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2nd AFB due 9/28
New due date

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
The Honorable Robert E. Hood, Circuit Court Judge

General Sessions Case No. 2013-GS-28-00007
Appellate Case No. 2015-001005

RECEIVED
SEP 30 2015
SC Court of Appeals

THE STATE,

Appellant,

vs.

SALLY ANNE MEMMERT,

Respondent.

**MOTION FOR SECOND EXTENSION OF TIME TO FILE
INITIAL BRIEF OF APPELLANT AND DESIGNATION OF MATTER**

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

Appellant's Brief is due today, September 28, 2015, upon this Court's grant of Appellant's first request for an extension filed on August 5, 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

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Motions for Summary Judgment in James Wilkinson, #322936 v. Warden of Tyger River Correctional Institution, C/A No. 6:15-1877-MGL-KFM; Isaiah F. Walker v. Warden Reynolds, C/A No. 2:15-02174-SB-MGB; and Terrence Dimingo Terry, #307935 vs. Mr. Leroy Cartledge, Warden of McCormick Correctional Institution, C/A No. 6:10-02006-BHH-KFM; 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 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 significant 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; Princeton Thrower, #300701 v. Robert Stevenson, C/A

No. 0:15-1955-JMC-PJG; Jeremy R. Phillips vs. Warden Bernard McKie, C/A No. 5:15-02458-HMH-KDW; Terrance V. Smith, #292962 vs. Warden Cecilia Reynolds, C/A No.: 1:15-2996-DCM-SVH; and Darryl T. Cook vs. Warden of Broad River Correctional Institution, C/A No. 0:15-2987-JFA-PJG; all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel filed 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 has also done a substantial amount of work on the Petition for Writ of Certiorari in State v. Calvin Pompey, another State's appeal to a grant of immunity under the Protection of Persons and Property Act.

Counsel 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, a federal habeas action in a Lexington County capital case now pending in the United States District Court for the District of South Carolina.

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 Initial Brief of Appellant and Designation of Matter in this proceeding. Thus, counsel is requesting an extension of

time in which to file the Initial Brief of Appellant 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 Appellant and Designation of Matter.

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
Bar No. 74713

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 

ALPHONSO SIMON, JR.

September 28, 2015.

ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Kershaw County
The Honorable Robert E. Hood, Circuit Court Judge

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General Sessions Case No. 2013-GS-28-00007
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THE STATE,

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vs.

SALLY ANNE MEMMERT,

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PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Appellant, certify that I have served two (2) copies of the within motion for a second extension to file Initial Brief of Appellant and Designation of Matter via U.S. mail to his attorney of record, Jack Swerling, Esq., 1720 Main Street, Suite #301, Columbia, South Carolina 29201.

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

This 28th day of September, 2015.



ALPHONSO SIMON, JR.
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305



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SEP 30 2015

SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

September 28, 2015

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

Re: The State v. Sally Anne Memmert
Appeal from Richland County
Appellate Case No. 2015-001005

Dear Ms. Kitchings:

I hereby request an extension of thirty (30) days in which to file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, September 28, 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 Appellant and Designation of Matter. By copy of this letter I am advising counsel for Respondent of this request.

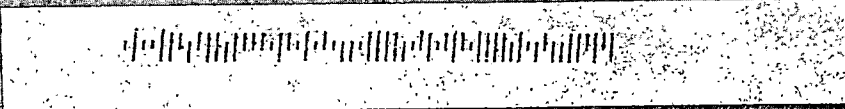
Sincerely,

Alphonso Simon, Jr.,
Assistant Attorney General

AS/dmd

Enclosures

cc: Jack Swerling, Esq. (w/two copies of encls.)



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09/28/2015

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**Office of the Attorney General
State of South Carolina**

Post Office Box 11549 - Columbia SC 29211-1549

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