

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
The Honorable Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2013-000488

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AUG 06 2014

SC Court of Appeals

THE STATE,

Respondent,

vs.

JERRY SCANTLING,

Appellant.

**MOTION FOR 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 Brief is due today, August 6, 2014, upon this Court's grant of Respondent's first request for an extension filed on July 11, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since July 7, 2014. Specifically, counsel completed and filed the Motions for Summary Judgment, Returns and Memoranda of Law in Support of Motions for Summary Judgment in Bobby M. Shaw, #208295 vs. Warden of Lee

Correctional Institution, C/A No. 8:14-1645-DCN-JDA; and Donnie Jones, #318400 vs. Warden of McCormick Correctional Institution, C/A No. 9:14-1815-DCN-BM; 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; and Clifton Donell Lyles, #294075 vs. Warden Cecilia Reynolds, C/A No. 4:14-1063-TMC-TER; both federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel completed filed a 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 has also spent a significant amount of time preparing for the status conferences and in preparing for the upcoming reconstruction hearing that is 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 has also spent a significant amount of time drafting the Petition for Writ of Certiorari for the Petitioner-Respondent in Louis Winkler, Jr., #6027 vs. State of

South Carolina, an appeal in a Horry County capital post-conviction relief action currently pending before the South Carolina Supreme Court. Counsel has also spent a substantial amount of time reviewing the redactions made in the Appendix and Supplemental Appendix for filing in that action.

Counsel has reviewed the files and nearly completed the Motion for Summary Judgment, Return and Memorandum of Law in Support of Motion for Summary Judgment in Kevin Mercer, #360547 vs. Brian P. Stirling, Commissioner, South Carolina Department of Corrections; Joseph McFadden, Warden of Lieber Correctional Institution, C/A No. 0:14-2607-RBH-PJG, a federal habeas action in a capital case now pending before the United States District Court for the District of South Carolina. Counsel has also drafted its Response to a Motion to Stay Habeas Proceedings in that matter. Those documents are being filed with the United States District Court on August 7, 2014.

Due to 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 and Designation of Matter 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 thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully Submitted,

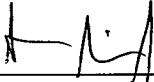
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By:  _____

ALPHONSO SIMON, JR.
ATTORNEYS FOR RESPONDENT

August 6, 2014.

STATE OF SOUTH CAROLINA
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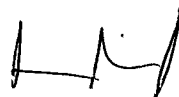
SC Court of Appeals

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 second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, David Alexander, Esquire, 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 6th day of August, 2014.



ALPHONSO SIMON, JR.
Office of the Attorney General
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(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

August 6, 2014

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: The State vs. Jerry Scantling
Appeal from Beaufort County
Appellate Case No. 2013-000488

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 Brief is currently due to be served and filed today, August 6, 2014. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Brief.

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

Sincerely,

Alphonso Simon, Jr.
Assistant Attorney General

AS:dmd
Enclosures
cc: David Alexander, Esq. (w/two copies of encls.)

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