

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Williamsburg County  
The Honorable W. Jeffrey Young, Circuit Court Judge  
Appellate Case No. 2013-000700

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THE STATE,

Respondent,

vs.

MARC PALMER,

Appellant.

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

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The undersigned counsel would respectfully move and request a ten (10) 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 11, 2014, upon this Court's grant of Respondent's third request for an extension filed on July 17, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since July 9, 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 the South Carolina Supreme 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 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 the South Carolina Supreme Court. 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 the South Carolina Supreme Court. Counsel has 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 the South Carolina Supreme 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.

Counsel has reviewed the transcript completed most of his research on the issues raised in this appeal, and drafted significant portions of the Initial Brief of Respondent in this matter. Counsel is making this request primarily because he needs to listen to an exhibit from Appellant's trial before finishing his argument on the voluntary statement issue raised on appeal. Over the past few months, Respondent has attempted to make arrangements to either review the exhibit at the clerk's office or have someone from undersigned counsel's office make a copy of the exhibit for review. Arrangements were finally made for reviewing and copying of the recording of the statement at issue on July 30, 2014. However, when the individual from our office arrived at the clerk's office, the exhibit could not be found. Counsel for Respondent has been in contact with the clerk's office since then regarding the whereabouts of the exhibit. Counsel has been advised that staff within the clerk's office is engaged in extensive research to find the exhibit. Today, counsel is obtaining a copy of the recording of the interview from opposing counsel.

Due to this and counsel's involvement in this and other matters in state and federal court, counsel was unable to timely complete his research and properly prepare the Initial Brief of Respondent and Designation of Matter in this case. This request is made in good faith, and not for the purposes of delay. Undersigned counsel has spoken with opposing counsel about this request, and opposing counsel has indicated that he does not have an objection to this request for a brief extension.

WHEREFORE, premises considered, counsel hereby respectfully requests a ten (10) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully Submitted,

ALAN WILSON  
Attorney General

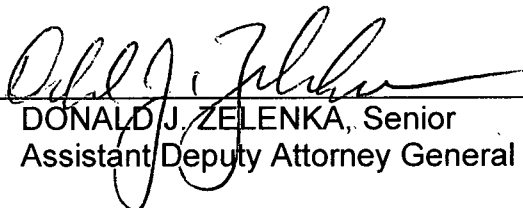
JOHN W. McINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
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ALPHONSO SIMON, JR.  
Assistant Attorney General  
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(803) 734-6305

By:   
ALPHONSO SIMON, JR.

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

I support the finding of good cause.

By: John W. McIntosh  
JOHN W. McINTOSH  
Chief Deputy Attorney General

August 11, 2014.

ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Williamsburg County  
The Honorable W. Jeffrey Young, Circuit Court Judge  
Appellate Case No. 2013-000700

**RECEIVED**

AUG 11 2014

THE STATE,

**SC Court of Appeals**

Respondent,

vs.

MARC PALMER,

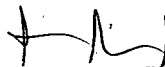
Appellant.

**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 fourth extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorneys of record, Ryan L. Beasley, Esq., 650 E. Washington Street, Greenville, South Carolina 29601; 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 11<sup>th</sup> day of August, 2014.



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



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AUG 11 2014

SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

August 11, 2014

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

Re: *State v. Marc Palmer*  
Appeal from Williamsburg County  
Appellate Case No. 2013-000700

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, August 11, 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 Fourth Extension of Time to File Initial Brief of Respondent and Designation of Matter.

Please let me know if you have any questions.

Sincerely,

Alphonso Simon, Jr.,  
Assistant Attorney General

AS/dmd

Enclosures

cc: Ryan L. Beasley, Esq. (w/two copies of encls.)  
Robert M. Dudek, Esq. (w/two copies of encls.)