

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

Sep 03 2024

S.C. SUPREME COURT

PETITIONER,

RESPONDENT.

PETITIONER'S MOTION FOR A FOURTH 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 fifteen (15) days to file the Petition for Writ of Certiorari and the Appendix, currently due for filing on September 4, 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, and a third extension of time on August 1, 2024, extending the filing deadline until September 4, 2024.

2. Since the Court granted its third extension, the substantial majority of undersigned counsel's time has been devoted to the cases in which execution notices are expected to be issued before March of 2025. *See* Order, *Moore et al. v. State*, No. 2024-001373 (Aug. 30, 2024). On July 31, 2024, this Court entered an opinion finding South Carolina's execution methods statute constitutional. *Owens et al. v. Stirling*, No. 2022-001280 (S.C. July 31, 2024). Undersigned counsel, with the other *Owens* counsel, prepared and filed a petition for rehearing on August 15, 2024. Following this Court's denial of the petition for rehearing, undersigned counsel has worked extensively with the legal teams for the six individuals this Court has indicated will receive execution notices, reviewed and researched the Director of the South Carolina Department of Correction's certification of available methods of execution, and prepared her clients for the next (and possibly final) steps in their cases (undersigned counsel is the lead attorney appointed to represent Richard Moore and Marion Bowman).

3. Undersigned counsel is also currently preparing a reply to the State's return in a Texas capital federal habeas proceeding, due to be filed on September 11, 2024. *Delacerda v. Lumpkin*, No. 1:22-cv-557 (E.D. Tex.).

4. Undersigned counsel has prepared the appendix and made significant progress in drafting the petition for writ of certiorari in this case, but she has not been able to complete the necessary research and drafting in Petitioner's case, which concerns factual and legal issues regarding a claim that he is intellectually disabled pursuant to *Atkins v. Virginia*, 536 U.S. 304 (2002). To ensure this issue is adequately and accurately briefed before this Court, undersigned counsel submits that a final extension of fifteen days is necessary due to the extraordinary circumstances that have arisen since this Court granted a third extension.

5. 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 based on the extraordinary circumstances described above and requests a fifteen-day extension in which to file the Appendix and Petition for Writ of Certiorari in this matter.

Respectfully submitted,

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September 2, 2024.

¹ Allison Franz's signature appears on this motion to comply with the requirements of Section 4 of this Court's order dated March 18, 2009, which requires the next most senior attorney from counsel's firm to sign as a certification that she believes the extension is warranted and that there are extraordinary circumstances shown to justify the extension request. Ms. Franz is not assisting in the preparation of the petition for writ of certiorari or the appendix in this case.