

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

THE STATE,

Respondent,

vs.

JERRY SCANTLING,

Appellant.

**MOTION FOR THIRD 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, September 5, 2014, upon this Court's grant of Respondent's second request for an extension filed on August 11, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since August 4, 2014. Specifically, counsel completed and filed the Motion for Summary Judgment, Return and Memorandum of Law in Support of Motion for Summary Judgment in Donnie Jones, #318400 vs. Warden of McCormick

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Correctional Institution, C/A No. 9:14-1815-DCN-BM, a federal habeas action 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 James S. Blanding, #329153, a/k/a James Stanley Blanding v. Warden, Lee Correctional Institution, C/A No. 6:14-2748-TMC-KFM; both federal habeas actions pending in the United States District Court for the District of South Carolina. Counsel is also filing the Motion for Summary Judgment, Return and Memorandum of Law in support of Motion for Summary Judgment in Clifton Donell Lyles, #294075 vs. Cecilia Reynolds, Warden, C/A No. 4:14-1063-TMC-TER today, September 5, 2014. Counsel also filed a supplement to the Return in Maurice Graves, #208580 vs. Michael McCall, C/A No. 1:13-2866-JFA-SVH, another federal habeas action pending in the United States District Court for the District of South Carolina. In Graves, counsel also filed responses in opposition to an amended motion to stay the federal habeas proceedings, a motion to amend the federal habeas petition, and an amended motion for discovery.

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. Counsel also filed the Initial Brief of Respondent in State vs. Marc Palmer, a direct appeal in a Williamsburg County murder case now pending before this Court.

Counsel also spent a significant amount of time preparing for the 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 this Court. The reconstruction hearing was held on August 14, 2014 at the Charleston County Judicial Center before the Honorable J. C. Nicholson, Jr., Circuit Court Judge.

Counsel filed 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 been working on 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 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 the transcript and completed some of his research on the issues raised on appeal in this matter. However, 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 Initial Brief of Respondent and Designation of Matter 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,

ALAN WILSON
Attorney General

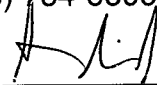
JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR.
Assistant Attorney General
Bar No. 74713

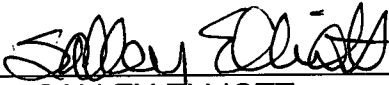
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By:



ALPHONSO SIMON, JR.

By:



SALLEY ELLIOTT,

Senior Assistant Deputy Attorney General
on behalf of DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

September 5, 2014.

ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA
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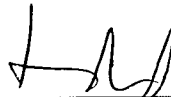
Appellant.

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 third 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 5th day of September, 2014.



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



ALAN WILSON
ATTORNEY GENERAL

September 5, 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, September 5, 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. In 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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