

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to the Court of Appeals
Appeal from Marlboro County
Honorable Edward B. Cottingham, Circuit Court Judge
Appellate Case No. 2012-213219

RECEIVED

JUN 12 2013

S.C. Supreme Court

THE STATE,

Respondent,

vs.

JOHN BERNARD CAMPBELL,

Petitioner.

**MOTION TO FILE EXTENSION REQUEST OUT OF TIME
AND
MOTION FOR THIRD EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE RETURN TO PETITION
FOR WRIT OF CERTIORARI**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Return to Petition for Writ of Certiorari was due to be served and filed on June 10, 2013. However, due to a calendaring error, counsel for the State mistakenly believed the Return was due to be served and filed on June 12, 2013.

II.

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 242(f), SCACR, and permit the State to file a motion for a third extension

of time within which to serve and file the Return to Petition for Writ of Certiorari 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.”). The undersigned counsel apologizes for any inconvenience this request has caused to the Court and to the petitioner and does not believe this request will result in any prejudice to the petitioner should it be granted.

III.

Additionally, pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the State moves for a third extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Court of Appeals, I am unable to complete this Return on time. In the past few weeks, the undersigned has participated in oral argument at this Court in State v. Clarence Logan, Jr. and State v. Paris Genici Avery, has participated in oral argument at the Court of Appeals in State v. Anthony Marquese Martin, State v. Travell Hill, State v. Michael Milledge, State v. Ronald Lee McCauley, State v. Darren Gerome Scott, State v. Justin Ryan Hillerby, State v. James Allen Moore, and State v. Willie James Poole, has submitted Initial Briefs of Respondent to the Court of Appeals in State v. Johnson, State v. Wilson, State v. House, State v. Robinson, State v. Portillo, and State v. Oates, and has filed a Return to Petition for Certiorari in this Court in State v. Aiken.

IV.

This extension request is not intended for purposes of delay, but rather to ensure that the Return is properly researched and prepared. The Return in the above case has required

significant research because Petitioner presents three significant issues on appeal. The undersigned is currently working on the Return in this case and hopes to have it completed in a timely manner. I would therefore asks this Court to accept the State's motion for an extension of time out of time and to grant an extension of time within which to serve and file the Return to Petition for a Writ of Certiorari.

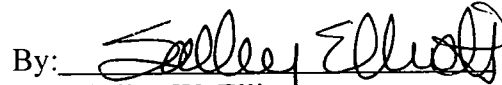
WHEREFORE, Respondent prays that the Court relax the requirements of Rule 242(f), SCACR; accept the filing of the Motion for Third Extension of Time Within Which to Serve and File Return to Petition for Writ of Certiorari out of time; extend the deadline for the service and filing of the Return to Petition for a Writ of Certiorari in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 
Mark R. Farthing

By: 
Salley W. Elliott

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June 12, 2013

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PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion to File Extension Request Out of Time and Motion for Third Extension of Time Within Which to Serve and File Return to Petition for Writ of Certiorari on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 12th day of June, 2013.



ELLEN R. DuBOIS
Legal Assistant

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