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Mar 05 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County
Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case No. 2019-001417

THE STATE,

Respondent,

vs.

KAYLA MARIE COOK,

Appellant.

**MOTION FOR FOURTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on March 5, 2021.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the State moves for a **fourth** and **final** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. Earlier this week, the undersigned counsel participated in oral argument at the Supreme Court in State v. William D.

Lewis, which required significant preparation because it involved—amongst other issues—a constitutional challenge to South Carolina’s misconduct of a public officer statute. Additionally, earlier today, the undersigned counsel submitted a Brief of Petitioner to the Court of Appeals in Joshua A. Reed v. State. Furthermore, in the past few weeks and months, the undersigned counsel has participated in oral argument at the Court of Appeals in State v. Gregg Pickrell; has submitted an Initial Brief of Respondent to the Court of Appeals in State v. Shi Heme Raquan Price, State v. Elizabeth Leanne Howze, and State v. Charles Davenport, Jr.; and has submitted a lengthy Return in Opposition to Motion for Appeal bond in this particular matter.

III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. To date, the undersigned counsel has been unable to complete the Brief in this case due to work required in other cases along with his other responsibilities in the office. Beyond that, the Brief in the above-referenced case has required significant research because the case, which stems from a conviction for homicide by child abuse, involves two important issues on appeal. The undersigned counsel is currently working on the Brief in this case and intends to have it finished in a timely manner. However, the undersigned counsel has not yet been able to finish the Brief. Accordingly, in order to ensure the Brief is properly researched and prepared, I would therefore request one final extension of time within which to serve and file the Brief.

IV.

Prior to seeking this extension request, undersigned counsel consulted with appellate counsel for Appellant, Susan B. Hackett, Esquire, and Appellant’s counsel has graciously indicated she has no objections to the State’s extension request

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty days from the date such relief is granted; hold the matter in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Attorney General

By: 

Mark R. Farthing
S.C. Bar Number 76901

I have reviewed and approved this extension request.

By: 

William M. Blich, Jr.
Senior Assistant Deputy Attorney General

By: 

Donald J. Zelenka
Deputy Attorney General

March 5, 2021

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Appellant.

PROOF OF SERVICE

I, Shana Montgomery, certify I have served the within Motion for Fourth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by sending an electronic copy via email to the addresses listed in AIS for the following individuals:

Susan B. Hackett, Esq.
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

Amber M. Hendrick & Daniel J. Westbrook, Esqs.
Nelson Mullins Riley & Scarborough LLP
Post Office Box 11070
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 5th day of March, 2021.



SHANA MONTGOMERY

Legal Assistant

South Carolina Office of the Attorney General

Shana Montgomery

From: Shana Montgomery
Sent: Friday, March 5, 2021 4:58 PM
To: shackett@sccid.sc.gov; Kasperski, Katriel; amber.hendrick@nelsonmullins.com; dan.westbrook@nelsonmullins.com
Cc: Shana Montgomery; Mark Farthing; William Blitch
Subject: COOK Kayla ; Appellate Case No. 2019-001417 ; Motion for Fourth Extension to file and serve IBOR
Attachments: 02507734.PDF

Good Afternoon,

Attached please find a copy of the fourth extension motion for State V. Kayla M. Cook (2019-001417). Please confirm receipt. This motion will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System. Please don't hesitate to contact us should you have any questions or concerns.

Thank You.

Shana Montgomery
Legal Assistant
Office Of The Attorney General
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Columbia, South Carolina 29211
803-734-7239