

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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May 27 2020

Appeal from Cherokee County  
The Honorable R. Keith Kelly, Circuit Court Judge

SC Court of Appeals

THE STATE,

Respondent,

v.

RAJSHUN BERNARD FOSTER,

Appellant.

Appellate Case No. 2019-001571

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**MOTION FOR SECOND EXTENSION OF TIME TO FILE  
INITIAL BRIEF OF RESPONDENT AND  
DESIGNATION OF MATTER**

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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. This is a 2<sup>nd</sup> extension request. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent's Initial Brief is due today, Wednesday, May 27, 2020. Respondent has completed almost all of this brief; however, the undersigned attorney has had a number of state and federal matters to attend since April 27, 2020 and has been unable to complete this brief. 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 medical issues related to said on-going health condition including ocular migraine headaches; and counsel was also asked to leave the office on **March 12, 2020**, counsel is working remotely from home due to safety concerns regarding his immune system and the current situation regarding the Coronavirus.

2. Counsel for Respondent prepared and filed the Final Brief of Respondent in State v. William T. Gule, Jr., Appellate Case No. 2018-001848, (Murder) in this Court on **May 26, 2020**;

3. Counsel for Respondent prepared and filed the Reply to the Response to the Motion for Summary Judgment in Timothy Dingle v. Warden of Lieber Correctional Institution, C/A No. 9:19-2426-HMH-BM (Murder X2 and Arson 1<sup>st</sup> X2), also on **May 26 2020**, in the United States District Court for the District of South Carolina;

4. Counsel for Respondent prepared and filed the Final Brief of Respondent in State v. Nicolas J. McIver, Appellate Case Number: 2018-824 (Murder) on **May 16, 2020** in this Court;

5. Counsel filed Respondent's Reply to Petitioner's Response to Motion for Summary Judgment [ECF #21] in the matter of Bobby Alexander Gilbert vs. Brian Kendall, C/A No. 2:19-3356-MGL-MGB (Murder & Armed Robbery) on **May 12, 2020** in the United States District Court for the District of South Carolina;

6. Counsel also filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Richard F.V. Bowman, III vs. Warden James, Warden

Kershaw C.I., C/A No. 9:20-666-TMC-BM (Aiding and Abetting Homicide by Child Abuse) on **May 7, 2020** in United States District Court;

7. Counsel filed Respondent's Reply to Petitioner's Response to Motion for Summary Judgment [ECF #30], in the matter of Harold Ayton vs. Warden Charles Williams, C/A No. 9:19-3234-DCN-BM on **May 4, 2020** in United States District Court;

8. Counsel filed Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #40], in the matter of Dennis Rodger Davis, Jr. vs. Bryan Sterling; Tonya James; Jeannine Price, C/A No. 0:19-2720-TLW-PJG on **May 7, 2020** in United States District Court;

9. Counsel also filed the Respondent's Sixth Status Report in the matter of Kinjta Kadeem Sadler, #353966 vs. Charles Williams, Warden, C/A No. 8:19-0113-TMC-JDA on **May 15, 2020** in United States District Court;

10. Counsel *is preparing and near completion of the Initial Brief of Respondent in this matter*; and

11. 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, and the other matters counsel has been working on and/or filed in this Court and United States District Court, 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 good cause, 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. This is a 2<sup>nd</sup> extension request.

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

May 27, 2020.

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**PROOF OF SERVICE**

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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 Second 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, May 27, 2020 to [thomaslaw@me.com](mailto: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 27<sup>th</sup> day of May, 2020.



Donna D'Alessio, Legal Assistant to  
J. Anthony Mabry,  
Senior Assistant Attorney General  
Office of the Attorney General  
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## Donna D'Alessio

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**From:** Donna D'Alessio  
**Sent:** Wednesday, May 27, 2020 11:59 AM  
**To:** thomaslaw@me.com  
**Subject:** The State v. Rajshun Bernard Foster - Appellate Case No. 2019-001571 - 2nd extension of time to file IBOR  
**Attachments:** Foster, Rajshun Bernard - Appellate Case No. 2019-001571 - Motion for Second ext. of time to file IBOR (02287160xD2C78).pdf

Dear Mr. Thomas:

Attached is a scanned copy of the Respondent's Motion for Second Extension of Time to File Initial Brief of Respondent and Designation of Matter regarding the above matter. A paper copy is being mailed to you this afternoon. The Motion for Second Extension of Time to File Initial Brief of Respondent is being submitted to the South Carolina Court of Appeals through e-filing, along with a copy of this email.

Hope you are well, and thank you.

Donna D'Alessio, Legal Assistant  
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