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**Mar 02 2021**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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Appeal from Richland County  
The Honorable DeAndrea G. Benjamin, Circuit Court Judge

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THE STATE,

RESPONDENT,

v.

CHARLES BARHAM,

APPELLANT.

Appellate Case No. 2019-001981

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**MOTION FOR THIRD 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. In support of this motion, counsel would respectfully show the Court the following good cause:

Respondent's Initial Brief is due to be filed on Thursday, March 4, 2021. Counsel for Appellant has graciously consented to this extension. The undersigned attorney has had a number of personal, state, and federal matters to attend since January 25, 2021. Specifically,

1. Counsel for Respondent had been out of the office on medical leave and on a reduced work schedule due to a continuous and on-going health condition, heart transplant and kidney transplant on October 17 and 18, 2020. Counsel has had various medical issues related to said on-going health condition including doctors' appointments, blood draws, ocular migraine

headaches, stomach issues; surgical hernia or defect; strained muscle or tendon near the surgical site, and counsel was also asked to leave the office on **March 12, 2020 due to COVID 19**. Counsel is working remotely from home due to safety concerns regarding his suppressed immune system and the current situation regarding the Coronavirus. Counsel began working again full-time *from home* in January of 2021. Counsel is scheduled for a heart biopsy this week at Duke University Medical Center on March 2, 2021.

2. Counsel filed the Respondent's Reply to objections to Report and Recommendation [ECF #62] in the matter of Timothy Donald Dingle vs. Warden of Lieber Correctional Institution, C/A No. 9:19-2426-HMH-MHC, a federal habeas matter pending in the United States District Court for the District of South Carolina on **January 25, 2021**;

3. Counsel filed the Final Brief of Respondent in the matter of State vs. Johnathan L. Hillary, Appellate Case No. 2019-001048, an Horry County murder appeal matter now pending in the South Carolina Court of Appeals on **February 2, 2021**;

4. Counsel also participated in preparing the Initial Brief of Respondent in the matter of State vs. Jerome Jenkins, Jr., Appellate Case No. 2019-001280, an Horry County capital case on **February 12, 2021**;

5. Counsel also assisted in the preparation of the Return to Petition for Certiorari in Freddie Owens v. South Carolina (Federal Habeas Corpus) capital case filed in the United States Supreme Court **last week**;

6. Counsel is also currently working on and preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Eric Ancrum v. State of South Carolina, C/A No. 1:20-4264-DCC-SVH, a (Federal Habeas Corpus) matter pending in the United States District Court for the District of South Carolina. The Appendix in this case is 3

volumes. Respondent has completed approximately ½ of the Return in this matter. However, Respondent has been unable to review all of the state court record in this matter;

7. Counsel for Respondent has also been working on the Initial Brief of Respondent in this matter;

8. Counsel has also requested the Transcript for the Motion for a New Trial hearing, which has not been received by this Office as of the date of this extension request. It is necessary for the completion of the Initial Brief of Respondent. Respondent has also requested items from the Richland County Solicitor's Office with regard to this case which have not been received as of the date of the filing of this request. Those are needed to complete the Initial Brief of Respondent; and

9. 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, and the fact that counsel has not received a necessary transcript and certain items from the Richland County Solicitor's Office pertinent to the appeal, counsel was 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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By: s/J. Anthony Mabry  
J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

March 2, 2021.

I support the finding of good cause.

  
for Melody J. Brown,  
Senior Assistant Deputy Attorney General

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CHARLES BARHAM,

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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 Third Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to appellant's counsel, Jack B. Swerling, Esq., via email today, February 26, 2021 to [jacklaw@aol.com](mailto:jacklaw@aol.com), and to Katherine C. Goode, Esq. at [kcg@carruthgoode.net](mailto:kcg@carruthgoode.net).

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

This 2<sup>nd</sup> day of March, 2021.



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:** Tuesday, March 2, 2021 3:18 PM  
**To:** 'jacklaw@aol.com' (jacklaw@aol.com); kcg@carruthgoode.net  
**Cc:** Anthony Mabry  
**Subject:** Barham, Charles - Appellate Case No. 2019-001981 - Motion for Third Extension of Time to file IBOR 3-2-21  
**Attachments:** FINAL Barham, Charles, Appellate Case No. 2019-001981 - Third Motion for Extension of Time to file Initial Brief of Respondent 3-2-21 (02503251xD2C78).pdf

Dear Mr. Swerling and Ms. Goode:

Attached is a scanned copy of the Respondent's Motion for Third Extension of Time to File Initial Brief of Respondent regarding the above matter. The third Motion for 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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