

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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May 11 2021

S.C. SUPREME COURT

Appeal from Lexington County
The Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

Respondent,

v.

TIMOTHY RAY JONES, JR.,

Appellant.

Appellate Case No. 2019-001008

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

Respondent's Initial Brief is due today, May 11, 2021. Undersigned counsel would respectfully request a short, final, fifteen (15) day extension in which to file the brief and designation of matter. Opposing counsel, Robert M. Dudek, Esq., Susan B. Hackett, Esq., David Alexander, Esq., Lara M. Caudy, Esq. and Taylor D. Gilliam, Esq., Appellate Defenders, by agency to agency agreement, have consented to extension requests through May 31, 2021. In explanation of the work already completed, and in support of the necessity of the requested extension, Respondent's counsel would respectfully submit:

1. This is a capital case requiring review of an extensive record. The trial transcript alone spans nearly 6,000 pages, and Appellant has filed a brief which is 171 pages with 8 issues presented. He has also designated multiple pre-trial hearings, exhibits, motions and other documents. Both primary counsel for respondent on appeal have been working diligently on

preparing the brief in this case and have completed most of the drafting of the response brief, apart from two issues currently in progress. Due to the significant work already completed, Respondent is respectfully requesting a short, final extension. Counsel has devoted, and will continue to devote, significant time to this matter. Undersigned counsel had previously estimated that no further time would likely be necessary; however, several matters did arise that did take more time than anticipated which in turn delayed the completion here.

2. Since April 6, 2021, in addition to the work on this case counsel has completed other state and federal obligations. Specifically, in the last thirty days, undersigned counsel, Tommy Evans, Jr., prepared and filed a time-sensitive response to the Petitioner's Motion to Alter/Amend or Reconsideration pursuant to Rule 59(e) [ECF #51] in the matter of Christopher Paul Mahaffey vs. Warden Perry Correctional Institution, C/A No. 8:20-01880-JD on *April 6, 2021*; counsel filed the time-sensitive reply to objections to report and recommendation [ECF #24] in the matter of Rondell Carter v. Warden of Lieber Correctional Institution, C/A No. 6:20-04020-DCC on *April 26, 2021*. Further, while working around completing sections of the response brief in this case, counsel is also currently preparing the Initial Brief of Respondent in the matter of The State vs. Davis Viron Lewis Garrett, Appellate Case No. 2020-001183, a Spartanburg county direct appeal matter now pending in the South Carolina Court of Appeals; counsel is also preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of William S. Pegues v. Warden Kendall, C/A No. 5:21-763-TMC-KDW.

3. Co-counsel Melody Brown has prepared and filed a requested response, a Brief in Opposition, in the Supreme Court of the United States on *April 26, 2021* in a non-capital federal habeas action (*Andre King*); prepared with co-counsel a Brief of Respondent (filed on *April 19,*

2021), in a capital case in the original jurisdiction of this Court with a “no extensions” schedule for briefing and argument (*Richard Bernard Moore*)¹; prepared and filed an Amended Return and Motion to Dismiss in a capital state post-conviction relief action (submitted on *April 22, 2021*), participated in a hearing on that motion (on *May 6, 2021*), and is completing a proposed order for partial dismissal (*Bayan Aleksey*); prepared and filed a Response to Motion for a Stay of Execution (on *April 28, 2021*) following issuance of an Execution Notice on April 22, 2021 (*Freddie Eugene Owens*); participated in oral argument preparation for counsel arguing in a capital federal habeas action appeal in the Fourth Circuit Court of Appeals on May 6, 2021 (*Sammie Stokes*); additionally, counsel prepared and submitted a Response to a motion for mandamus or certificate of appealability in a non-capital federal habeas action (on *April 30, 2021*) (*Clifton Lyles*). Counsel also has worked substantially on this matter. However, counsel requests a short extension to properly complete, serve and file the brief.

4. This request is made in good faith, and not for the purpose of simple delay.

5. The undersigned counsel respectfully request this Court hold the time for filing in abeyance pending disposition of this motion for a final extension of time.

WHEREFORE, for all the above reasons, counsel respectfully requests a fifteen (15) day extension of time up to and including Wednesday, May 26, 2021, to serve and file the Initial Brief of Respondent and Designation of Matter in this matter.

Respectfully submitted,

¹ This Court provided in the scheduling order that “[n]o extensions shall be granted.” (Order, dated January 28, 2021, S.C. Appellate Case Tracking Appellate Case No. 2020-001519). Adhering to the scheduled, this Court has already heard oral argument in the matter on May 5, 2021.

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s/Melody J. Brown

By: _____
SC Bar No. 14244

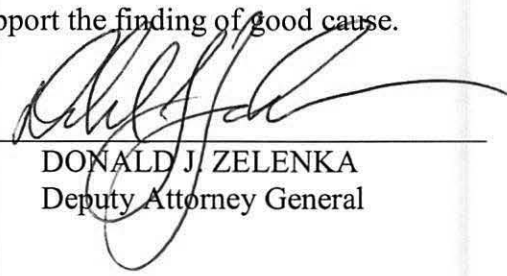
S/Tommy Evans, Jr.

By: _____
SC Bar No. 65282

May 11, 2021.

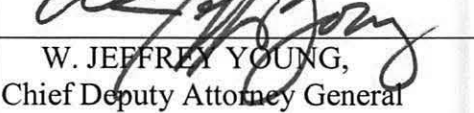
ATTORNEYS FOR RESPONDENT

I support the finding of good cause.

By: 

DONALD J. ZELENKA
Deputy Attorney General

I further support the finding of good cause.

By: 

W. JEFFREY YOUNG,
Chief Deputy Attorney General