



ALAN WILSON
ATTORNEY GENERAL

RECEIVED
FEB 29 2016
SC SUPREME COURT

February 29, 2016

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

Re: Louis M. Winkler v. State of South Carolina
Lower Court Case No. 2011-CP-26-03907
Appellate Case No. 2014-000904

Dear Mr. Shearouse:

I hereby request an extension of ten (10) days in which to file the Reply Brief of Petitioner in the above-referenced case. The Brief is currently due to be served and filed today, February 29, 2016. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Reply Brief of Petitioner.

Therefore, I am enclosing an original and six (6) copies of a Petition for a Second Extension of Time to File Reply Brief of Petitioner. I have obtained consent from Respondent's counsel regarding this extension request.

Sincerely,

Alphonso Simon, Jr.
Assistant Attorney General

AS/dmd

Enclosures

cc: Emily C. Paavola, Esq. (w/two copies of encls.)
John R. Mills, Esq. (w/two copies of encls.)

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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

RECEIVED

FEB 29 2016

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

SC SUPREME COURT

LOUIS MICHAEL WINKLER, JR.,

Respondent.

vs.

STATE OF SOUTH CAROLINA,

Petitioner.

**PETITION FOR SECOND EXTENSION OF TIME TO FILE
REPLY BRIEF OF PETITIONER**

The undersigned counsel would respectfully request a ten (10) day extension in which to file the Reply Brief of Petitioner in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Petitioner's Reply Brief is due today, February 29, 2016, upon this Court's grant of Petitioner's first request for an extension filed on February 19, 2016. 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 Reply 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 January 29, 2016. Specifically, counsel completed and filed the Motion for Summary Judgment, Return, and Memorandum of Law in Support of Motion for Summary Judgment in William C. Doar, III, #348781 vs. Warden, Allendale Correctional Institution, C/A No. 4:15-3525-TLW-TER, a federal habeas action pending in the United States District Court for the District of South Carolina. Counsel filed an Objection to the Report and Recommendation in Johnny O'Landis Bennett, Jr. vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden, Lieber Correctional Institution, C/A No. 2:13-3191-RMG-MGB, a capital federal habeas action pending in the United States District Court for the District of South Carolina. Counsel also filed a Reply to Response in Opposition to Motion for Summary Judgment in Donald Scott Jones, #336980 vs. Joseph McFadden, Warden, C/A No. 4:15-4004-BHH-TER; a Response in Opposition to Motion to Dismiss in Melcelus Toland, #275858 a/k/a Melcelous Toland vs. Joseph McFadden, Warden, C/A No. 8:15-1311-PMD-JDA; and a Response to Petitioner's Motion for Respondent to Supplement and/or Provide a Complete Record in Antonio Moultrie, #332073 vs. 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 also completed and filed the Respondent-Appellee's Response Brief in Nicanor Perez Rodriguez vs. Dennis Bush, Case No. 14-7297 (L), an appeal in a federal habeas action now pending in the United States Court of Appeals for the Fourth

Circuit. Counsel also filed the Final Brief of Respondent in State vs. Calvert Myers, a Richland County murder appeal pending before the South Carolina Court of Appeals.

Within the past ten days, counsel also filed a Supplemental Brief requested by the United States Court of Appeals for the Fourth Circuit in Abdiyyah Ben Alkebulanyahh (f/k/a Tyree Alphonso Roberts vs. William Byars, Jr., Commissioner, South Carolina Department of Corrections; and Wayne C. McCabe, Warden of Lieber Correctional Institution, Case No. 15-3, a capital federal habeas action now on appeal. Counsel has also done a significant amount of work in preparing and drafting the Respondent's objections to the Report and Recommendation in the matter of Montavis Kentrail Gaines, #323168 vs. Warden Richard Cothram, C/A No. 5:14-4652-JMC, another federal habeas action pending in the United States District Court for the District of South Carolina. Counsel has also spent a substantial amount of time preparing a Response Brief requested by the United States District Court in Johnny O'Landis Bennett, Jr. vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden, Lieber Correctional Institution, C/A No. 2:13-3191-RMG-MGB, a capital federal habeas action pending in the United States District Court for the District of South Carolina. Counsel has also spent a significant amount of time preparing for oral argument in State v. Graham Douglas, a State's appeal in a Protection of Persons and Property Act case currently pending before this Court and set for argument on March 2, 2016.

Counsel has spent a significant amount of time reviewing the transcript and researching the issue in preparation for drafting the Initial Brief of Respondent in State v. Timothy James Wright, a direct appeal in a Charleston County murder case pending

before the South Carolina Court of Appeals. Counsel has also spent a substantial amount of time drafting the Return and Memorandum of Law in Support of Motion for Summary Judgment in Rufus Julius Cornelius Anderson, #165323/0617, vs. Director of Greenville County Detention Center; State of South Carolina, C/A No. 8:15-4916-MGL-JDA, a federal habeas action pending before the United States District Court for the District of South Carolina. Counsel has also spent a significant amount of time preparing the Reply Brief of Petitioner in this matter.

Due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Reply Brief of Petitioner in this proceeding. Thus, counsel is requesting an extension of time in which to file the Reply 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 ten (10) day extension of time to serve and file the Reply Brief of Petitioner.

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.

ATTORNEYS FOR PETITIONER

February 29, 2016.

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

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

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,

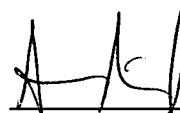
Petitioner.

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 second extension of time to file Reply Brief of Petitioner via U.S. mail to his attorneys of record, Emily C. Paavola, Esq., Justice 360, f/k/a 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 29th day of February, 2016.



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