

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

Court of Common Pleas Case No. 2011-CP-26-3907
(Capital PCR Action)
Appellate Case No. 2014-000904

RECEIVED

JUL 28 2014

LOUIS MICHAEL WINKLER, JR.,

S.C. Supreme Court

Respondent/Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Petitioner/Respondent.

**MOTION FOR THIRD EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI AND APPENDIX**

The undersigned counsel would respectfully request a twenty-one (21) day extension in which to file the Petition for Writ of Certiorari in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Petition is due today, July 28, 2014, upon this Court's grant of Respondent's second request for an extension filed on June 30, 2014.

Counsel makes this request because he has been unable to complete the Petition in this matter due to his involvement in other matters in both state and federal court in the past thirty days. The undersigned attorney for the Respondent has had a number of state and federal matters to attend since June 26, 2014. Specifically,

counsel completed and filed the Motions for Summary Judgment, Returns and Memoranda of Law in Support of Motions for Summary Judgment in Shazjuan Sadiq Shabazz, #196841 vs. Joseph McFadden, Warden, C/A No. 2:14-747-MGL-WWD; and Alonzo Harvin, #157738 vs. Warden, Lieber Correctional Institution, C/A No. 5:14-1064-RMG-KDW, both federal habeas actions 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 Motions for Summary Judgment, Returns and Memorandum of Law in support of Motions for Summary Judgment in Jamie Goss, #294885 vs. Joseph McFadden, Warden, Lieber Correctional Institution, C/A No. 4:14-1299-MGL-TER; Clifton Donell Lyles, #294075 vs. Warden Cecilia Reynolds, C/A No. 4:14-1063-TMC-TER; Donnie Jones, #318400 vs. Warden of McCormick Correctional Institution, C/A No. 9:14-1815-DCN-BM; and Bobby M. Shaw, #208295 vs. Warden of Lee Correctional Institution, C/A 8:14-1645-DCN-JDA; all federal habeas actions 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 Motion for Summary Judgment, Return and Memorandum of Law in Support of Motion for Summary Judgment in Kevin Mercer vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden, Lieber Correctional Institution, C/A No. 0:14-02607-RBH-PJG, a Lexington County capital case now pending in the United States District Court for the District of South Carolina. Counsel has also been working on a response to a Motion for a Stay in the Mercer federal habeas action.

Counsel has also done a significant amount of work on the Petition for Writ of Certiorari in State vs. Julian Deandre Battle, a direct appeal in a Greenville County murder case now pending before the South Carolina Supreme Court. Counsel filed the Final Brief of Respondent in State vs. Tyrone J. King, a direct appeal in a Marlboro County murder case now pending before the South Carolina Court of Appeals. On Wednesday, July 9, 2014 and today, July 23, 2014, counsel appeared before the Honorable J. C. Nicholson, Jr. in Charleston County for status conferences regarding a reconstruction hearing in State vs. Travoris Maurice Hurst, Appellate Case No. 2009-139166 (Indictment No. 2008-GS-10-4301), an appeal in a Charleston County murder case pending before the South Carolina Court of Appeals. Counsel also spent a substantial amount of time preparing for the status conferences and in preparing for the upcoming reconstruction hearing which is now scheduled for August 14, 2014.

Counsel filed a supplement to the Return to address a claim that Petitioner raised in a subsequent amendment to his original federal habeas petition in Ronald Wendell Porterfield, #231233 vs. Warden, Lieber Correctional Institution, C/A No. 0:14-927-TMC-PJG, another federal habeas action pending in the United States District Court for the District of South Carolina. Counsel also drafted and filed the Respondent's Response to a Motion to Voluntarily Dismiss in Shazjuan Sadiq Shabazz, #196841 vs. Joseph McFadden, Warden, C/A No. 2:14-747-MGL-WWD.

Counsel has also spent some time reviewing and outlining the Return to Petition for Writ of Certiorari in Bobby Wayne Stone v. State of South Carolina, an appeal in a capital post-conviction relief action that is currently pending before this Court and counsel has reviewed the transcript and completed most of his research on the issues

raised on appeal in this matter. Counsel has also reviewed the transcript and completed most of his research on the issues raised on appeal in State vs. Marc Palmer, a direct appeal in a Williamsburg County murder case now pending in the South Carolina Court of Appeals.

Counsel also prepared and filed the Reply to the Response in Opposition to Motion for Summary Judgment filed 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.

Counsel also spent a significant amount of time reviewing the redactions in the Appendix and Supplemental Appendix to the Petition for Writ of Certiorari, and has nearly completed the Petition for Writ of Certiorari in this matter.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Petition for Writ of Certiorari in this proceeding. Thus, counsel is requesting an extension of time in which to file the Petition 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 twenty-one (21) day extension of time to serve and file the Petition for Writ of Certiorari and Appendix.

Respectfully Submitted,

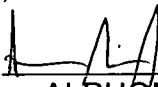
ALAN WILSON
Attorney General

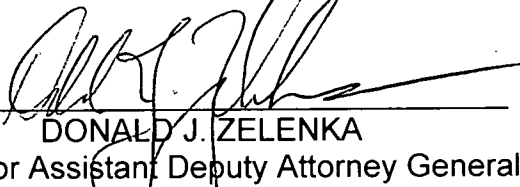
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By:  _____
ALPHONSO SIMON, JR.

By:  _____
DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I support the finding of good cause.

July 28, 2014.

ATTORNEYS FOR PETITIONER/RESPONDENT

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PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Petitioner/Respondent, certify that I have served two (2) copies of the within motion for a third extension to file Petition for Writ of Certiorari and Appendix via U.S. mail to his attorneys of record, Emily C. Paavola, Esq., Death Penalty Resource and Defense Center, 900 Elmwood Avenue, Ste. #101, Columbia, South Carolina 29201, and to John R. Mills, Esq., Law Offices of John R. Mills, 3145 Geary Blvd., #213, San Francisco, California 94118.

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

This 28th day of July, 2014.



ALPHONSO SIMON, JR.
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