STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marion County
The Honorable D. Craig Brown, Circuit Court Judge
Appellate Case No. 2013-001769

THE STATE OF SOUTH CAROLINA,

APPELLENT,

RECEIVED
JAN 06 2014
SC Court of Appeals

v.

CALVIN JERMAINE POMPEY,

RESPONDENT.

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

The undersigned counsel would respectfully request a fourteen (14) day extension in which to file the Initial Brief of Appellant in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Appellant's Initial Brief is due today, January 6, 2014, upon this Court's grant of Appellant's second request for an extension filed on December 9, 2013.

The undersigned attorney for the Appellant has had a number of state and federal matters to attend to since December 6, 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 Jamago Sir Edward McKinney, #336810 vs. Michael McCall, C/A No. 0:13-2141-GRA-PJG; Jonathan Byers, #324474 vs. Warden, Perry Correctional Institution, C/A No.

AIB 3rd
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0:13-2367-MBS-PJG; and Samuel T. Johnson, #332718 vs. Robert M. Stevenson, III, C/A No. 5:13-1714-TMC-KDW; all federal habeas actions pending before the United States District Court for the District of South Carolina. Counsel has also spent a significant amount of time researching and preparing the Returns and Memoranda of Law in Support of Motions for Summary Judgment in the matters of Bruce Edward Kirton, #318515 vs. Warden of MacDougall Correctional Institution, C/A No. 4:13-2097-DCN-TER; and Leroy Archie, #317590 vs. Leroy Cartledge, C/A No. 2:13-3052-RMG-BHH; both federal habeas actions pending before the United States District Court for the District of South Carolina.

Counsel has spent a significant amount of time compiling and preparing for electronic filing of the state court records for filing in Johnny Bennett, #5023 vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden, Lieber Correctional Institution, C/A No. 2:13-MC-447-RMG-BHH, a federal habeas action in a capital case that is now pending in the United States District Court for the District of South Carolina. Those records were filed electronically in the federal habeas action by counsel on Monday, December 16, 2013, in compliance with an Order filed by the District Court on November 25, 2013. [Docket Entry #19].

Counsel filed the Final Brief of Respondent in the Charleston County murder appeal matter of The State vs. Derell Green on January 2, 2014.

Counsel has spent a substantial amount of time reviewing the transcripts and exhibits, researching, and beginning the draft of the Initial Brief of Appellant in State vs. Shannon Scott, a State's appeal now pending in the South Carolina

Supreme Court in a Richland County murder case. Counsel has also spent a substantial amount of time preparing for the filing of the Initial Reply Brief of Appellant in the Chesterfield County murder appeal matter of The State vs. Graham Franklin Douglas, which is currently due to be filed on January 9, 2014. .

Counsel has spent a substantial amount of time reviewing the Appendix and records, researching, and working on the Return to Petition for Writ of Certiorari in Marion Bowman v. State of South Carolina, an appeal in a post-conviction relief action in a capital case that is now pending before the South Carolina Supreme Court. Counsel also spent a substantial amount of time obtaining a copy and scanning the Dorchester County Sheriff's Office's investigative file in that case.

Counsel has reviewed the transcript of record, completed a significant amount of research, and started drafting the Initial Brief of Appellant 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 appellant 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 fourteen (14) day extension of time to serve and file the Initial Brief of Appellant and Designation of Matter.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR.
Assistant Attorney General
Bar No. 74713

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

BY: _____
MELODY J. BROWN, on behalf of
ALPHONSO SIMON, JR.
ATTORNEYS FOR APPELLANT

By: _____
SALLEY ELLIOTT, Senior Assistant
Deputy Attorney General on behalf of
DONALD J. ZELENKA, Senior Assistant
Deputy Attorney General

I support the finding of good cause.

January 6, 2014.

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THE STATE OF SOUTH CAROLINA,

APPELLENT,

v.

CALVIN JERMAINE POMPEY,

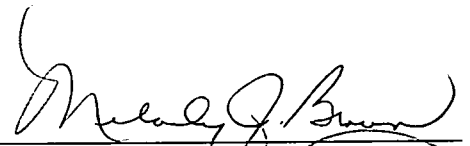
RESPONDENT.

PROOF OF SERVICE

I, Melody J. Brown, on behalf of Alphonso Simon, Jr., of Counsel for the Appellant, certify that I have served two (2) copies of the within Motion for Third Extension to File Initial Brief of Appellant and Designation of Matter via U.S. mail to his attorney of record, Robert M. Dudek, Esq. SCCID/Division of Appellate Defense, 1330 Lady St., Ste. #401, Columbia, SC 29201.

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

This 6th day of January, 2014.



MELODY J. BROWN, on behalf of
ALPHONSO SIMON, JR.
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ALAN WILSON
ATTORNEY GENERAL

RECEIVED
JAN 06 2014
Court of Appeals

January 6, 2014

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: *State v. Calvin Jermaine Pompey*
Appeal from Marion County
Appellate Case No. 2013-001769

Dear Ms. Kitchings:

I hereby request an extension of fourteen (14) days in which to file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, January 6, 2014. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Initial Brief.

Therefore, I am enclosing an original and six (6) copies of a Motion for Third Extension to File Initial Brief of Appellant and Designation of Matter. I am informing opposing counsel of my request by copy of this letter.

Sincerely,

Melody J. Brown, Senior Assistant Attorney General on behalf of
Alphonso Simon, Jr.,
Assistant Attorney General

MJB/dmd
Enclosures
cc: Robert M. Dudek, Esq. (w/two copies of encls.)