, **April 24, 2020**; and,

8. 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

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

By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

I hereby support the finding of good cause.



MELODY J. BROWN,
Senior Assistant Deputy Attorney General

April 24, 2020.

RECEIVED

Apr 24 2020

SC Court of Appeals

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,

Appellant.


Appellate Case No. 2019-000722

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to J. Anthony Mabry, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Third Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to appellant's counsel, Tommy A. Thomas, Esq., via email today, April 24, 2020 to thomaslaw@me.com, and by depositing one copy of the same in the United States mail, postage prepaid, and addressed to his 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 24th day of April, 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

Donna D'Alessio

From: Donna D'Alessio
Sent: Friday, April 24, 2020 10:51 AM
To: thomaslaw@me.com
Subject: The State vs. Adriel Nicholas Garnett, Appellate Case No. 2019-000722
Attachments: Motion for Third Extension of Time to file IBOR - 4-24-20 - Adriel N. Garnett (02265158xD2C78).pdf

Dear Mr. Thomas:

Attached is a scanned copy of the Respondent's Third Motion for an Extension of Time to file Initial Brief of Respondent in the above referenced matter. A paper copy is being mailed to you today. The motion is being submitted to the South Carolina Court of Appeals through e-filing, along with a copy of this email.

Thank you.

Donna D'Alessio, Legal Assistant
Capital Litigation
Office of the Attorney General
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211-1549
DDAlessio@scaag.gov
(803) 734-6305
(803) 734-4035 – Fax
(803) 734-1494 – Direct Line

RECEIVED
Apr 24 2020
SC Court of Appeals