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**Jul 06 2022**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal From Newberry County  
Honorable Frank R. Addy, Circuit Court Judge

Appellate Case No: 2021-001232

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THE STATE,

Respondent,

vs.

CALVIN EUGENE WHITENER,

Appellant.

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**PETITION TO RELAX RULE 208(a)(2) SCACR, AND RULE 209(a) SCACR  
AND MOTION FOR A FIRST EXTENSION**

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Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter were due to the Court on June 13, 2022, pursuant Rule 208(a)(2) SCACR. However, due to a calendaring error, counsel for the State failed to either request an extension or file its Initial Brief of Respondent and Designation of Matter on June 13, 2022.

II.

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 208(a)(2) SCACR, and Rule 209(a) SCACR, and permit the State to file a motion for a first extension of time within which to serve and file its Initial Brief and Designation

of Matter out of time. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this Initial Brief on time. I would therefore request an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

III.

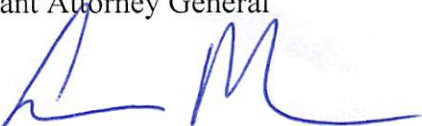
This motion for extension is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared.

WHEREFORE, Respondent prays that the Court will relax the requirements of 208(a)(2) SCACR and 209(a) SCACR and permit the filing of this motion for a second extension for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

AMBREE M. MULLER  
Assistant Attorney General

BY:   
Ambree M. Muller  
S. C. Bar No: 104213

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ATTORNEYS FOR RESPONDENT

July 6, 2022

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Appeal From Newberry County  
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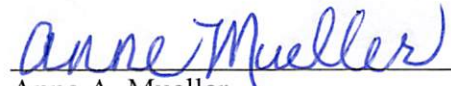
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**PROOF OF SERVICE**

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I, Anne Mueller, certify that I have served the Petition to Relax Rule 208(a)(2) SCACR and 209(a) SCACR and Motion for a First Extension on Appellant by electronic mail to his counsel of record, Dayne C. Phillips, Esquire to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.  
This 6<sup>th</sup> day of July, 2022.

  
Anne A. Mueller  
Legal Assistant

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Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

**From:** [Anne Mueller](#)  
**To:** [dayne@pricebenowitz.com](mailto:dayne@pricebenowitz.com); [jgilreath@pricebenowitz.com](mailto:jgilreath@pricebenowitz.com)  
**Cc:** [Ambree Muller](#); [Anne Mueller](#)  
**Bcc:** [Victim Services](#)  
**Subject:** State v. Calvin Eugene Whitener, 2021-001232  
**Date:** Wednesday, July 6, 2022 4:21:00 PM  
**Attachments:** [image001.png](#)  
[Whitener Calvin - Petition to Relax Rule and Motion for Extension \(State's IBOR\) \(03036565xD2C78\).PDF](#)

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Good afternoon.

Attached is a copy of the State's Petition To Relax Rule 208(a)(2) SCACR, and Rule 209(a) SCACR and Motion For A First Extension. We will be filing this motion with the Court electronically this afternoon.

Sincerely,

Anne Mueller, Legal Assistant for Assistant Attorney General Ambree M. Muller

**Anne A. Mueller**, Legal Assistant  
Office of the South Carolina Attorney General  
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