

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE SUPREME COURT

RECEIVED

Certiorari to Horry County

OCT 28 2013

Edward B. Cottingham, Circuit Court Judge **S.C. Supreme Court**

Unpub. Op.No. 2013-UP-288 (S.C. Ct. App. filed June 26, 2013)

THE STATE,

PETITIONER,

V.

BRITTANY JOHNSON,

RESPONDENT

APPELLATE CASE NO. 2013-002027

**MOTION TO FILE THE REQUEST FOR EXTENSION OF TIME TO
FILE THE RETURN TO PETITION FOR WRIT OF CERTIORARI
OUT OF TIME**

Counsel for Brittany Johnson petitions the Court to allow late filing of the request for extension in which to file the return to petition for writ of certiorari in this case. In support of this petition she shows:

1. The Unpublished Opinion in this case was filed on June 26, 2013. The Petitioner filed the petition for rehearing on July 11, 2013. The order denying the petition for rehearing was filed on August 22, 2013. The Petitioner filed the petition for writ of certiorari and accompanying appendix on September 23, 2013. The return to petition for


writ of certiorari was due to be filed on October 23, 2013, but was inadvertently miscalendarred.

2. Due to the calendaring error, the return to petition for writ of certiorari was not filed. Counsel has prepared and is filing the petition for extension in which to file the return to petition for writ of certiorari simultaneously with this motion.

3. Counsel for the Attorney General's office has given verbal consent to this request.

4. Counsel makes this request in good faith and not for purpose of delay.

WHEREFORE, the undersigned counsel respectfully requests that the Court grant counsel's request to relax Rule 263(b), SCACR, and allow leave for thirty days in which to file the return to petition and the request for extension in which to file the return to petition for writ of certiorari in this case out of time based upon the above exigent circumstances.


Benjamin J. Tripp
Appellate Defender

ATTORNEY FOR RESPONDENT

October 28, 2013

ORIGINAL



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 28, 2013

RECEIVED

OCT 28 2013

The Honorable Daniel E. Shearouse
Clerk of Court, S.C. Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

S.C. Supreme Court

Re: The State v. Brittany Johnson
Appellate Case No. 2011-185926

Dear Mr. Shearouse:

The return to petition for writ of certiorari in this case was due to be served and filed with the Court on October 23, 2013. However, because this matter was inadvertently miscalendared, I am requesting an extension for 30 days, in which to serve and file the petition.

By copy of this letter, I am informing Brendon J. McDonald, of the Attorney General's Office, of my request.

Sincerely,

Benjamin N. Tripp
Appellate Defender

BJT/pcm

cc: Brendon J. McDonald, Esquire