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Apr 15 2022

SC Court of Appeals

**IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM BERKELEY COUNTY
Court of General Sessions
The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Lower Court Cases No. 2018-GS-08-00532, 2018-GS-08-00531, 2018-GS-08-00528,
2018-GS-08-00529 and 2018-GS-08-00530

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS

APPELLANT.

PETITION FOR EXTENSION OF TIME
IN WHICH TO FILE
INITIAL BRIEF OF APPELLANT AND
DESIGNATION OF THE MATTER

Now comes Appellant in the above captioned direct appeal, **Aaron McKenzie Capers**, acting through his undersigned counsel, requested an additional extension of time in which to file the Initial Brief of Appellant, and Designation of the Matter in his case. This is, by Counsel's count, the *sixth* extension requested in this appeal since she received the last of the transcripts ordered for the perfection of this appeal. Counsel now requests an additional thirty (30) days in which to submit the Initial Brief, and Designation of the Matter, for the following reasons.

Counsel's father suffered a pulmonary embolism on December 7, 2021.¹ He had been

¹ In a terrible coincidence, Counsel had suffered extensive second degree burns on a large part

gravely ill and house bound approximately six months before this event. He was in the hospital until December 30, 2021. At that time he was discharged to home care. Counsel is an only child and her mother is in poor health. It fell to Counsel to make all care arrangements for both her father and her mother. Within days after Counsel's last extension request her father took a significant turn for the worse. He died on March 22, 2022 and was buried on March 26, 2022. Two days after his burial Counsel found out that her father was buried in a damaged vault without notice to either Counsel or her mother. In the difficult weeks since this discovery Counsel has been dealing with the arrangements for her father to be exhumed and buried a second time in a new vault, and possibly a new casket, depending upon the damage found upon inspection of the vault once her father is exhumed. As an only child who has always been extremely close to her parents, this entire ordeal has been terribly difficult. The date for the exhumation has not yet been set, although it is hoped the exhumation will be approved by DEHEC this coming week.

Counsel is aware that the order granting her last extension request states that there will be no further extensions in this matter; however, it is her hope that the Court will consider the extraordinary circumstances under which counsel makes this request and grant this request. Counsel would also note that there was extensive delay on the front end of this appeal which concerned matters totally beyond her control. The Notice of Appeal was filed by trial counsel before certain post-trial motions were heard. The hearing on those motions was heard after a lengthy delay, but before trial counsel had the Appellant evaluated by a psychiatric expert.

of her right forearm in a kitchen accident on November 28, 2021 and was under doctor's orders not to exercise, get the wound wet or work until December 13, 2021. Thereafter, on February 14, 2022 Counsel was exposed to COVID during a visit to a prison and tested positive for the virus herself on February 18th. Counsel was sick for two weeks following her infection including secondary ear and sinus infections which resulting in her needing antibiotics.

Following the first hearing, the presiding judge allowed trial counsel to hire a psychiatrist, Donna Maddox, MD, to evaluate the Appellant. After further delay, Dr. Maddox was hired, a report was issued and a second hearing on the post trial motions was heard. Counsel sincerely regrets the delay in this matter, however the Appellant who was in his early twenties at the time of the alleged crime, has no prior criminal record, was a good student, and is serving an eighty (80) year sentence for the charges involved in this case which does not involve a homicide. Counsel respectfully asks that this extension be granted. Counsel has not had the opportunity to discuss this request with opposing counsel, William M. Blitch, Jr., Senior Assistant Deputy Attorney General, and by copy of this request Counsel asks that he advise the Court of his position on this request directly.

Respectfully submitted,

Tara D. Shurling

**Tara Dawn Shurling
S.C. Bar No. 5099
Attorney and Counselor at Law**

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ATTORNEY FOR APPELLANT

Other Counsel of Record

William M. Blitch, Jr.
Senior Assistant Deputy Attorney General
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This 15th day of April, 2022.

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AARON MCKENZIE CAPERS

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APPELLANT.

CERTIFICATE OF SERVICE
OF
PETITION FOR EXTENSION OF TIME
IN WHICH TO FILE
INITIAL BRIEF OF APPELLANT AND
DESIGNATION OF THE MATTER

Now comes Appellant in the above captioned direct appeal, acting through his undersigned counsel, who hereby certifies that she has on today's date served opposing counsel, William M. Blicht, Jr., Senior Assistant Deputy Attorney General, with a copy of her sixth request for an extension of time in which to file the Initial Brief of Appellant and the Designation of the matter. These documents were served upon opposing counsel by way of a copy of these documents being sent to Attorney Blicht by email to the address listed below.

wblitch@scag.gov

Respectfully submitted,

Tara D. Shurling

Tara Dawn Shurling

S.C. Bar No. 5099

Attorney and Counselor at Law

ATTORNEY FOR APPELLANT

This 15th, day of April, 2022