

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Orangeburg County

Honorable Edgar W. Dickson, Circuit Court Judge

Lower Court Case Number: 2015-CP-38-764
Appellate Case Number: 2024-000140

BAYAN ALEKSEY, #5059,

V.

STATE OF SOUTH CAROLINA,

RECEIVED

Jul 31 2024

S.C. SUPREME COURT

PETITIONER,

RESPONDENT.

PETITIONER'S MOTION FOR A THIRD EXTENSION
OF TIME TO FILE APPENDIX
AND PETITION FOR WRIT OF CERTIORARI

Petitioner, Bayan Aleksey, through undersigned counsel, for the reasons stated below, respectfully requests that this Court grant an extension of time for thirty (30) days to file the Petition for Writ of Certiorari and the Appendix, currently due for filing on August 5, 2024. The reasons for this motion are as follows:

1. This Court granted an initial extension of time on May 31, 2024, extending the filing deadline until July 5, 2024. This Court granted a second extension of time on July 1, 2024, extending the filing deadline until August 5, 2024.

2. Since the Court granted its second extension, undersigned counsel has completed and filed extensive post-hearing briefing in the capital PCR case of *Blackwell v. State*, No. 2018-CP-42-00928 (filed on July 8, 2024). Counsel has also prepared for an argued at a hearing on multiple motions. *State v. K.C.*, No. 2022 JU-46-670 (juvenile waiver proceeding; hearing motions to sever and continue on July 26, 2024). Undersigned counsel is also the supervisor for two other attorneys in her office and has spent significant time assisting those attorneys in preparing for capital PCR hearings in *Terry v. State*, No. 2022-CP-32-00924 (hearing held July 17–18, 2024), and *Stone v. State*, No. 2018-CP-43-01015 (hearing held July 30–31). Undersigned counsel is currently preparing a reply to the State’s return in a Texas capital federal habeas proceeding, due to be filed on August 12, 2024. *Delacerda v. Lumpkin*, No. 1:22-cv-557 (E.D. Tex.). Finally, on July 31, 2024, this Court issued an opinion in *Ownes v. Stirling*, No. 2022-001280, in which undersigned counsel represents four death-sentenced individuals. Undersigned counsel must review the opinion and research available next steps for her clients. She is also appointed counsel for two individuals, in their underlying criminal cases, who may be eligible for execution dates following this Court’s ruling (Richard Moore and Marion Bowman).

3. Petitioner’s case concerns factual and legal issues regarding a claim that he is intellectually disabled pursuant to *Atkins v. Virginia*, 536 U.S. 304 (2002), which require thorough research briefing. Undersigned counsel reasonably believes that an extension is needed to thoroughly and accurately brief the issues in this case.

4. Undersigned counsel contacted counsel for the State who consents to this extension request.

THEREFORE, for the reasons stated above, Petitioner respectfully submits that an extension of time is warranted for good cause and requests a thirty day extension in which to file the Appendix and Petition for Writ of Certiorari in this matter.

Respectfully submitted,

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July 31, 2024.

¹ Allison Franz's signature appears on this motion to comply with the requirements of Section 3 of this Court's order dated March 18, 2009, which requires another attorney from counsel's firm to sign as a certification that they believe the extension is warranted and that there is good cause to seek the extension. Ms. Franz is not assisting in the preparation of the petition for writ of certiorari or the appendix in this case.