

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Spartanburg
Honorable Roger L. Couch, Circuit Court Judge

Op. No. 4965 (S.C.Ct. App. Filed April 25, 2012)
Appellate Case No. 2012-212350
On Certiorari

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S.C. Supreme Court

THE STATE,

Petitioner,

V.

SHAWN ANTONIO MILLER,

Respondent.

**MOTION TO ENLARGE TIME FOR FILING
BRIEF OF PETITIONER ON CERTIORARI**

The State of South Carolina, above-named, hereby make a second motion to this Court to extend the time for filing the Brief of Petitioner on Certiorari from January 21, 2014 for thirty days up to and including February 20, 2014. This is primarily due to the good case that below-signed counsel fractured his right fibula on January 1, 2014 in an accident and has been subject to a series of medical matters in addition to limited movement due to his casting and unanticipated leave. On January 21, 2014, below-signed counsel left a message with opposing counsel Benjamin Tripp requesting his position. He later learned that opposing counsel was not in the office this date and Respondent is not aware of the position on the extension at the time of filing. Respondent submits that good cause has been shown for this extension.

I.

Respondent submits the following additional priorities:

1. State v. Daniel Jackson - Initial Brief of Respondent – due January 13, extension requested to Tuesday January 21, 2014..
2. State v. Jeffery Michaelson - Return to Certiorari – due January 17, 2014, extension requested to February 17, 2014
3. Therl Taylor v. State – FHC Return - due January 17, 2013 after series of extensions . Return concerns 32 separate claims for relief and extensive appellate and PCR records. Below –signed counsel presently working on . Extension requested to January 31, 2014.
4. State v. Tavario Brunson - SCSCt – Oral Argument – January 22, 2014.
5. State v. Manuel Marin - Return to Certiorari – Direct Appeal – due January 22, 2014 .
6. Orlando Smith v. State – DNA Application - Certiorari Return - January 27, 2014.
7. State v. Shawn Miller – Brief of Petitioner on Certiorari – due January 21, 2014 – extension requested to February 20, 2014.

II.

The Past Time Period.

This request is primarily due to the broken ankle/fibula which occurred on January 1, 2014 which has resulted in limited movement, medication and a series of casts and splints, including a second cast and x-rays on January 13, 2014. In addition, there was unanticipated leave from the office due to the injury and recovery.

In addition to working on the State v Daniel Jackson initial brief of Respondent due January

21, Respondents' below-signed counsel having been involved in numerous litigation in both state and federal court during this time period which has also prevented the completion of this brief in a sufficient and timely manner including State v. Antonio Gordon – motion to dismiss filed December 13, 2013; Stanley Eppenger v. Warden - federal habeas corpus – return and brief of Respondent and motion filed December 16, 2014; Herbert Frazier v. Warden - return and brief of Respondent and motion - filed December 18, 2013; Kenneth Simmons v. State – death penalty PCR – proposed order to Judge Early concerning State's Rule 59 motion - filed December 31, 2013; Anthony Woods v. State – travel to death penalty PCR hearing January 8-10, 2014 – Sumter before Judge James ; Robert Isom v. Warden – federal habeas corpus - court-ordered response – January 10, 2014; Anthony Woods v. State, preparation and travel to Sumter for death penalty Death Penalty hearing on Tuesday January 14, 2014 before Judge James which concluded at 8:30 PM; travel to Sumter and participation in death penalty hearing which began at 10 and concluded at 1 PM on Wednesday January 15, 2014; preparation and filing of court-ordered response and memorandum of law in Ismael Cruz v. Warden, a federal habeas corpus matter concerning the effect of Martinez v. Ryan and the pendency of a successive PCR action on present federal habeas corpus proceedings on January 16, 2014; and working on the Therl Taylor response for federal court.

IV.

As stated above, below-signed counsel left a message with opposing counsel Benjamin Tripp requesting his position. He later learned that opposing counsel was not in the office this date and Respondent is not aware of the position on the extension at the time of filing. Respondent submits that good cause has been shown for this extension.

Wherefore Respondents respectfully request an extension of a period of time of thirty (30)

days up to and including **February 20, 2014** for good cause to file the Brief of Petitioner.

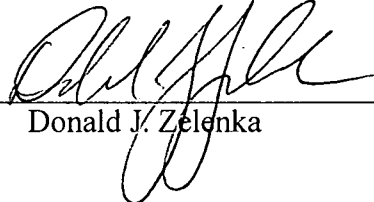
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

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ATTORNEYS FOR RESPONDENT

By: 
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January 21, 2014.


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CERTIFICATE OF SERVICE

I, **Donald J. Zelenka**, hereby certify that I have served the **MOTION TO ENLARGE TIME FOR FILING Brief of Petitioner** in the foregoing action by depositing one (1) copy in the U.S.Mail, postage prepaid to:

Appellate Defender Benjamin Tripp
South Carolina Office of Indigent Defense
P. O. Box 11589
Columbia, S.C. 29211-1589

This 21st day of January, 2014.



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