

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Sumter County
The Honorable Michael G. Nettles, Circuit Court Judge

Common Pleas Case No. 2008-CP-43-00905
Appellate Case No. 2013-001968
(Capital PCR Action)

RECEIVED

AUG 13 2014

S.C. Supreme Court

BOBBY WAYNE STONE,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

**MOTION FOR SECOND EXTENSION OF TIME TO FILE
RETURN TO PETITION FOR WRIT OF CERTIORARI**

The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Return to 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 Return is due today, August 13, 2014, upon this Court's grant of Respondent's first request for an extension filed on July 15, 2014.

Counsel makes this request because he has been unable to complete the Return 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 July 12, 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 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 this Court. On Wednesday, July 9, 2014 and on Wednesday, 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 tomorrow, 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 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 an Horry County capital post-conviction relief action currently pending before this Court. Counsel also spent a substantial amount of time reviewing the redactions made in the Appendix and Supplemental Appendix in Winkler. Counsel filed the Appendix and Supplemental Appendix with this Court last week.

Counsel has completed and filed 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 also filed the Respondents' Response In Opposition to a Motion to Stay Habeas Proceedings in Mercer.

Counsel has also reviewed parts of the transcript and completed some of his research on the issues raised on appeal in State vs. Jerry Scantling, a direct appeal in a Beaufort County murder case now pending before this Court.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Return to Petition for Writ of Certiorari in this proceeding. Thus, counsel is requesting an extension of time in which to file the Return 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 Return to Petition for Writ of Certiorari.

Respectfully Submitted,


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ATTORNEYS FOR RESPONDENT.

August 13, 2014.

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PROOF OF SERVICE

I, Donald J. Zelenka for 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 Return to Petition for Writ of Certiorari 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 H. Blume, III, Esq., Blume Norris & Franklin-Best LLC, 900 Elmwood Ave., Suite #101, Columbia, SC 29201.

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

This 13th day of August, 2014.


DONALD J. ZELENKA