

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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SEP 22 2015

APPEAL FROM MARION COUNTY
The Honorable D. Craig Brown, Circuit Court Judge

S.C. Supreme Court

Court of Appeals' Appellate Case No. : 2013-001769

THE STATE

PETITIONER
APPELLANT,

V.

CALVIN JERMAINE POMPEY,

RESPONDENT.

**PETITION FOR EXTENSION OF TIME TO FILE PETITION
FOR WRIT OF CERTIORARI AND APPENDIX**

The undersigned counsel would respectfully request a fifteen (15) day extension in which to file the Petition for Writ of Certiorari and Appendix in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Appellant's Petition for Writ of Certiorari is due today, September 21, 2015, as per the South Carolina Court of Appeals' Order denying Appellant's Petition for Rehearing dated August 20, 2015.

Counsel makes this request because he has been unable to complete the Petition for Writ of Certiorari in this matter due to his involvement in other matters in both state and federal court in the past thirty-one days. The undersigned

attorney for the Respondent has had a number of state and federal matters to attend to since August 21, 2015. Specifically, counsel completed and filed the Motion for Summary Judgment, Return, and Memorandum of Law in Support of Motion for Summary Judgment in James Wilkinson, #322936 v. Warden of Tyger River Correctional Institution, C/A No. 6:15-1877-MGL-KFM, a federal habeas action pending in the United States District Court for the District of South Carolina. Counsel also filed Respondent's Response in Opposition to Motion for Appointment of Counsel [Docket Entry #37] in the matter of Carmichael Trevon Flowers, #335945 vs. Lavern Cohen, C/A No. 8:15-1309-TMC-JDA; a Reply to Response in Opposition to Motion for Summary Judgment in the matter of Melcelus Toland, #275858 a/k/a Melcelous Toland vs. Joseph McFadden, Warden, C/A No. 8:15-1311-PMD-JDA; a Response in Opposition to Petitioner's Second Motion to Stay Proceedings Pending Exhaustion of State Remedies, and a Reply to Petitioner's Objection to Report and Recommendation in the matter of Wayne D. Cooper vs. Joseph McFadden, Warden, C/A No. 9:14-4500-BHH-BM; and a Reply to Response in Opposition to Motion for Summary Judgment in the matter of Ikeef Brailsford, #264172 vs. Warden Willie Eagleton, Evans, CI, C/A No.: 6:15-1800-GRA-KFM, 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 in reviewing the files and preparing the Returns and Memoranda of Law in Support of Motions for Summary Judgment in Chas Lamous Smith vs. Bryan P. Stirling, Dir. SC Dept. of Corrections, Cecilia Reynolds, Warden, Lee Correctional Institution, and State of

South Carolina, C/A No.: 2:15-2533-HMH-MGB; Isaiah F. Walker v. Warden Reynolds, C/A No. 2:15-02174-SB-MGB; Jeremy R. Phillips vs. Warden Bernard McKie, C/A No. 5:15-02458-HMH-KDW; Princeton Thrower, #300701 v. Robert Stevenson, C/A No. 0:15-1955-JMC-PJG; and Terrance V. Smith, #292962 vs. Warden Cecilia Reynolds, C/A No. 1:15-2996-DCN-SVH; 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 in reviewing the files and preparing the Return to the Amended Petition and Respondent's Reply to Petitioner's Motion to Lift Stay per Order [Doc. #140] in the matter of Terrence Dimingo Terry, #307935 vs. Mr. Leroy Cartledge, Warden of McCormick Correctional Institution, C/A No. 6:10-02006-BHH-KFM, another federal habeas action pending before this court.

Counsel drafted and filed the Initial Reply Brief and the Record on Appeal in State v. Whitlee Jones, a State's appeal to the grant of immunity under the Protection of Persons and Property Act currently pending before the South Carolina Supreme Court. Counsel also filed the Brief of Respondent in State v. Tawanda Allen, a direct appeal in a Williamsburg County murder case in which certiorari was granted by the South Carolina Supreme Court.

Counsel filed a response to a Motion to Alter or Amend Judgment filed in Alkebulanyahh v. Byars, et al., C/A No. 6:13-918-TLW, a federal habeas action in a Beaufort County capital case now pending in the United States District Court for the District of South Carolina. Counsel also engaged in additional investigation and filed a Second Supplement to Response to Requests for

Production of Documents, as per [Docket Entry #78], in Johnny O'Landis Bennett, Jr. vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, Joseph McFadden, Warden of Lieber Correctional Institution, C/A No. 2:13-03191-RMG-MGB on September 11, 2015, another federal habeas action in a Lexington County capital case now pending before this Court.

Counsel was also out of the office on leave for personal reasons from August 27, 2015 to September 8, 2015.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Petition for Writ of Certiorari in this proceeding. Thus, counsel is requesting an extension of time in which to file the Petition for Writ of Certiorari and Appendix 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 fifteen (15) day extension of time to serve and file the 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.
Assistant Attorney General
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ATTORNEYS FOR APPELLANT

By: 

Alphonso Simon Jr.

September 21, 2015.

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PROOF OF SERVICE

I, Alphonso Simon, Jr. on behalf of counsel for the Appellant, certify that I have served two (2) copies of the within Petition for Extension of Time to File Petition for Writ of Certiorari and Appendix via U.S. mail to his attorney of record, Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201.

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

This 21st day of September, 2015.



ALPHONSO SIMON, JR.
Assistant Attorney General
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Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

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September 21, 2015

S.C. Supreme Court

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

Re: *State v. Calvin Jermaine Pompey*
Appeal from Marion County

Dear Mr. Shearouse:

I hereby request an extension of fifteen (15) days in which to file the Petition for Writ of Certiorari and Appendix in the above-referenced case. The Petition is currently due to be served and filed today, September 21, 2015. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Petition.

Therefore, I am enclosing an original and six (6) copies of a Petition for Extension of Time to File Petition for Writ of Certiorari and Appendix. I am informing opposing counsel of my request by copy of this letter.

Sincerely,

Alphonso Simon, Jr.
Assistant Attorney General

AS:dmd

Enclosures

cc: South Carolina Court of Appeals, Attention: Jacklyn (w/copy of encls.)
Robert M. Dudek, Esq. (w/two copies of encls.)
The Honorable E. L. Clements, III, Solicitor, Twelfth Judicial Circuit (w/copy of encls.)
Trisha Allen, Victim Services (w/copy of encls.)