

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal From Greenville  
Honorable Leticia H. Verdin, Circuit Court Judge

Appellate Case # 2012-213673  
1998 GS-23-5212

THE STATE,

Petitioner,

v.

ORLANDO SMITH,

Respondent.

**MOTION TO ENLARGE TIME FOR FILING  
RETURN TO PETITION FOR WRIT OF CERTIORARI**

The State of South Carolina, above-named, hereby make a second motion to this Court to extend the time for filing the Return to the Petition for Writ of Certiorari from January 27, 2014 for thirty days up to and including February 26, 2014. 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 Wednesday January 29, 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 - originally due January 17, 2013 after series of extensions . Return concerns 32 separate claims for relief and extensive appellate and PCR

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records. Below –signed counsel presently working on . Extension requested to January 31, 2014.

4. 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; oral argument before the South Carolina Supreme Court in State v. Tavarío Brunson on January 22, 2014 and working on the Therl Taylor response for federal court.

IV.

As stated above, below-signed counsel left a message with opposing counsel Susan B. Hackett requesting her position on this request in the late afternoon this date. 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.

V.

Wherefore Respondents respectfully request an extension of a period of time of thirty (30) days up to and including **February 26, 2014** for good cause to file the Return of Respondent to the Petition for A Writ of Certiorari.

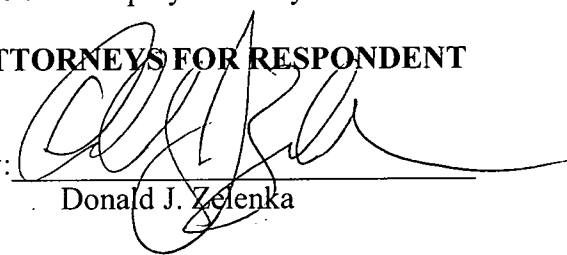
Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General


DONALD J. ZELENKA  
Assistant Deputy Attorney General

**ATTORNEYS FOR RESPONDENT**

By:   
Donald J. Zelenka

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

January 27, 2014.

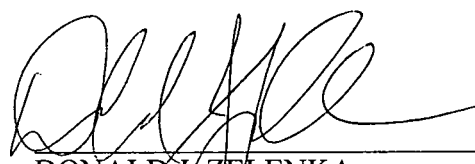
Handwritten signature or initials in black ink, appearing to be 'M. J.' with a flourish.

**CERTIFICATE OF SERVICE**

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

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

This 27<sup>th</sup> day of January, 2014.



\_\_\_\_\_  
DONALD J. ZELENKA  
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