

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Cherokee County
Honorable J. Michael Baxley, Circuit Court Judge
Appellate Case No. 2012-212107

RECEIVED

MAR 21 2013

S.C. Supreme Court

JONATHAN KYLE BINNEY,

Petitioner-Respondent,

vs.

THE STATE,

Respondent-Petitioner.

PETITION FOR THIRD EXTENSION OF TIME TO FILE
RETURN TO PETITION FOR WRIT OF CERTIORARI

The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Return to Petition for Writ of Certiorari in the above-referenced case. This is Respondent's third extension request. Respondent's Return is due to be served and filed today, March 21, 2013, this Court having granted Respondent's second request for an extension filed on February 14, 2013.

The South Carolina Supreme Court's *Order Re Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings* provides, in pertinent part, that: "(3) [a] third extension may be granted upon a showing of good cause. The facts supporting the good cause shall be set forth in the motion. If filed by the Division of Appellate Defense or the Office of the Attorney General, the motion shall be signed by the attorney involved and his or her immediate supervisor. If filed by a private lawyer, the motion shall be signed by the attorney involved and, if

lawyer is not a sole practitioner, by another member of the firm. The signatures on the motion shall be a certification by these attorneys that they believe that the extension is warranted and that there is good cause to seek the extension.” In compliance with that Order and in support of this motion, counsel would respectfully show the Court the following:

1. Counsel prepared the Respondent’s Supplemental Return and Memorandum of Law as to Ground Two, Issue 2 of the Petition for Writ of Habeas Corpus [Doc. #85] in the matter of *Timothy Darrell Davis, #291299 vs. Michael McCall, Warden, C/A No. 4:11-3263-MGL-TER* on February 19, 2013;

2. Counsel prepared the State’s Brief and Appendix as per the South Carolina Supreme Court’s Order dated January 24, 2013 in the Dorchester County capital Post-Conviction Relief appeal matter of *Timothy Dion Rogers vs. State of South Carolina* on February 25, 2013;

3. Counsel prepared the Final Brief of Respondent in the Horry County murder appeal matter of *The State vs. Tyrone Beaty*, also on February 25, 2013;

4. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Blair Markeith Adams, #222497 vs. Warden Kirkland Correctional Institution, C/A No. 8:12-02717-JMC-JDA* on February 28, 2013;

5. Counsel prepared the Respondent’s Response in Opposition to Motion for Appointment of Counsel [ECF # 42] in the matter of *David Ceasar, #217220 vs. A. Padula, Warden, C/A No. 0:12-316-MGL* on March 4, 2013;

6. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Bobby Joe Lewis, #286070 vs. Warden, McCormick Correctional Institution, C/A No. 1:12-2584-SB-SVH* on March 11, 2013;

7. Counsel prepared the Return and Memorandum of Law in Support of Motion for

Summary Judgment in the matter of *Calvin D. James, #257494 vs. Warden of Lieber, C/A No. 2:12-2836-JFA-BHH* on March 13, 2013;

8. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of *Jamul Ratub El, #315406 vs. Larry Cartledge, Warden, C/A No. 5:12-3481-RMG-KDW* on March 20, 2013; and

9. Counsel attended a three day Capital Litigation Training seminar in Charleston, South Carolina from Monday, March 18, 2013 to Wednesday, March 20, 2013.

I have contacted opposing counsel and have obtained consent to this request. The thirty (30) day extension requested will make the Return to Petition for Writ of Certiorari due on April 22, 2013. I understand the desire of the Court and Petitioner's counsel for a speedy resolution of this case, but I reasonably believe this extension is essential to allow me to complete the Return to Petition for Writ of Certiorari with reasonable effectiveness.

Respectfully submitted,

ALAN WILSON
Attorney General

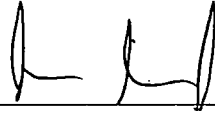
JOHN W. McINTOSH
Chief Deputy Attorney General

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WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General

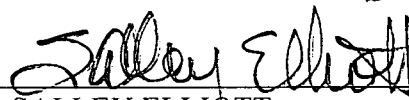
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BY:



ALPHONSO SIMON, JR., Assistant
Attorney General on behalf of
WILLIAM EDGAR SALTER, III,
Senior Assistant Attorney General

BY:



SALLEY ELLIOTT
Senior Assistant Deputy Attorney General

I support the finding of good cause.

ATTORNEYS FOR RESPONDENT-PETITIONER

March 21, 2013.

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PROOF OF SERVICE

I, Alphonso Simon, Jr., on behalf of William Edgar Salter, III, do hereby certify that on this date, I served the *Petition for Third Extension of Time to File Return to Petition for Writ of Certiorari* in the foregoing action on counsel for the Petitioner-Respondent by depositing two (2) copies of the same in the United States mail, first-class, postage prepaid, and addressed as follows:

Emily C. Paavola, Esq.
Death Penalty Resource Defense Center
900 Elmwood Avenue, Ste. #101
Columbia, SC 29201

John H. Blume, Esq.
Cornell Law School
Myron Taylor Hall
Ithaca, NY 14853

This 21st day of March, 2013.

By: 
ATTORNEYS FOR RESPONDENT-PETITIONER