

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
OCT 11 2013
SC Court of Appeals

Appeal from Charleston County
The Honorable J.C. Nicholson, Jr., Circuit Court Judge
Appellate Case No. 2011-201486

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

DERELL GREEN,

APPELLANT.

MOTION FOR THIRD EXTENSION TO FILE
INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER

The undersigned counsel would respectfully request a seventeen (17) day extension in which to file the Initial Brief of Respondent in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, October 11, 2013, upon this Court's grant of Respondent's second request for an extension filed on September 11, 2013.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend to since September 11, 2013. Specifically, Counsel has prepared and filed the Returns, Motions for Summary Judgment, and Memoranda of Law in Support of Motions for Summary Judgment in Dwight Jones, a/k/a Dwight F. Jones, #302436 vs. Warden, Leroy Cartledge, C/A No.

1:13-720-DCN-SVH; Shirley Edwards, #221579 vs. Warden, Leath C.I., C/A No. 1:13-1232-RMG-SVH; Quincy Maurice Nash vs. Leroy Cartledge, C/A No. 8:13-2019-CMC-JDA; John Henry vs. Warden of Perry Correctional Institution, C/A No. 4:13-1868-MGL-TER; Booker T. McKenney, Jr. #325168 vs. Warden, Leroy Cartledge, C/A No. 8:13-1875-JMC-JDA; and Donnie Eison, #333095 vs. Warden, Livesay Correctional Institution, C/A No. 0:13-2113-DCN-PJG.

Counsel also prepared and filed a Status Report in Terrence Dimingo Terry, #307935 v. Mr. Leroy Cartledge, Warden of McCormick Correctional Institution, 6:10-2006-MGL, another federal habeas action pending before the United States District Court for the District of South Carolina. Counsel also prepared and filed a Response in Opposition to Motion to Stay Proceedings Pending Exhaustion of State Remedies in James Nathaniel Bryant, III, #6001 v. William Byars Jr., Commissioner, Department of Corrections, and Warden, Lieber Correctional Institution, C/A No. 1:13-2665-CMC-SVH, a federal habeas action pending in a capital case that is now before the United States District Court for the District of South Carolina. Counsel has also reviewed the files and started preparing the Return in Samuel T. Johnson, #332718 v. Robert M. Stevenson, III, C/A No. 5:13-1714-TMC-KDW, another federal habeas action pending before the United States District Court for the District of South Carolina.

Counsel also prepared and presented oral argument in a direct appeal in State v. Joseph Davis, a Hampton County murder case pending before the South Carolina Supreme Court. Counsel was also away from the office for three and one-half days attending two continuing legal education seminars.

Counsel has reviewed the transcript of record, completed a significant amount of research, and started drafting the Initial Brief of Respondent in this case. However, due to undersigned counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the initial brief of respondent in this proceeding. Thus, counsel is requesting an extension of time in which to file the Brief in this matter. This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests a seventeen (17) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully submitted,

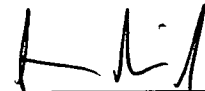
ALAN WILSON
Attorney General

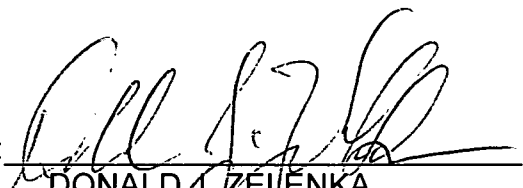
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BY:  _____
ALPHONSO SIMON, JR.
ATTORNEY FOR RESPONDENT

BY: 
DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
I support the finding of good cause.

October 11, 2013.

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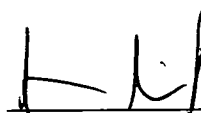
APPELLANT.

PROOF OF SERVICE

I, Alphonso Simon, Jr., of Counsel for the Respondent, certify that I have served two (2) copies of the within Motion for Second Extension to File Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, Robert M . Dudek, Chief Appellate Defender, Division of Appellate Defense, PO Box 11589, Columbia, S.C. 29211.

I further certify that all parties required by Rule to be served have been served.

This 11th day of October, 2013.



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