

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
The Honorable Diane Schafer Goodstein, Circuit Court Judge

General Sessions Case No. 2012-GS-40-05298
Appellate Case No. 2013-002460

THE STATE,

Respondent,

vs.

GERALD BERNARD HALTIWANGER,

Appellant.

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SC Court of Appeals

**MOTION FOR SECOND EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT**

The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Initial Brief of Respondent in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Brief is due today, February 19, 2015, upon this Court's grant of Respondent's first request for an extension filed on January 27, 2015.

Counsel makes this request due to his involvement in other matters in both state and federal court within the past thirty days. Specifically, counsel completed and filed the Motions for Summary Judgment, Returns and Memoranda of Law in Support of Motions for Summary Judgment in Braheim J. Hill, #316768 vs. Warden Cartledge, C/A

No. 2:14-3775-BHH-MGB; Christopher M. Vaughn, #339181 vs. Warden Tim Riley, C/A
2:14-4559-TMC-MGB; Antonio Williams, #300760 vs. Leroy Cartledge Warden, C/A No.
8:14-4344-DCN-JDA; Lawrence Pinckney, #337981 vs. Joseph McFadden (Warden),
C/A No. 6:14-4274-MGL-KFM; Shaheen Cabbagestalk, #295567 vs. Warden, J.
McFadden, C/A No. 5:14-03771-RMG-KDW; and Patrick Spigner, #340898 vs. Warden
Lieber Correctional Institution, C/A No. 4:14-3570-TMC-TER, all federal habeas actions
pending in the United States District Court for the District of South Carolina. Counsel
also filed Respondent's Responses to Super Motion to Enforce Summary Judgment
[Docket Entry #37], and to Motion to Amend, Motion to Produce and Motion to Enforce
Summary Judgment [Docket Entry #55] in the Cabbagestalk action. Counsel filed the
Return and Memorandum of Law in Support of Motion for Summary Judgment, along
with the Motion for Summary Judgment, in Johnny O'Landis Bennett, Jr. vs. Bryan P.
Stirling, Commissioner, South Carolina Department of Corrections, and Joseph
McFadden, Warden of Lieber Correctional Institution, C/A No. 2:13-03191-RMG-MGB, a
federal habeas action in a capital case also pending before 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 Memoranda of Law in Support of
Motions for Summary Judgment in Timothy T. Kinard, #304285 vs. Joseph Battle,
Administrator, Abbeville County Detention Center, C/A No. 5:14-4391-BHH-KDW;
Wayne D. Cooper vs. Warden Stevenson, Broad River Corr. Inst., C/A No. 9:14-4500-
BHH-BM, and Alfred Redwine, #291230 vs. Warden Leroy Cartledge, C/A No. 2:14-

04558-TLW-MGB, all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel also spent a substantial amount of time preparing for a limited evidentiary hearing 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 federal habeas action in a capital case now pending in the United States District Court for the District of South Carolina. The hearing was held before the Honorable Judge Kevin F. McDonald, United States Magistrate Judge, on January 29, 2015. Counsel also prepared and filed the post-hearing brief on behalf of the Respondents earlier this week.

Counsel completed and filed both the Reply to Return to Petition for Writ of Certiorari and the Return to Respondent-Petitioner's Petition for Writ of Certiorari in Louis Winkler v. State, an appeal in a capital post-conviction relief action pending before the Supreme Court of South Carolina.

Counsel has also reviewed the files and completed a substantial amount of research in drafting the Initial Brief of Appellant in State vs. Whitlee Jones, a State's appeal to a grant of immunity under the Protection of Persons and Property Act 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 Initial Brief of Respondent in this proceeding. Thus, counsel is requesting an extension of time in which to file the Initial

Brief of Respondent 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.

Respectfully Submitted,

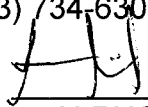
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By:  _____
ALPHONSO SIMON, JR.

February 19, 2015.

ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
The Honorable Diane Schafer Goodstein, Circuit Court Judge

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THE STATE,

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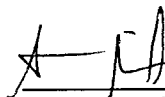
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PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a second extension to file Initial Brief of Respondent via U.S. mail to his attorneys of record, Heather V. Scalzo, Esq., 9 Graystone Road, Greenville, South Carolina 29615.

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

This 19th day of February, 2015.



ALPHONSO SIMON, JR.
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(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

February 19, 2015

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SC Court of Appeals

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

Re: *State v. Gerald Bernard Haltiwanger, Jr.*
Appeal from Richland County
Appellate Case No. 2013-002460

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, February 19, 2015. 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 Second Extension of Time to File Initial Brief of Respondent. I have contacted opposing counsel and have obtained consent to this request.

Sincerely,

Alphonso Simon, Jr.,
Assistant Attorney General

AS/dmd

Enclosures

cc: Heather Vry Scalzo, Esq. (w/two copies of encls.)