

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Certiorari to Lexington County

Eugene C. Griffith, Circuit Court Judge

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**RECEIVED**

**Dec 01 2020**

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

KIERIN MARCELLUS DENNIS,

APPELLANT

APPELLATE CASE NO. 2019-001486

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MOTION FOR AN EXTENSION OF TIME  
IN WHICH TO FILE THE INITIAL BRIEF OF APPELLANT  
AND DESIGNATION OF MATTER

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Counsel for Kierin Marcellus Dennis respectfully requests a **final thirty-day extension from Tuesday, December 1, 2020 until December 31, 2020**, in which to file the Initial Brief of Appellant and Designation of Matter in this case. **Counsel will make every effort to file the Initial Brief of Appellant and Designation of Matter before the deadline if possible.** This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. In support of this request, counsel shows:

1. The initial brief of appellant and designation of matter are due to be filed with the Court Tuesday, December 1, 2020.

2. Counsel for Kierin Marcellus Dennis respectfully submits that extraordinary circumstances exist, counsel's health problems chief among them, which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

3. *Counsel has missed time in the office due to a non-COVID-19 related illness and severe back pain after twice testing negative for COVID-19. He has missed time from work, consulted with his neurosurgeon about back problems, and followed up on a hospital visit with other doctors and appointments. The illness, unfortunately, has necessitated the final two extraordinary extensions today.* Counsel filed the brief of appellant and designation of matter in the case of The State v. Franklin Pierre Dover with this Court today, December 1, 2020. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Robert Frost v. The State with the Supreme Court on November 20, 2020. Counsel had an oral argument before the Supreme Court on November 17, 2020 in The State v. Ahshaad Mykiel Owens. Counsel filed the brief of appellant and designation of matter in the case of The State v. Robert Wayne Eaves with this Court on November 13, 2020. Counsel filed the initial brief of appellant and designation of matter in the death penalty case of The State v. Timothy Ray Jones, Jr. with the Supreme Court on October 23, 2020 with co-counsel Susan Hackett, David Alexander, Lara Caudy, and Taylor Gilliam. Counsel filed the petition for rehearing in case of The State v. Stewart Jerome Middleton with this Court on October 15, 2020. Counsel also finished amending his PowerPoint yesterday for his presentation for the 2020-2021 Appellate Project Project CLE for this Thursday, December 3, 2020. In addition, counsel must prepare for the oral argument in the Supreme Court in State v. Joseph Bowers which will be held on Tuesday, December 8, 2020. Finally, counsel is also lead

counsel in two other ongoing death penalty cases in the Supreme Court besides The State v. Timothy Ray Jones, Jr.; Andres Torres v. The State, and The State v. Jerome Jenkins. **Counsel has extensive administrative duties as the Chief Appellate Defender, including Appellate Project oversight duties and management of the work from home personnel during this coronavirus pandemic. Counsel also has to discuss the cases of four inexperienced Appellate Defenders with them in advance and read all of their filings in advance. Counsel regrets, and indeed apologizes, for the necessity of this extension request, but it is absolutely necessary under the circumstances which include counsel's recent health concerns.**

*Co-counsel Lara M. Caudy*

On November 12, 2020, counsel filed the brief of appellant and designation of matter in The State v. Joey Coleman with this Court. On November 9, 2020, counsel filed the petition for writ of certiorari and accompanying appendix in Keith Tate v. The State with the Supreme Court. On October 30, 2020, counsel filed the petition for writ of certiorari and accompanying appendix in Armando Chestnut v. The State with the Supreme Court. On October 23, 2020, counsel, along with co-counsel, filed the initial brief of appellant and designation of matter in the death penalty case of The State v. Timothy Ray Jones, Jr. with the Supreme Court. On October 15, 2020, counsel had an oral argument in The State v. Samuel Jolly before this Court. On October 13, 2020, counsel had an oral argument in The State v. Russell Levon Johnson before this Court. On October 1, 2020, counsel filed the brief of appellant and designation of matter in The State v. Worth G. Myers with this Court. On September 29, 2020, counsel filed the brief of petitioner in The State v. Shane Alexander Washington with the Supreme Court.

Co-counsel Adam Ruffin

Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Carl Aiken v. State with the Supreme Court on November 23, 2020. Counsel filed the Anders brief of appellant and record on appeal in the case of State v. Douglas Lavance Young with this Court on November 12, 2020. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Otis Gibson with this Court on November 4, 2020. Counsel filed the Johnson Petition for writ of certiorari and accompanying appendix in the case of Joanie Holcombe v. State with the Supreme Court on October 30, 2020. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Nancy Carswell with this Court on October 21, 2020. Counsel filed the Anders brief and Record on Appeal in the case of State v. Pamela Tackett with this Court on October 21, 2020. Counsel filed the petition for writ of certiorari to this Court and accompanying appendix in the case of Brian Willie Benson Lewis v. State with the Supreme Court on October 16, 2020. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Eric Charles Peterson with this Court on September 25, 2020. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Curtis Allen Babb, Jr. with this Court on September 23, 2020.

4. Counsel makes this request in good faith and not for purpose 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.

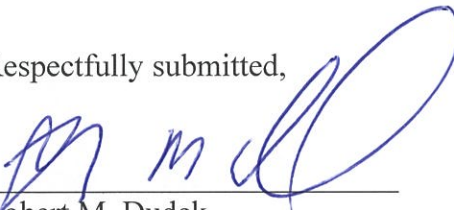
5. Opposing counsel, the Attorney General's Office, has graciously consented to this extension request by way of the extended thirty-day general consent granted by Deputy Attorney

General Donald J. Zelenka for all Appellate Defense extensions through December 31, 2020.

That extended, emailed general consent was dated November 25, 2020.

WHEREFORE, the undersigned counsel would respectfully request a **final thirty-day extension from Tuesday, December 1, 2020 until December 31, 2020**, in which to file the initial brief of appellant and designation of matter in this case based upon the above exigent circumstances. **Counsel will make every effort to file before this deadline if possible.** Counsel requests that time limits for filing the brief be held in abeyance pending a ruling on this motion.

Respectfully submitted,

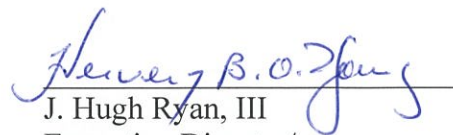


Robert M. Dudek  
Chief Appellate Defender

Lara M. Caudy  
Appellant Defender

Adam Sinclair Ruffin  
Appellate Defender

Attorneys for Appellant



J. Hugh Ryan, III  
Executive Director/  
Hervey B. O. Young  
Deputy Director and General Counsel/  
W. Lawrence Brown  
Deputy General Counsel and Training  
Director

This 1st day of December, 2020.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Lexington County  
Eugene C. Griffith, Circuit Court Judge  
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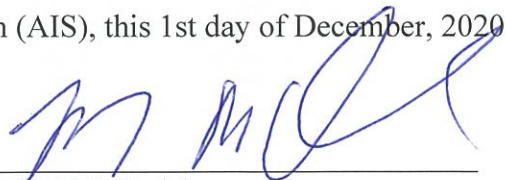
KIERIN MARCELLUS DENNIS,

APPELLANT

APPELLATE CASE NO. 2019-001486

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CERTIFICATE OF SERVICE  
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Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the motion for an extension of time, in which to file the initial brief of appellant and designation of matter in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 1st day of December, 2020.

  
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Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT.