

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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JAN - 8 2015

LOUIS MICHAEL WINKLER, JR.,

Respondent/Petitioner,

S.C. Supreme Court

vs.

STATE OF SOUTH CAROLINA,

Petitioner/Respondent.

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

The undersigned counsel would respectfully request a ten (10) day extension in which to file the Reply to 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 Reply is due today, January 8, 2015, upon this Court's grant of Petitioner/Respondent's first request for an extension filed on December 30, 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 ten days. The undersigned attorney for the Respondent has had a number of

state and federal matters to attend since December 30, 2014. counsel completed and filed the Motions for Summary Judgment, Returns and Memoranda of Law in Support of Motions for Summary Judgment in Harold Lee Greer, #277417 vs. Warden Perry Correctional Institution, C/A No. 2:14-3502-BHH-WWD; and Travonte Williams, #346287 vs. Warden, Perry Correctional Institution, C/A No. 9:14-3903-JMC-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, Return and Memoranda of Law in support of Motions for Summary Judgment in Patrick Spigner, #340898 vs. Warden Lieber Correctional Institution, C/A No. 4:14-3570-TMC-TER; Shaheen Cabbagestalk, #295567 vs. Warden J. McFadden, C/A No. 5:14-03771-RMG-KDW; Lawrence Pinckney, #337981 vs. Joseph McFadden (Warden), C/A No. 6:14-4274-MGL-KFM; and Tonnie Nathaniel Baldwin, II, #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 filed the Respondent's Response in Opposition to Motion for Default Judgment and the Respondent's Response in Opposition to Motion for Summary Judgment in Shaheen Cabbagestalk, #295567, v. Warden J. McFadden, C/A No. 5:14-3771-RMG-KDW.

Counsel also filed the Return and Motion to Dismiss in Abdiyyah Ben Alkebulanyahh, #SK-6012, (fka Tyree Alphonso Roberts) vs. State of South Carolina,

Case No. 2014-CP-07-2994, a successive capital post-conviction relief action now pending in the Beaufort County Court of Common Pleas.

On January 6, 2015, counsel presented oral argument on behalf of the State in State v. Tyrone King, a direct appeal in a Marlboro County murder case currently pending before the South Carolina Court of Appeals. Counsel filed a Petition for Rehearing in the South Carolina Court of Appeals in State vs. Graham Franklin Douglas, a State's appeal of a grant of immunity under the Protection of Persons in Property Act in a Chesterfield County murder case yesterday, January 7, 2015.

Further, counsel has also done a significant amount of work in drafting the Return to the federal habeas petition in Johnny O'Landis Bennett, Jr. v. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden of Lieber Correctional Institution, C/A No. 2:13-03191-RMG-WWD, a federal habeas action in a capital case now pending before the United States District Court for the District of South Carolina.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Reply to Return to Petition for Writ of Certiorari in this proceeding. Thus, counsel is requesting an extension of time in which to file the Reply 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 ten (10) day extension of time to serve and file the Reply to Return to Petition for Writ of Certiorari.

Respectfully Submitted,

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Attorney General

JOHN W. McINTOSH
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By: 
ALPHONSO SIMON, JR.

January 8, 2015.

ATTORNEYS FOR PETITIONER/RESPONDENT

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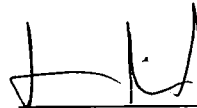
Petitioner/Respondent.

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 the Reply to 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 8th day of January, 2015.



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