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MAR 10 2016

SC SUPREME COURT

**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.

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

The undersigned counsel would respectfully request a seven (7) 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, March 10, 2016, upon this Court's grant of Petitioner's second request for an extension filed on March 1, 2016. Respondent's counsel has objected 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 ten days. The undersigned attorney for the Petitioner has had a number of state and federal matters to attend since February 29, 2016. Specifically, counsel filed a Response to the District Court's Order Requesting Briefing on Applicability of Simmons v. South Carolina 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, a capital federal habeas action now pending in the United States District Court for the District of South Carolina. Counsel filed a Reply to Response in Opposition to Motion for Summary Judgment in Dexter Palmer, #311922 vs. Cecilia Reynolds, Warden at Lee C.I., C/A No. 8:15-2571-MBS-JDA; and counsel also filed an Objection to Report and Recommendation in Montavis K. Gaines, #323168 vs. Warden Richard Cothram, C/A No. 5:15-4652-JMC-KDW; both 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 preparing and drafting the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Rufus Julius Cornelius Anders, #165323 / 0617 vs. Director of Greenville County Detention Center; State of South Carolina, C/A No. 8:15-4916-MGL-JDA, another federal habeas action pending in the United States District Court for the District of South Carolina.

Counsel presented oral argument on behalf of the State at oral argument in State v. Graham Douglas, a State's appeal in a Protection of Persons and Property Act case pending before this Court. Counsel spent a substantial amount of time preparing for a status conference before the Honorable Alexander S. MacCaulay in the matter of

Norman Starnes vs. State of South Carolina, a capital Lexington County post-conviction relief matter which was scheduled for Friday, March 4, 2016. The status conference was ultimately postponed on the afternoon of March 3, 2016. Counsel has also spent a substantial amount of time preparing for a hearing on the motions for summary judgment scheduled for Monday, March 14, 2016 before the Honorable Richard M. Gergel 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 completed review of the transcript and did a significant amount of research 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 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 seven (7) day extension of time to serve and file the Reply Brief of Petitioner.

Respectfully Submitted,

ALAN WILSON
Attorney General

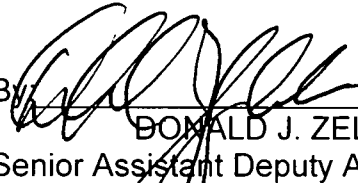
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DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I support the finding of good cause.

ATTORNEYS FOR PETITIONER

March 10, 2016.

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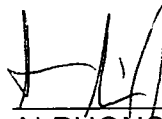
Petitioner.

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 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 10th day of March, 2016.



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