

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

NOV 30 2015

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

SC Court of Appeals

THE STATE,

Respondent,

vs.

CALVERT MYERS,

Appellant.

**MOTION FOR THIRD 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, November 30, 2015, upon this Court's grant of Respondent's second request for an extension filed on November 6, 2015.

Counsel makes this request due to his involvement in other matters in both state and federal court within the past thirty-one days. Counsel makes this request due to his involvement in other matters in both state and federal court within the past thirty-one days. Specifically, counsel completed and filed the Motions for Summary Judgment,

Returns, and Memoranda of Law in Support of Motions for Summary Judgment in Shazjuan Shabazz v. Robert Stevenson, Warden, C/A 2:15-3321-MGL-MGB; Shane Lemar Moore, #342772 v. Warden of Allendale Correctional Institution, C/A No. 9:15-3385-BHH-BM; Darryl T. Cook v. Warden of Broad River Correctional Institution, C/A No. 0:15-2987-JFA-PJG; and Antonio Moultrie, #332073 v. Joseph McFadden, Warden, C/A No. 8:15-3661-HMH-JDA; 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 Terrance V. Smith, #292962 vs. Warden Cecilia Reynolds, C/A No. 1:15-2996-DCM-SVH; and in Jonathan M. Campbell, #236007 vs. Warden Reynolds; Alan Wilson; and Karen Ratigan, C/A No. 1:15-3360-MGL-SVH; both federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel filed the Brief of Petitioner in Louis Michael Winkler, Jr. v. State of South Carolina, Appellate Case No. 2014-000904, an appeal in a capital post-conviction relief action from Horry County pending before the South Carolina Supreme Court. Counsel also filed the Final Brief of Respondent in State v. James Kevin Bethel, a direct appeal in a Richland County murder case now pending before this Court. Counsel also spent a significant amount of time reviewing the transcript and researching issues in drafting the Initial Brief of Respondent in this case. Counsel also presented oral argument on behalf of the State in State v. Marc Anthony Palmer, a direct appeal in a Williamsburg County murder case also pending before this Court. Counsel has also done some work on the Brief of Respondent in Bobby Wayne Stone v. State of South Carolina, an appeal in a

capital post-conviction relief action from Sumter County pending before the South Carolina Supreme Court. Counsel has also spent a significant amount of time preparing for an oral argument in State v. Tawanda Allen, a direct appeal in another Williamsburg County murder case pending before the South Carolina Supreme Court. Argument will be heard in Allen on the morning of December 1, 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 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,

ALAN WILSON  
Attorney General

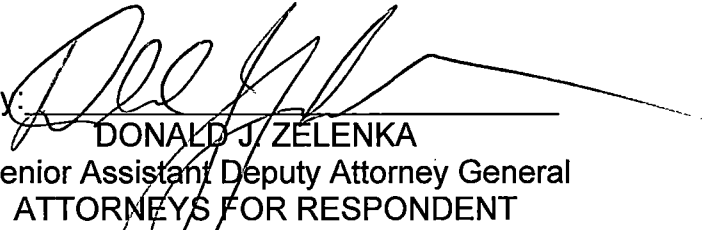
JOHN W. McINTOSH  
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By:   
ALPHONSO SIMON, JR.  
ATTORNEYS FOR RESPONDENT

By:   
DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General  
ATTORNEYS FOR RESPONDENT

I support of the finding of good cause.

November 30, 2015.

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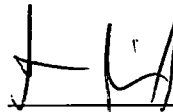
PROOF OF SERVICE

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I, Alphonso Simon, Jr., of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a third 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 30<sup>th</sup> day of November, 2015.



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SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

November 30, 2015

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

Re: *The State v. Calvert Myers*  
Appeal from Richland County  
Appellate Case No. 2014-001803

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, November 30, 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 Third Extension to File Initial Brief of Respondent and Designation of Matter. I am informing opposing counsel of my request by copy of this letter.

Sincerely,

Alphonso Simon, Jr.,  
Assistant Attorney General

AS:dmd  
Enclosures  
cc: Robert M. Dudek, Esq. (w/two copies of encls.)