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Nov 09 2020

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County
The Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

JOHNATHAN LAMAR HILLARY,

APPELLANT.

Appellate Case No. 2019-001048

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

Undersigned counsel for Respondent would respectfully request a sixth (6th) and final thirty (30) day extension in which to file the Initial Brief of Respondent in the above-referenced case. As of October 28, 2020, Appellate Defense has consented to extension requests through November 30, 2020. Respondent makes this sixth motion primarily to allow additional time for completion of the brief upon reassignment due to medical leave for primary counsel. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. Primary counsel had been on the transplant waiting list at Duke University Medical Center, Durham, North Carolina for a heart and kidney transplant. He was contacted on October 16, 2020 to travel to Duke and has since completed the required surgeries and other procedures related to the transplant surgeries.

2. During the prior extension period, primary counsel received a link to a copy of Mr. Hillary's interview at the Atlanta jail. Counsel reviewed that recording and worked on statement issue presented. However, that portion of the brief is not completed. The issue is being reassigned to undersigned counsel. Undersigned counsel was unable to access the link previously provided to primary counsel. A staff member in the undersigned counsel's office contacted the Horry County Solicitor's office on November 5, 2020 to obtain a new link to the interview. Undersigned counsel has completed a review of the remainder of the brief, but cannot complete the statement issue until she is able to review the recording. Therefore, counsel requests additional time to complete review and the drafting process.

WHEREFORE, based on these extraordinary circumstances, undersigned 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
S.C. Bar No. 14244

J. ANTHONY MABRY
Senior Assistant Attorney General
No. 11973

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

s/Melody J. Brown
By: _____
MELODY J. BROWN
ATTORNEYS FOR RESPONDENT

November 9, 2020

I support the finding of extraordinary circumstances.

s/ Donald J. Zelenka _____
Donald J. Zelenka,
Deputy Attorney General

I also support the finding of extraordinary circumstances.

W. Jeffrey Young,
Chief Deputy Attorney General

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APPELLANT.

Appellate Case No. 2019-001048

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to Melody B. Brown, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the 6th Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to appellant's counsel, David Alexander, Esq., via email today, November 9, 2020 to dalexander@sccid.sc.gov and to lmattthews@sccid.sc.gov.

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

This 9th day of November, 2020.



Donna D'Alessio, Legal Assistant

Donna D'Alessio

From: Donna D'Alessio
Sent: Monday, November 9, 2020 4:54 PM
To: 'dalexander@sccid.sc.gov'
Cc: 'lmatthews@sccid.sc.gov'
Subject: Hillary, Johnathan L., Appellate Case No. 2019-001048 - 6th Motion for ext of time to file IBOR
Attachments: Hillary, Johnathan L. - Appellate Case No. 2019-001048 - Sixth Extension of time to file Initial Brief of Respondent 11-9-2020 (02422933xD2C78).pdf

Dear Mr. Alexander:

Attached is a scanned copy of the Respondent's Sixth Motion for Extension of time to file the Initial Brief of Respondent regarding the above matter. The Motion for Sixth Extension of Time to File Initial Brief and supporting document are 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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