

4th IBS due 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

THE STATE

RESPONDENT,

V.

CHRISTIAN ANTHONY HIMES,

APPELLANT.

RECEIVED  
AUG 17 2018  
SC Court of Appeals

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

The undersigned counsel would respectfully request an additional fourteen (14) 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, Friday, August 17, 2018, pursuant to this Court's Order dated July 30, 2018.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since July 18, 2018. Specifically, counsel spent a significant amount of time in the past two weeks working on 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. Specifically, undersigned counsel compiled and filed the Joint Appendix in the action. Further, counsel drafted and filed the page-proof Reply Brief of Appellants. Counsel also edited and filed the final versions of the Opening Brief of Appellants and Reply Brief of Appellants, which were filed with the Fourth Circuit Court of Appeals today, August 17, 2018.

Counsel also prepared and filed a Petition for Rehearing in State v. Tyrone King, a direct appeal in a Marlboro County murder case now pending before the South Carolina Supreme Court. Counsel also completed and submitted a proposed order of dismissal in Andra Jamison v. State, a Lexington County post-conviction relief action.

Counsel has also spent a substantial amount of time working on the Reply to Response in Opposition to Motion to Dismiss and a Return to the Amended Application for Post-Conviction Relief in Bobby Wayne Stone v. State, a post-conviction relief action in a Sumter County capital murder case.

Counsel has also done a significant amount of work preparing the Returns and Memoranda of Law in Support of Motion for Summary Judgment in Martina Putnam, #334375 vs. Warden Yeldell, C/A No. 2:18-1094-RMG-MGB; and Steven Spagnoli, #350895 vs. Warden of Perry Correctional Institution, C/A No. 0:18-1155-RBH-PJG; both federal habeas actions pending in the United States District Court for the District of South Carolina. Counsel has also done some work in reviewing the files and starting the Return and Memorandum of Law in Support of Motion for Summary Judgment in Keith Adger Smyth, #363756 v. Warden, Broad River Correctional Inst., C/A No. 2:18-

1390-RBH-PJG, another federal habeas action pending in the United States District Court for the District of South Carolina.

Counsel has spent a significant amount of time drafting the Initial Brief of Respondent in this case, and the initial brief is nearly complete. 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. Counsel just needs some additional time to finish the brief for filing, and to allow for internal review in light of some of the considerations presented by the argument raised in this appeal. This request is made in good faith, and not for the purposes of delay. Thus, counsel respectfully requests a fourteen (14) day extension of time to allow counsel to complete the Initial Brief of Respondent and Designation of Matter. Counsel will not request any further extensions beyond this request.

WHEREFORE, premises considered, counsel hereby respectfully requests a fourteen (14) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully Submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General


MELODY J. BROWN  
Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR.  
Senior Assistant Attorney General  
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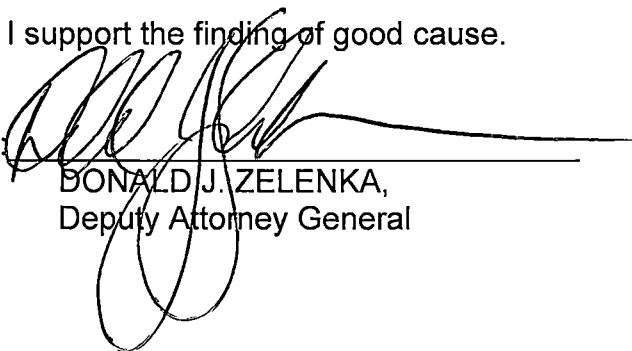
By:   
ALPHONSO SIMON, JR.  
ATTORNEYS FOR RESPONDENT

August 17, 2018.

I support the finding of good cause.

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

I support the finding of good cause.

By:   
DONALD J. ZELENKA,  
Deputy Attorney General

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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PROOF OF SERVICE

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SC Court of Appeals

I, Alphonso Simon, Jr., of counsel for the Respondent, certify that I have served two (2) copies of the within Motion for a Fourth 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 17<sup>th</sup> day of August, 2018.

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



ALAN WILSON  
ATTORNEY GENERAL

August 17, 2018

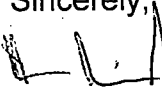
The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

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 Fourth 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

**RECEIVED**

AUG 17 2018

SC Court of Appeals

AS/dmd  
Enclosures

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