

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marlboro County
The Honorable Edward B. Cottingham, Circuit Court Judge

Appellate Case No. 2012-213461

RECEIVED

APR 16 2014

THE STATE,

Respondent,

SC Court of Appeals

vs.

TYRONE J. KING,

Appellant.

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

The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Return is due today, April 16, 2014, upon this Court's grant of Respondent's second request for an extension filed on March 20, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since March 17, 2014. Specifically, counsel has completed and filed the Returns, Motions for Summary Judgment, and Memoranda of Law in Support of Motions for Summary Judgment in Ronald Donald Dingle, #200958 vs.

RIB 3rd

Warden, Robert M. Stevenson, C/A No. 4:13-2487-DCN-TER, a federal habeas action pending before the United States District Court for the District of South Carolina. Counsel also filed responses to a Motion to Dismiss without Prejudice in Charles Pagan, #272720 vs. Cecilia Reynolds, Warden, C/A No. 2:13-2978-RMG-BHH; a Motion for an Evidentiary Hearing in Kenneth Whitmore, #227057 vs. R. H. Mauney, Warden, C/A No. 6:13-3217-JMC-KFM; and a request for a Status Report in 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 also prepared and filed the Respondent's Status Report in the matter of Terrence Dimingo Terry, #307935 vs. Mr. Leroy Cartledge, Warden of McCormick Correctional Institution, C/A No. 6:10-02006-MGL, another federal habeas action pending in the United States District Court for the District of South Carolina.

Counsel has also reviewed the files and completed a significant amount of work on the Returns and Memoranda of Law in support of Motions for Summary Judgment in Billy Ray Mills, #183702 vs. Leroy Cartledge, Warden, C/A No. 1:14-343-TMC-SVH, and Adrian Robinson, #341512 vs. Warden of Lee Correctional Institution, C/A No. 8:13-3517-JFA-JDA, both federal habeas actions pending in the United States District Court for the District of South Carolina. The Return and Motion for Summary Judgment in Mills is being filed on Thursday, April 17. Counsel is also completing and filing the Return and Memorandum of Law in Support of Motion for Summary Judgment in Abdiyyah Ben Alkebulanyahh, # SK-6012, fka Tyree Alphonso Roberts vs. William R. Byars, Jr., Commissioner, South Carolina Department of Corrections; and Wayne C. McCabe, Warden of Lieber Correctional Institution, C/A No. 6:13-918-TLW-KFM, a

federal habeas action in a capital case now pending before the United States District Court for the District of South Carolina. The Return in Alkebulanyahh is being filed on Wednesday, April 16, 2014.

Counsel also completed and filed the Return to Petition for Writ of Certiorari in Marion Bowman v. State of South Carolina, an appeal in a capital post-conviction relief action in a Dorchester County case now pending before the South Carolina Supreme Court. Counsel also filed a Joint Motion to Supplement the Appendix, together with a Third Supplemental Appendix in this matter.

On April 10, 2014, counsel presented oral argument on behalf of the State before this Court in State vs. Tawanda Allen, a direct appeal in a Williamsburg County murder case.

Counsel has spent a significant amount of time reviewing the Transcript of Record and researching the issues to draft the Initial Brief of Respondent and Designation of Matter in this matter. However, due to these and other matters in state and federal court, counsel has been unable to complete the Initial Brief of Respondent. Thus, counsel is requesting an extension of time in which to file the Initial 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 thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully Submitted,

ALAN WILSON
Attorney General


JOHN W. McINTOSH
Chief 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, South Carolina 29211
(803) 734-6305

By: 
ALPHONSO SIMON, JR.

By: 
DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I support the finding of good cause.

ATTORNEYS FOR RESPONDENT

April 16, 2014.

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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 a third extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorneys of record, Howard W. Anderson, III, Esq., Law Office of Howard W. Anderson, III, LLC, P.O. Box 851, 402 Pendleton Rd., Ste. #3, Clemson, South Carolina 29633-0851; and to Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

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

This 16th day of April, 2014.



ALPHONSO SIMON, JR.
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

April 16, 2014

RECEIVED
APR 16 2014
SC Court of Appeals

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

Re: *State v. Tyrone J. King*
Appeal from Marlboro County
Appellate Case No. 2012-213461

Dear Ms. Kitchings:

I hereby request an extension of thirty (30) days in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, April 16, 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 of Time to File Initial Brief of Respondent and Designation of Matter. Please let me know if you have any questions. I have contacted Appellant's counsel and he has consented to this request.

Sincerely,

Alphonso Simon, Jr.,
Assistant Attorney General

AS/dmd

Enclosures

cc: Howard W. Anderson, III, Esq. (w/two copies of encls.)
Robert M. Dudek, Esq. (w/two copies of encls.)