

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Doyet A. Early, III, Circuit Court Judge

RECEIVED
APR 29 2013
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTONIO MILLER,

APPELLANT

Appellate Case No. 2012-208640

PETITION FOR EXTENSION TO FILE
INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

The undersigned counsel respectfully requests a **final thirty day extension, until May 29, 2013**, in which to file the initial brief of appellant and designation of matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed today.
2. Counsel is working on and plans to file the initial brief of appellant and designation of matter in the case of State v. Jefferson Perry in the next couple of days. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Mark Peters in this Court on April 26, 2013. **Counsel, for this office, has received an unprecedented number**

of death penalty cases from the lower courts at the same time over the past few weeks, and is working diligently to obtain the various transcripts needed in these cases within the thirty day deadline. Further, counsel continues his efforts to bring his entire caseload within office internal deadlines after two surgeries while having very heavy administrative duties as the Chief Appellate Defender which have included interviewing and hiring in the support and attorney staff. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Victor White in this Court on April 24, 2013. Counsel filed the petitioner's reply brief in the case of Gene Tony Cooper v. State in the United States Supreme Court on April 23, 2013. Counsel had an oral argument in the case of In the Interest of David L., a Minor Under the Age of Seventeen (with co-counsel Charles Grose) in the Supreme Court on April 16, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Jevon Brown in this Court on April 10, 2013. Counsel filed the petition for rehearing in the **death penalty** case of State v. Brad Sigmon in the Supreme Court on April 4, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Asherdon Holloway in this Court on April 3, 2013. Counsel had an oral argument in the case of State v. Andre Tayson Boone in this Court on April 1, 2013. In addition, Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Frankie Williams v. State in the Supreme Court on April 1, 2013. Counsel attended and presented at the Best Practices Seminar in Charleston on March 25, 2013, sponsored by the South Carolina Commission on Indigent Defense. Counsel filed the initial briefs of appellant and designations of matter in the cases of State v. Calvin Prince and State v. Patrick Guess in this Court on March 18, 2013. Counsel filed the return to the state's rehearing petition in the **death penalty** case of State v. Raymondeze Rivera in the Supreme Court on March 15, 2013. Additionally on March 15, 2013, Counsel filed the brief of appellant in the case of State v. Nicholas Brannon in this

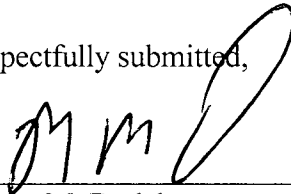
Court. Counsel filed the petition for rehearing in the **death penalty** case of State v. Stephen Christopher Stanko in the Supreme Court on March 14, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Phillip Shuler in this Court on March 8, 2013. Counsel filed the petition for rehearing in the case of State v. Kendrick Taylor in this Court on March 7, 2013. Counsel had an oral argument in the case of State v. Donald Petty in this Court on March 5, 2013. Counsel had an oral argument in the case of State v. Gerald Pitts in this Court on March 4, 2013. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of State v. Derrick McDonald, and the reply to the return to the petition for writ of certiorari in the case of State v. Randy Vickery, both in the Supreme Court (from the COA) on March 1, 2013. In February, 2013, Counsel filed the initial briefs of appellant and designations of matter in the cases of State v. Fred Madden and State v. Tremaine Davis, and the petitions for writ of certiorari and accompanying appendices in the cases of Jimmy Belton v. State and Paul Reid v. State. Additionally, in February, 2013, Counsel filed the brief of appellant in the case of State v. Baby Ray Padgett, the brief of petitioner in the case of State v. Juan Orozco, the reply to the return to the petition for writ of certiorari in the case of James Robertson v. State, a **death penalty** case (with Co-Counsel Matt Bogan, pro bono, of the Nelson Mullins firm), the return to the petition for writ of certiorari in the case of State v. Richard Bill Niles, Jr., the petition for rehearing in the case of State v. Christopher M. Stephens, and the petition for writ of certiorari and accompanying appendix in the case of State v. Gene Tony Cooper in the United States Supreme Court. Counsel also had an oral argument in the case of State v. Steven Barnes, a **death penalty** case in the Supreme Court, and a remand bond hearing for the State v. Richard Gagnon after Judge Steven John granted a new trial in that case following this Court's remand. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

3. This request is made in good faith, and not for purposes of delay. **Counsel continues to attempt to catch up on his caseload to meet internal extension rules after falling behind due to two surgeries.** 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.

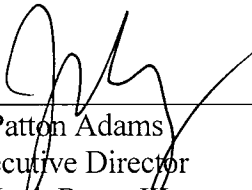
4. As indicated by her consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a **final thirty day extension, until May 29, 2013.** Counsel respectfully requests that the time limits for filing the initial brief of appellant and designation of matter be held in abeyance pending a ruling on this motion.

Respectfully submitted,



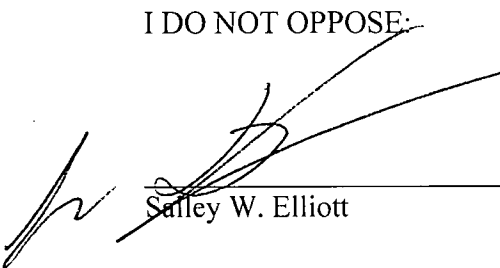
Robert M. Dudek
Chief Appellate Defender



T. Patton Adams
Executive Director
J. Hugh Ryan, III
General Counsel

April 29, 2013

I DO NOT OPPOSE:



Sailey W. Elliott