

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable J.C. Buddy Nicholson, Jr., Circuit Court Judge

Trial Court Case Nos. 2013-GS-10-03170; 2013-GS-10-03172
Appellate Case No. 2015-000636

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APR 27 2016

SC Court of Appeals

THE STATE,

Respondent,

vs.

TIMOTHY JAMES WRIGHT,

Appellant.

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

The undersigned counsel would respectfully request a nine (9) 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:

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 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; Michael A. Hough, #255832 vs. Leroy Cartledge, Warden, C/A No.

8:16-259-RMG-JDA; and in Gerald Brown, #174505 vs. Larry Cartledge, Warden of Perry Correctional Institution, C/A No. 6:16-00317-TMC-KFM; all federal habeas actions pending in the United States District Court for the District of South Carolina.

Counsel filed a Return to Petition for Rehearing in State vs. Marc Anthony Palmer, a direct appeal in a Williamsburg County murder case pending before the South Carolina Court of Appeals.

Counsel filed a Notice of Appeal in the United States Court of Appeals for the Fourth Circuit in Johnny O'Landis Bennett, Jr. vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, and Joseph McFadden, Warden, Lieber Correctional Institution, Case No. 16-3, a capital federal habeas action. Counsel filed a Reply to Response in Opposition to Motion for Summary Judgment and a Response in Opposition to Motion for Transcript at Government's Expense and Motion to Compel Production of Documents in Darryl T. Cook vs. Warden of Broad River Correctional Institution, C/A No. 0:15-2987-JFA-PJG, 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 in Louis M. Winkler, Jr. vs. State of South Carolina, a State's appeal in a capital post-conviction relief action before the South Carolina Supreme Court on April 13, 2016.

Counsel has spent a substantial amount of time drafting the Returns and Memoranda of Law in Support of Motions for Summary Judgment in Scott Douglas Parker, #197951 vs. Warden, Broad River Correctional Institution, C/A No. 5:15-04648-TLW-KDW, and in Jermaine T. McKelvey vs. Warden Cecelia Reynolds, C/A No. 4:16-

541-MBS-TER, both federal habeas actions pending before the United States District Court for the District of South Carolina.

Counsel has also spent a significant amount of time reviewing the transcript and researching the issue in preparation for drafting the Initial Brief of Respondent 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 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 nine (9) 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
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.

By: 
DONALD J. ZELENKA,
Senior Assistant Deputy Attorney General

I support the finding of good cause.

ATTORNEYS FOR RESPONDENT

April 27, 2016.

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THE STATE,

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vs.

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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 third extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorneys of record, Kristy Goldberg, Esq., Law Office of Kristy Goldberg, LLC, 1720 Main Street, Suite #303, Columbia, South Carolina 29201; and to 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 27th day of April, 2016.



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



ALAN WILSON
ATTORNEY GENERAL

April 27, 2016

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SC Court of Appeals

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

Re: *The State v. Timothy James Wright*
Appeal from Charleston County
Appellate Case No. 2015-000636

Dear Ms. Kitchings:

I hereby request an extension of nine (9) days in which to file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, April 27, 2016. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Initial Brief.

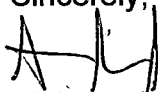
Counsel for Respondent on March 28, 2016 filed a Motion for Second Extension of Time to File Initial Brief of Respondent and Designation of Matter. Respondent learned from contacting the Clerk's Office that Respondent's motion was never received by the Court. Accordingly, a copy of Respondent's Second Motion for Extension is also enclosed.

Therefore, I am enclosing an original and six (6) copies of a Motion for Third Extension of Time to File Initial Brief of Appellant and Designation of Matter, together with a copy of Respondent's Second Motion for Extension of Time which was never

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
April 27, 2016
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received by the Court. I have obtained the consent of Appellant's counsel to this request.

Sincerely,



Alphonso Simon, Jr.,
Assistant Attorney General

AS/dmd

Enclosures

cc: Kristy Grafton Goldberg, Esq. (w/two copies of encls.)
Robert Dudek, Esq. (w/two copies of encls.)