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Jan 04 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County
Honorable Letitia H. Verdin, Circuit Court Judge
Appellate Case No. 2020-001388

THE STATE,

Respondent,

vs.

GARY MARTIN WIRTZ,

Appellant.

**MOTION FOR FIFTH 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 January 4, 2022.

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 **fifth** and **final** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. Along with other responsibilities in the office, the undersigned counsel has in the past few weeks submitted a Brief

of Respondent to the Court of Appeals in Charles Green, Jr. v. State and George N. Moses v. State; has submitted a Brief of Petitioner to the Court of Appeals in John Upson v. State; and has submitted a Return to Petition for Writ of Certiorari to the Supreme Court in State v. Shelby Harper Taylor.

III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. The Brief in the above-referenced case has required significant research because the case involves an important issue concerning the propriety of a vehicle search that led to the discovery of methamphetamine and other incriminating evidence. 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 due to a heavy workload coupled with some unexpected delays. 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.

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. Blitch, Jr.
Senior Assistant Deputy Attorney General

By: 

Donald J. Zelenka
Deputy Attorney General

January 4, 2022

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THE STATE,

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Appellant.

PROOF OF SERVICE

I, Leigh Ann Stone, certify I have served the within Motion for Fifth 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 address listed in AIS for the following individual:

Jessica M. Saxon, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 4th day of January, 2022.


LEIGH ANN STONE
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

Leigh Ann Stone

From: Leigh Ann Stone
Sent: Tuesday, January 4, 2022 12:53 PM
To: 'jsaxon@sccid.sc.gov'
Cc: Mark Farthing; William Blitch; 'Warren, Kaylynn'
Subject: The State v. Gary Martin Wirtz (2020-001388)
Attachments: Wirtz.Fifth Extension Request (IBOR) (02863501xD2C78).PDF

Good Afternoon Ms. Saxon,

Attached please find a request for a fifth extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter in The State v. Gary Martin Wirtz (2020-001388). This extension request will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to confirm receipt of this email.

Thank you!

LEIGH ANN STONE, Legal Assistant
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