

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

MAR 23 2015

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

SC Court of Appeals

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

THE STATE,

Respondent,

vs.

GERALD BERNARD HALTIWANGER,

Appellant.

**MOTION FOR THIRD 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, March 23, 2015, upon this Court's grant of Respondent's second request for an extension filed on February 27, 2015.

Counsel makes this request due to his involvement in other matters in both state and federal court within the past thirty-one days. Specifically, counsel completed and filed the Motions for Summary Judgment, Returns and Memoranda of Law in Support of Motions for Summary Judgment in Alfred Redwine, #291230 vs. Warden Leroy

Cartledge, C/A No. 2:14-04558-TLW-MGB; Terrell T. Howard, #283888 vs. Warden, Lee Correctional Institution, C/A No. 5:14-4638-JMC-KDW; and Robert Earle Ricketts, #261694 vs. Larry Cartledge, C/A No. 8:14-4865-RMG-JDA; all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel also filed a Response in Opposition to Notice and Motion for Expansion of Record [Docket Entry #45] in Eugene Gary, III, #231045 vs. Leroy Cartledge, MCI Warden, C/A No. 8:14-2551-TMC-JDA; Responses in Opposition to a Motion for a Stay [Docket Entry #23], second Notice and Motion to Expand the Record filed [Docket Entry #21], Motion for a Subpoena [Docket Entry #4], Notice and Motion for Permission to Expansion of the Record [Docket Entry #2], and Motion for Issuance of Subpoena [Docket Entry #33] in the Redwine action;¹ a Response in Opposition to Motion to Grant Relief and Motion for Default Judgment in Shaheen Cabbagestalk, #295567 vs. Warden J. McFadden, C/A No. 5:14-3771-RMG-KDW; Responses in Opposition to Motions for Default Judgment and Motion to Appoint Counsel in Lawrence Pinckney, #337981 vs. Joseph McFadden (Warden), C/A No. 6:14-4274-MGL-KFM; and a Reply to Response in Opposition to Motion for Summary Judgment in Braheim J. Hill, #316768 vs. Warden Cartledge, C/A No. 2:14- 3775-BHH-MGB; all in 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 Memoranda of Law in Support of Motions for Summary Judgment in this case and in Timothy T. Kinard, #304285 vs. Joseph Battle, Administrator, Abbeville County Detention Center, C/A No. 5:14-4391-

¹ Counsel also filed a Response to a Motion for Order to Show Cause [Docket Entry #34] filed by the Petitioner in that action.

BHH-KDW; Antonio Barnes, #338781 vs Cecilia Reynolds, C/A No. 5:15-0022-DCN-KDW; Montavis Kentrial Gaines vs. Warden Richard Cothram, C/A No. 5:14-4652-JMC-KDW; Wayne D. Cooper, #331763 vs. Warden Stevenson, Broad River Corr. Inst., C/A No. 9:14-4500-BHH-BM; and Ronald De'Ray Skipper, #138244 vs. Joseph McFadden, Warden, C/A No. 4:14-4061-TLW-TER; all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel also filed a Return and Motion to Dismiss to Amended Application for Post-Conviction Relief and a Reply to Response In Opposition to Motion to Dismiss in Abdiyyah Ben Alkebulanyahh, # 6012, aka Tyree Roberts vs. State of South Carolina, C/A NO. 2014-CP-07-2994, a successive capital post-conviction relief action now pending in the Beaufort County Court of Common Pleas.

Counsel also completed and 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. Counsel has also been drafting a Petition for Writ of Certiorari to be filed with the South Carolina Supreme Court in State v. Graham Franklin Douglas, a State's appeal to a grant of immunity under the Protection of Persons and Property Act

Counsel has reviewed the transcript, completed some research, and started drafting the Initial Brief of Respondent 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 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,

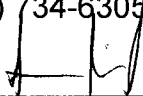
ALAN WILSON
Attorney General

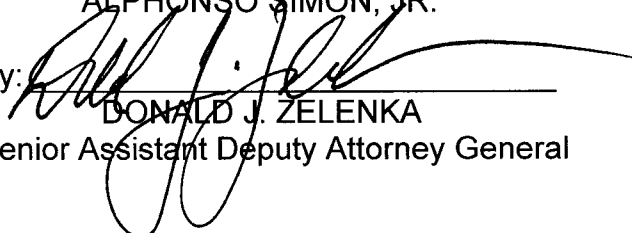
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Columbia, South Carolina 29211
(803) 734-6305

By: 
ALPHONSO SIMON, JR.

By: 
DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I support the finding of good cause.

March 23, 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

General Sessions Case No. 2012-GS-4006298
Appellate Case No. 2013-002460

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SC Court of Appeals

THE STATE,

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GERALD BERNARD HALTIWANGER,

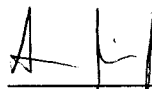
Appellant.

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 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 23rd day of March, 2015.



ALPHONSO SIMON, JR.
Office of the Attorney General
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Columbia, South Carolina 29211
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ALAN WILSON
ATTORNEY GENERAL

March 23, 2015

RECEIVED
MAR 27 2015
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, March 23, 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 Third 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.)