

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

Court of Common Pleas Case No. 2011-CP-26-3907
(Capital PCR Action)
Appellate Case No. 2014-000904

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S.C. Supreme Court

LOUIS MICHAEL WINKLER, JR.,

Respondent/Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Petitioner/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:

Petitioner/Respondent's Return is due today, December 1, 2014, upon this Court's grant of Petitioner/Respondent's first request for an extension filed on October 31, 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 October 31, 2014. Specifically, counsel completed and filed the Motions for Summary Judgment, Returns and Memoranda of Law in Support of Motions for Summary Judgment in Mario Ramos Hinojos, Jr., #301870 vs. Warden Bush, C/A No. 2:14-2960-JFA-WWD; Maurice Shaundell Hope, #292285 vs. Warden Cartledge, C/A No. 6:14-3571-RBH-KFM; and Eugene Gary, III, #231045 vs. Leroy Cartledge, MCI Warden, C/A No. 8:14-2551-TMC-JDA; all federal habeas actions pending in the United States District Court for the District of South Carolina. Counsel is also filing today, December 1, 2014 the Returns and Memoranda of Law in Support of Motions for Summary Judgment in the matters of Luis Ozorio, #347959 vs. Warden of Perry Correctional Institution, C/A No. 8:14-03688-RMG-JDA, and James S. Blanding, #329153, a/k/a James Stanley Blanding vs. Warden Lee Correctional Institution, C/A No. 6:14-2748-TMC-KFM.

Counsel has also reviewed the files and completed a significant amount of work on the Motions for Summary Judgment, Returns and Memoranda of Law in support of Motions for Summary Judgment in Harold Lee Greer, Jr., #277417 vs. Warden Perry Correctional Institution, C/A No. 2:14-3502-BHH-WWD, Timothy Blassingame, #213064 vs. Leroy Cartledge, Warden, C/A No. 4:14-2814-JMC-TER; and Tonnie Nathaniel Baldwin, #273682 vs. Warden Leroy Cartledge, C/A No. 8:14-3726-DCN-JDA, all federal habeas actions pending in the United States District Court for the District of South Carolina. Counsel has also done a substantial amount of work investigating and preparing for an evidentiary hearing in Leroy Archie, #317590 vs. Leroy Cartledge, C/A No. 2:13-3052-RMG-WWD, another federal habeas action pending before the United States District Court for the District of South Carolina. The evidentiary hearing is set to

be heard by the Honorable Wallace W. Dixon, United States Magistrate Judge, on December 9, 2014.

Counsel filed Respondent's Response in Opposition to Motion to Amend Petition in Clifton Donell Lyles, #294075 vs. Warden, Cecilia Reynolds, C/A No. 4:14-1063-TMC-TER; and counsel also filed Respondent's Reply to Court's Order [Docket Entry #79] in the matter of Maurice Graves, #208580 vs. Michael McCall, C/A No. 1:13-2866-RMG-SVH; both federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel filed 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 pending before this Court. On November 5, 2014, counsel represented the State at a status/scheduling conference in James Nathaniel Bryant, III, #6001 vs. State of South Carolina, a successive capital post-conviction relief action pending in the Horry County Court of Common Pleas. The conference was before the Honorable Benjamin H. Culbertson, Circuit Court Judge at the Horry County Courthouse. In Bryant, counsel also filed the Respondent's Response Opposing Motion to Stay Proceedings Pending Decision by South Carolina Supreme Court in *Robertson v. South Carolina* on November 17, 2014. Counsel also filed Respondent's Objection to Magistrate's Report and Recommendation in Abdiyyah Ben Alkebulanyahh, #SK-6012, (fka Tyree Alphonso Roberts) vs. William R. Byars, Jr., Commissioner, South Carolina Department of Corrections; Wayne C. McCabe, Warden of Lieber Correctional Institution, C/A No. 6:13-918-TLW, a capital federal habeas action now pending before the United States District Court for the District of South Carolina.

Counsel filed the Initial Brief of Respondent in State v. Jerry Scantling, a direct appeal in a Beaufort County murder case now pending before the South Carolina Court of Appeals. Counsel filed the Final Brief of Appellant and the Final Reply Brief of Appellant in State vs. Shannon Scott, a direct appeal matter pending before this Court on November 10, 2014. Counsel also filed the Final Brief of Respondent in State vs. Marc Anthony Palmer, a direct appeal in a Williamsburg County murder case now pending before the South Carolina Court of Appeals. Counsel also filed Respondent's Return to Petition for Writ of Certiorari in State vs. Tawanda Allen, a direct appeal in another Williamsburg County murder case now pending before the South Carolina Supreme 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 Petition 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,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR.
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By:  _____
ALPHONSO SIMON, JR.

December 1, 2014.

ATTORNEYS FOR PETITIONER/RESPONDENT

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

Court of Common Pleas Case No. 2011-CP-26-3907
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Appellate Case No. 2014-000904

LOUIS MICHAEL WINKLER, JR.,

Respondent/Petitioner,

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PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Petitioner/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 R. Mills, Esq., Law Offices of John R. Mills, 3145 Geary Blvd., #213, San Francisco, California 94118.

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

This 1st day of December, 2014.



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



ALAN WILSON
ATTORNEY GENERAL

December 1, 2014

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
P.O. Box 11330
Columbia, South Carolina 29211

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S.C. Supreme Court

Re: Louis M. Winkler v. State of South Carolina
Lower Court Case No. 2011-CP-26-03907
Appellate Case No. 2014-000904

Dear Mr. Shearouse:

I hereby request an extension of thirty (30) days in which to file the Return to Petition for Writ of Certiorari on behalf of the Petitioner/Respondent in the above-referenced case. The Return is currently due to be served and filed today, December 1, 2014. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Return to Petition for Writ of certiorari.

Therefore, I am enclosing an original and six (6) copies of a Motion for a Second Extension to File Return to Petition for Writ of Certiorari. I have obtained consent from Respondent/Petitioner's counsel regarding this extension request.

Sincerely,

Alphonso Simon, Jr.
Assistant Attorney General

AS/dmd

Enclosures

cc: Emily C. Paavola, Esq. (w/two copies of encls.)
John R. Mills, Esq. (w/two copies of encls.)