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Oct 01 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Lexington County
The Honorable Frank R. Addy, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

v.

JOSEPH RANDOLPH HENRY,

APPELLANT.

Appellate Case No. 2020-001404

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

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. This is a third extension request. 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 Monday, October 4, 2021. Counsel for Appellant, David Alexander, has graciously consented to all extension requests through October 31, 2021. The undersigned attorney has had a number of personal, state, and federal matters to attend to since September 1, 2021. Specifically,

1. Counsel for Respondent received a heart and kidney transplant in October of 2020

and has had complications from the heart condition resulting in a CT and MRI conducted on or about September 15 and 16, 2021. Counsel is scheduled for a re-scheduled heart biopsy on October 4, 2021 at Duke University Hospital. The biopsy was rescheduled due to a possible COVID exposure. Counsel was also working remotely for a few days due to the possible COVID exposure.

2. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Milciades Alcantara vs. Warden of McCormick Correctional Institution, C/A No. 9:21-01498-RBH-MHC on **September 9, 2021**;

3. Counsel filed the Respondent's Fourteenth Status Report in response to Text Order ECF #33 in the matter of Kinjta Kadeem Sadler vs. Charles Williams, Warden, C/A No. 8:19-0113-TMC-JDA on **September 20, 2021**;

4. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #29] in the matter of Touriarnold Spann vs. C. Williams, Warden, C/A No. 8:21-00892-JMC-JDA on **September 20, 2021**;

5. On **September 22, 2021**, counsel for Respondent filed the Response to Motion to Stay Proceedings Pending Exhaustion of State Court Remedies [ECF #2] in the matter of Quantae Priest vs. Bryan Stirling, Commissioner of the South Carolina Department of Corrections; and Kenneth Nelsen, Warden of Lee Correctional Institution, C/A No. 1:21-2878-MGL-SVH;

6. Counsel filed the Respondent's Response to Petitioner's Motion for Evidentiary Hearing [ECF #30] in the matter of Touriarnold Spann vs. C. Williams, Warden, C/A No. 8:21-00892-JMC-JDA on **September 27, 2021**;

7. On **September 30, 2021** counsel filed the Respondent's Second Status Report in response to Text Order [ECF #70] in the matter of Arthur Singleton, #300109 vs. Warden of Lee Correctional Institution, C/A No. 9:18-3300-SAL-MHC;

8. Counsel attended the Solicitor's Conference in Myrtle Beach, South Carolina from Sunday, **September 26th through Wednesday, September 29, 2021**;

9. Counsel is currently preparing the Return to Petition for Writ of Certiorari in the Edgefield County murder appeal matter of The State vs. William C. Sellers, Appellate Case No. 2018-001667, now pending in the South Carolina Supreme Court and is currently due to be filed on **Thursday, October 14, 2021**; and

10. Counsel has prepared, and will be filing today, Friday, **October 1, 2021**, the Return to the Amended Petition for Writ of Habeas Corpus [ECF #30], as per the Order directing same [ECF #29] in the matter of Kelvin Jackson, Sr., #356452 vs. Warden of Lee Correctional Institution, C/A No. 2:21-cv-108-BHH-MGB (Murder).

11. Counsel has been involved in working **on other matters in state and federal court**.

Counsel is actively working on this brief; however, due to counsel's medical condition, and the other matters counsel has been working on and/or filed in state court and United States District Court, counsel was unable to timely complete the Initial Brief of Respondent and Designation of Matter in this case.

WHEREFORE, for good cause shown, counsel respectfully requests a third (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

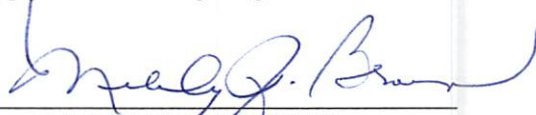
J. ANTHONY MABRY
Senior Assistant Attorney General
No. 11973

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Columbia, South Carolina 29211
(803) 734-6305


By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

October 1, 2021.

I support the finding of good cause.

By: 
MELODY J. BROWN
Senior Assistant Deputy Attorney General

I further support the finding of good cause.

By: 
DONALD J. ZELENKA
Deputy Attorney General

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JOSEPH RANDOLPH HENRY,

APPELLANT.

Appellate Case No. 2020-001404

PROOF OF SERVICE

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, David A. Alexander, Esq., via email today, October 1, 2021 to dalexander@sccid.sc.gov and to his assistant at lmattthews@sccid.sc.gov.

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

This 1st day of October, 2021.



Donna D'Alessio, Legal Assistant to
J. Anthony Mabry,
Senior Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

Donna D'Alessio

From: Donna D'Alessio
Sent: Friday, October 1, 2021 3:46 PM
To: 'dalexander@sccid.sc.gov'
Cc: 'lmatthews@sccid.sc.gov'
Subject: Henry, Joseph R. - Appellate Case No. 2020-001404 - Motion for third extension of time to file Initial Brief of Respondent
Attachments: Henry, Joseph R. - Appellate Case No. 2020-001404 - Motion for third extension of time to file IBOR 10-1-21 (02728466xD2C78).pdf

Dear Mr. Alexander:

Attached is a scanned copy of the Respondent's Third Motion for Extension of Time to file Initial Brief of Respondent, Designation of Matter and Certificate of Service in the above matter. The Third Motion for Extension of Time and Certificate of Service 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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