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Jul 29 2024

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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On Petition for Writ of Certiorari to the Court of Common Pleas  
Appeal from Charleston County  
Honorable Michael G. Nettles, Circuit Court Judge  
Appellate Case No. 2023-001091

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ANTONIO SIMMONS,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

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**MOTION FOR FOURTH EXTENSION OF TIME WITHIN WHICH  
TO SERVE AND FILE RETURN TO PETITION FOR WRIT OF CERTIORARI  
AND RETURN TO PETITION FOR WRIT OF CERTIORARI  
PURSUANT TO AUSTIN V. STATE**

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

**I.**

The Return to Petition for Writ of Certiorari and Return to Petition for Writ of Certiorari pursuant to Austin v. State in this post-conviction relief appeal are due to be served and filed July 29, 2024.

**II.**

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 **fourth** and **final** thirty-day extension in the above-referenced post-

conviction relief appeal to complete the returns in this case. Last week, the undersigned counsel filed a Final Brief of Respondent, Amended Designation of Matter, and Supplemental Record on Appeal in the Court of the Appeals in State v. Joquell Wayne Myers; filed an Initial Brief of Respondent and Designation of Matter in the Court of Appeals in State v. Randolph Ashford; and filed the Final Brief of Respondent in the Court of Appeals in State v. Terrio Jacquard Thomas. Additionally, in the past few weeks, the undersigned counsel has filed a Return to Petition for Writ of Certiorari in the Supreme Court in Nathaniel Hampleton v. State; filed a return to a pro se request for relief in the South Carolina Supreme Court's original jurisdiction at the request of the Supreme Court in Edward Jones v. The Honorable Alex Kinlaw, Jr.; and filed an Initial Brief of Respondent and Designation of Matter in the Court of Appeals in State v. Jason Bryan McSwain and State v. Christopher Adam Comer. Along with that, the undersigned counsel has attended to other responsibilities—including supervisory and administrative ones—in the office and has prepared for and appeared at a virtual circuit court hearing in State v. Michael Dwayne Williams, Sr. related to reconstruction of missing portions of the record.

### III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. The undersigned counsel is currently working on the returns in this case and intends to have them finished in a timely manner. However, the undersigned counsel has not yet been able to finish the returns due to a heavy workload, challenges stemming from staffing issues within the South Carolina Attorney General's Office's post-adjudication section, and other unanticipated matters that have arisen. Accordingly, in order to ensure the returns are properly researched and prepared, I would therefore request one final thirty-day extension of time within which to serve and file the returns.

**WHEREFORE**, Respondent prays that the Court extend the deadline for the service and filing of the Return to Petition for Writ of Certiorari and Return to Petition for Writ of Certiorari pursuant to Austin v. State in this case for a period of thirty days; hold the matter in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

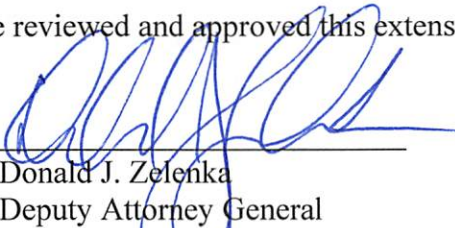
ALAN WILSON  
Attorney General

MARK R. FARTHING  
Senior Assistant Deputy Attorney General



By: \_\_\_\_\_  
Mark R. Farthing  
S.C. Bar Number 76901

I have reviewed and approved this extension request.

By:   
Donald J. Zelenka  
Deputy Attorney General

July 29, 2024