

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
The Honorable Clifton Newman, Circuit Court Judge

Trial Court Case No. 2013-GS-40-01493
Appellate Case No. 2014-001803

RECEIVED

OCT 28 2015

Respondent, SC Court of Appeals

THE STATE,

vs.

CALVERT MYERS,

Appellant.

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

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

Respondent's Brief is due today, October 28, 2015, upon this Court's grant of Respondent's first request for an extension filed on October 2, 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 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; John Thomas Robinson vs. South Carolina, C/A No. 2:15-2937-RBH-MGB; and Jeremy R. Phillips v. Warden Bernard McKie, C/A No. 5:15-02458-HMH-KDW; 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 this case and in Darryl T. Cook vs. Warden of Broad River Correctional Institution, C/A No. 0:15-2987-JFA-PJG; Terrance V. Smith, #292962 vs. Warden Cecilia Reynolds, C/A No. 1:15-2996-DCN-SVH; 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 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 has also done a significant amount of work preparing the Brief of Petitioner in the Horry County capital post-conviction relief appeal matter of Louis Michael Winkler, Jr. vs. State of South Carolina, Appellate Case No. 2014-000904.

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 Initial Brief of Respondent and Designation of Matter 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 and Designation of Matter.

Respectfully Submitted,

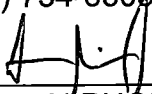
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By: 

ALPHONSO SIMON, JR.

October 28, 2015.

ATTORNEYS FOR RESPONDENT

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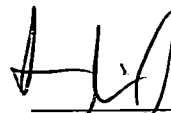
Appellant.

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 and Designation of Matter via U.S. mail to his attorney of record, Robert Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

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

This 28th day of October, 2015.



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