

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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OCT 23 2015

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

S.C. Supreme Court

Court of Common Pleas Case No. 2011-CP-26-3907
(Capital PCR Action)
Appellate Case No. 2014-000904

LOUIS MICHAEL WINKLER, JR.,

Respondent.

vs.

STATE OF SOUTH CAROLINA,

Petitioner.

**PETITION FOR THIRD EXTENSION OF TIME TO FILE
BRIEF OF PETITIONER AND APPENDIX**

The undersigned counsel would respectfully request a seventeen (17) day extension in which to file the Brief of Petitioner in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Petitioner's Brief is due today, October 23, 2015, upon this Court's grant of Petitioner's second request for an extension filed on September 25, 2015. Counsel for Petitioner has obtained the consent of Respondent's counsel to this extension request.

Counsel makes this request because he has been unable to complete the Brief of Petitioner in this matter due to his involvement in other matters in both state and

federal court in the past thirty days. The undersigned attorney for the Petitioner has had a number of state and federal matters to attend since September 23, 2015. Specifically, counsel completed and filed the Motions for Summary Judgment, Returns, and Memoranda of Law in Support of Motions for Summary Judgment in Isaiah F. Walker v. Warden Reynolds, C/A No. 2:15-02174-SB-MGB; Terrence Dimingo Terry, #307935 v. Mr. Leroy Cartledge, Warden of McCormick Correctional Institution, C/A No. 6:10-02006-BHH-KFM; Dexter Palmer, #311922 vs. Cecilia Reynolds, Warden at Lee C.I., C/A No.: 8:15-2571-GRA-JDA; Christopher Anderson v. Warden, Kirkland Corr. Inst., C/A No. 5:15-2563-HMH-KDW; Chas Lamous Smith v. 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; Jimmy D. Portee, #145122 vs. Robert Stevenson, Warden of Broad River Correctional Institution, C/A No. 9:15-3375-RMG-BM; and John Thomas Robinson vs. South Carolina, C/A No. 2:15-2937-RBH-MGB, 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 Jeremy R. Phillips v. Warden Bernard McKie, C/A No. 5:15-02458-HMH-KDW; Terrance V. Smith, #292962 v. Warden Cecilia Reynolds, C/A No. 1:15-2996-DCM-SVH; and Darryl T. Cook v. Warden of Broad River Correctional Institution, C/A No. 0:15-2987-JFA-PJG; and a substantial amount of work on the Return and Memorandum of Law in Support of Motion for Summary Judgment in Shazjuan Shabazz

v. Robert Stevenson, Warden, C/A 2:15-3321-MGL-MGB; all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel filed the Petition for Writ of Certiorari in State v. Calvin Pompey, a State's appeal to the grant of immunity under the Protection of Persons and Property Act now pending before this Court. Counsel also filed a Final Brief of Appellant and a Final Reply Brief of Appellant in State v. Whitlee Jones, another State's appeal to the grant of immunity under the Protection of Persons and Property Act.

Counsel engaged in additional investigation and filed a Third Supplement to Response to Requests for Production of Documents with additional documents on October 7, 2015, 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.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Brief of Petitioner in this proceeding. Thus, counsel is requesting an extension of time in which to file the Brief of Petitioner 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 seventeen (17) day extension of time to serve and file the Brief of Petitioner.

Respectfully Submitted,

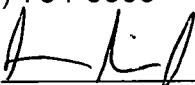
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By: 
ALPHONSO SIMON, JR.

By: 
DONALD J. ZELENKA
Senior Assistant Deputy Attorney
General

I support the finding of good cause.

ATTORNEYS FOR PETITIONER

October 23, 2015.

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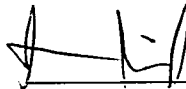
Petitioner.

PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Petitioner, certify that I have served two (2) copies of the within Petition for a third extension of time to file Brief of Petitioner via U.S. mail to his attorneys of record, Emily C. Paavola, Esq., Death Penalty Resource and Defense Center, 900 Elmwood Avenue, Ste. #200, Columbia, South Carolina 29201, and to John R. Mills, Esq., 836 Harrison Street, San Francisco, CA 94107.

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

This 23rd day of October, 2015.



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