

3rd RIB due 7/18/18
New due date 8/17/18

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
The Honorable Maité Murphy, Circuit Court Judge

Appellate Case No. 2017-000870

RECEIVED
JUL 18 2018
SC Court of Appeals

THE STATE

RESPONDENT,

V.

CHRISTIAN ANTHONY HIMES,

APPELLANT.

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

The undersigned counsel would respectfully request an additional 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 Initial Brief is due today, Wednesday, July 18, 2018, pursuant to this Court's Order dated June 25, 2018.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since June 18, 2018. Specifically, on July 10, 2018, counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment, and a Motion for Summary Judgment in Bobby Wayne Stone vs. Brian P. Stirling.

Commissioner, South Carolina Department of Corrections; Joseph McFadden, Warden, Lieber Correctional Institution, C/A No. 2:17-cv-01221-MGL-MGB, a federal habeas action in a Sumter County capital murder case. In that action, counsel also filed separately additional state court records. Counsel also edited and filed a motion to strike an exhibit and other material in that action.

Counsel also completed and filed the Return to an Application for Post-Conviction Relief in Bobby Wayne Stone, #5051 vs. The State of South Carolina, Case No. 2018-CP-43-1025, a capital post-conviction relief action regarding the same Sumter County murder challenged in the previously mentioned federal habeas action. In the Stone PCR action, counsel also drafted and filed a Petition for Reassignment of Original PCR Judge and Request for Order Expediting Review of Successive Application with the South Carolina Supreme Court.

Counsel spent a significant amount of time assisting in editing and filing the Opening Brief of Appellants in Charles Christopher Williams vs. Bryan P. Stirling, C/A No. 18-2, a State's appeal in a federal habeas action in a Greenville County capital case in which federal habeas relief was granted. The appeal is currently pending in the United States Fourth Circuit Court of Appeals. The Opening Brief was filed on June 25, 2018.

Counsel also prepared for and participated in a status conference before the Honorable Benjamin H. Culbertson, Circuit Court Judge, in Louis Michael Winkler, Jr. vs. State, 2011-CP-26-3907, a capital post-conviction relief action in an Horry County murder case. The status conference was held at the Georgetown County Judicial Center on Friday, June 22, 2018. Counsel also prepared for and participated in a

telephonic status conference on Wednesday, June 20, 2018, before the Honorable Alexander S. Macaulay, retired Circuit Court Judge, in Norman Starnes vs. State, 2011-CP-32-830, a capital post-conviction relief action in a Lexington County murder case. Counsel also drafted and provided the PCR Court with a proposed order based upon the discussions during the status conference.

Counsel also filed the Return and Memorandum of Law in Support of Motion for Summary Judgment and the Motion for Summary Judgment in Curtis Nealey, #337988 vs. Warden Dennis Bush, C/A No. 1:18-777-RBH-SVH, 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 drafting a proposed order of dismissal in Andra Byron Jamison, #337461 vs. State of South Carolina, 2014-CP-32-2548, a Lexington County post-conviction relief action.

Counsel has also done a substantial amount of work preparing the Returns and Memoranda of Law in Support of Motions for Summary Judgment in the matters of Martina Putnam, #334375 vs. Warden Yeldell, C/A No. 2:18-1094-RMG-MGB, and in Steven Spagnoli, #350895 vs. Warden of Perry Correctional Institution, C/A No. 0:18-1155-RBH-PJG.

Counsel has also spent a significant amount of time reviewing the transcript and doing research in preparation for drafting the Initial Brief of Respondent in this matter.

However, due to counsel's involvement in these and other matters in state and federal court, counsel has not been able to complete the Initial Brief of Respondent and Designation of matter in this action. Thus, counsel respectfully requests a thirty (30) day extension of time to allow counsel to complete the Initial Brief of Respondent and

Designation of 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

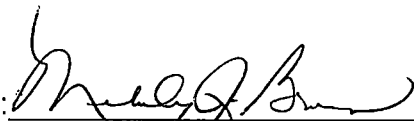
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By: 
ALPHONSO SIMON, JR.
ATTORNEYS FOR RESPONDENT

July 18, 2018.

By: 
MELODY J. BROWN,
Senior Assistant Deputy Attorney General

I support the finding of good cause.

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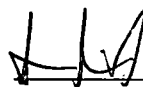
APPELLANT.

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 of Time to File the Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, Laura R. Baer, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201.

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

This 18th day of July, 2018.



ALPHONSO SIMON, JR.
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ALAN WILSON
ATTORNEY GENERAL

July 18, 2018

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

RECEIVED

JUL 18 2018

SC Court of Appeals

Re: *The State v. Christian Anthony Himes*
Appeal from Dorchester County
Appellate Case No. 2017-000870

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Third Extension of Time to File Initial Brief of Respondent, together with Proof of Service, in the above-referenced matter. I am informing opposing counsel of my request by copy of this letter.

Thank you for your assistance in this matter.

Sincerely,

Alphonso Simon, Jr.
Senior Assistant Attorney General

AS/dmd
Enclosures

cc: Laura R. Baer, Esq. (w/two copies of encls.)

