

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Cherokee County  
The Honorable J. Michael Baxley, Circuit Court Judge

**RECEIVED**

Appellate Case No. 2012-212107

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AUG - 6 2014

JONATHAN KYLE BINNEY,

**S.C. Supreme Court**

Petitioner/Respondent,

vs.

STATE OF SOUTH CAROLINA,

Respondent/Petitioner.

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**PETITION FOR SECOND EXTENSION OF TIME TO FILE  
BRIEF OF RESPONDENT ON BEHALF OF RESPONDENT/PETITIONER**

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

Respondent/Petitioner's Brief of Respondent is due today, August 6, 2014, upon this Court's grant of Respondent/Petitioner's first request for an extension filed on July 8, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since July 7, 2014. Specifically,

1. Counsel travelled to Calhoun County on July 10, 2014 to review evidence in preparation for the Initial Brief in The State vs. David J. Benjamin, a Calhoun County murder appeal matter. The Initial Brief of Respondent and Designation of Matter was filed on July 21, 2014;

2. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Justin Byers, #310267 vs. Warden of McCormick Correctional Institution, C/A No. 8:14-969-DCN-JDA on July 24, 2014;

3. On July 28, 2014 counsel assisted Walt Whitmire, Assistant Attorney General in Oconee County with a Post-Conviction term of court;

4. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Rontell Singletary, #338278 vs. Warden Bush, C/A No. 8:14-1764-JMC-JDA on August 4, 2014;

5. Counsel is currently preparing the Returns and Memoranda of Law in Support of Motions for Summary Judgment in the matters of Steven Samuel, #318276 vs. Willie Eagleton, C/A No. 2:14-666-TMC-WWD; Cody S. Waters, #328607 vs. Dennis Bush, C/A No. 9:14-2003-MGL-BM; and Jovan T. Brown, #272674 a/k/a Jovan Brown and Javon Brown vs. Joseph McFadden, Warden, C/A No. 8:14-1269-RBH-JDA, all federal habeas actions pending in the United States District Court for the District of South Carolina; and

6. Counsel is also currently preparing the Respondent's response to Text Order [Doc. #46] entered by Magistrate Judge Bristow Marchant in the matter of William A. Avinger, II, #319774 vs. The State of South Carolina, C/A 9:13-02736-BHH-BM, another federal habeas action pending in the United States District Court for the District of South Carolina.

However, due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Brief of Respondent on behalf of Respondent/Petitioner in this proceeding. Thus, counsel is requesting an extension of time in which to file the Brief of Respondent in this matter. This request is made in good faith, and not

for the purposes of delay. I have obtained the consent of counsel for Petitioner/Respondent to this extension request.

WHEREFORE, premises considered, counsel hereby respectfully requests a thirty (30) day extension of time to serve and file the Brief of Respondent.

Respectfully Submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
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By: 

WILLIAM EDGAR SALTER, III

ATTORNEYS FOR RESPONDENT/PETITIONER

August 6, 2014.

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**PROOF OF SERVICE**

I, William E. Salter, III, of counsel for the Respondent/Petitioner, certify that I have served two (2) copies of the within Petition for a second extension of time to file Brief of Respondent on behalf of the Respondent/Petitioner via U.S. mail to his attorneys of record, Emily C. Paavola, Esq., Death Penalty Resource Defense Center, 900 Elmwood Avenue, Suite #101, Columbia, South Carolina 29201; and to John H. Blume, Esq., Cornell Law School, 158 Myron Taylor Hall, Ithaca, New York 14853-4901.

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

This 6<sup>th</sup> day of August, 2014.



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