

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JUN 11 2015

SC Court of Appeals

Appeal from Richland County
The Honorable Deadra L. Jefferson, Circuit Court Judge

General Sessions Case No. 2012-GS-40-04975; 05302
Appellate Case No. 2013-002478

THE STATE,

Respondent,

vs.

JAMES KEVIN BETHEL,

Appellant.

**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, June 11, 2015, upon this Court's grant of Respondent's first request for an extension filed on May 18, 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: Carl Brian Craine, #220381 vs. Warden Lieber

Correctional Institution, C/A No. 4:15-589-BHH-TER; Daniel McNeil, Jr., #196118 vs. Warden, Evans Correctional Institution, C/A No. 4:15-1105-TLW-TER; Maurice A. Kelley, #288629 vs. Ceila Reynolds, C/A No. 1:15-620-TMC-SVH; Carmichael Trevon Flowers, #335945 vs. Lavern Cohen, C/A No. 8:15-1309-TMC-JDA; Jesse R. Lane, #345702 vs. Warden Reynolds, C/A No. 5:15-390-SB-KDW; and Samuel Harmon, #328335 vs. Robert Stevenson, Warden, C/A No. 5:15-1620-HMH-KDW, all federal habeas actions pending in the United States District Court for the District of South Carolina. Counsel also filed the Motion for Summary Judgment, Return to Amended Petition and Memorandum of Law in Support of Motion for Summary Judgment [Doc. #52], in the federal habeas action of Clifton Donell Lyles, #294075 vs. Warden, Cecilia Reynolds, C/A No. 4:14-1063-TMC-TER on May 18, 2015. The Return to the Amended Petition was more than 125 pages long.

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 Eric Hemingway, #290037 vs. Warden Lieber Correctional Institution, C/A No. 4:15-367-MBS-TER; Donald Scott Jones, #336980 vs. Joseph McFadden, C/A No. 4:15-1401-BHH-TER; Russell Lee Sims, #319755 vs. Warden McFadden, CA No. 0:15-1510-BHH-PJG; and Melcelus Toland, #275858, a/k/a Melcelous Toland vs. Joseph McFadden, Warden, C/A No. 8:15-1311-PMD-JDA; all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel also filed Respondent's Response in Opposition to Motion to Stay Proceedings Pending Exhaustion of State Remedies [ECF #30] in the matter of Wayne

D. Cooper, #331763 vs. Joseph McFadden, Warden, C/A 9:14-4500-BHH-BM, another federal habeas action pending in the United States District Court for the District of South Carolina.

Counsel filed the Initial Brief of Respondent in the matter of State vs. Tavish Dominique Yeargin, a Pickens County direct appeal matter pending before this Court, and is reviewing the transcript and completing research in preparation for drafting the Initial Brief of Respondent in the matter of State vs. David Stalk, a Lancaster County direct appeal matter also pending before this 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,

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
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Columbia, South Carolina 29211
(803) 734-6305

By:  _____
ALPHONSO SIMON, JR.

June 11, 2015.

ATTORNEYS FOR RESPONDENT

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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, David Alexander, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, South Carolina 29201.

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

This 11th day of June, 2015.



ALPHONSO SIMON, JR.
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Columbia, South Carolina 29211
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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

June 11, 2015

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

Re: The State v. James K. Bethel
Appeal from Richland County
Appellate Case No. 2013-002478

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, June 11, 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. By copy of this letter I am advising counsel for Appellant of this request.

Sincerely,

Alphonso Simon, Jr.,
Assistant Attorney General

AS/dmd

Enclosures

cc: David Alexander, Esq. (w/two copies of encls.)