

THE STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO YORK COUNTY

Honorable Lee S. Alford, Circuit Court Judge

Appellate Case No. 2012-205909

RECEIVED

JAN 16 2015

S.C. SUPREME COURT

JAMES D. ROBERTSON, SK5067. *Petitioner,*

v.

STATE OF SOUTH CAROLINA *Respondent.*

**SECOND PETITION FOR EXTENSION TO
FILE BRIEF OF PETITIONER
AND ADDITIONAL COPIES OF APPENDIX**

The undersigned *pro bono* counsel respectfully request a twenty-day (20) extension of time in which to file the Brief of Petitioner and additional copies of the Appendix in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following exigent circumstances:

1. The Brief of Petitioner and additional copies of the Appendix in this case are due to be filed on January 17, 2015.
2. Undersigned counsel were substituted as counsel of record for the petitioner by Order of this Court dated November 17, 2014. This Court granted counsel's first petition for a thirty-day extension of time to file the brief and appendix.

3. Although preparation of the Petitioner's Brief following this Court's grant of a Petition for Writ of Certiorari typically involves mere refinement of the arguments contained in the original petition, that is not the case here. A significant portion of the Petition for Writ of Certiorari, filed on September 12, 2012, relied upon the United States Supreme Court's then-recent decision in *Martinez v. Ryan*, ___ U.S. ___, 132 S.Ct. 1309, 182 L.Ed.2d 272 (2012). While the Petition for Writ of Certiorari remained pending before this Court, the case law relevant to *Martinez* continued to develop, and those developments must be researched, considered and, where appropriate, incorporated into Petitioner's Brief. Additionally, the issues in this case implicate a combination of important state- and federal-law rules and policies which were identified in the petition, but require further elaboration and discussion in light of legal developments since the petition was prepared. Undersigned counsel have been working diligently on the Brief, and have made substantial progress, but significant work remains to be done. Counsel reasonably believe that an additional twenty (20) days – and no more – are necessary to ensure that these additions are made thoroughly and accurately. Counsel have prepared additional copies of the Appendix, and those are ready to file.

4. In the past thirty days, Ms. Paavola has filed pleadings before this Court in *Winkler v. South Carolina*, a capital PCR appeal, and appeared before this Court for arguments in *Binney v. South Carolina*, also a capital PCR appeal. Ms. Paavola argued a motion in *Wood v. South Carolina*, a capital PCR pending before the circuit court, and filed motions and continued with ongoing investigation and hearing preparations for *Stanko v. South Carolina*, also a capital PCR.

5. Mr. Weyble has likewise been fully occupied attending to other, pre-existing obligations. As a full-time faculty member at Cornell Law School, he has been attending to a range of teaching and administrative responsibilities both for the just-ended fall semester, and for the

spring semester beginning next week. Additionally, Mr. Weyble serves as *pro bono* counsel for the appellant in *Flowers v. Mississippi*, and was responsible for researching and drafting a substantial portion of a petition for rehearing addressing a 165 page opinion recently entered by the Mississippi Supreme Court. That petition will be filed this week.

6. Due to undersigned counsel's present workload and the complex and unique nature of this case, undersigned counsel reasonably believe that a twenty-day (20) extension of time is necessary for the adequate preparation of the Petitioner's Brief. This request is made in good faith, and not for purposes of delay.

WHEREFORE, the undersigned counsel respectfully request a twenty-day extension of time in which to file the Brief of Petitioner and additional copies of the Appendix in this case.

Respectfully Submitted.

EMILY C. PAAVOLA

SC Bar No. 77855

Death Penalty Resource & Defense Center

900 Elmwood Avenue, Suite 101

Columbia, South Carolina 29201

(803)765-1044

KEIR M. WEYBLE

SC Bar No. 12075

Cornell Law School

Myron Taylor Hall

Ithaca, New York 14853

(607) 255-3805

BY: 
Counsel for Petitioner

January 14, 2015

THE STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO YORK COUNTY

Honorable Lee S. Alford, Circuit Court Judge

Appellate Case No *2012-205909*

JAMES D. ROBERTSON, SK5067. *Petitioner,*

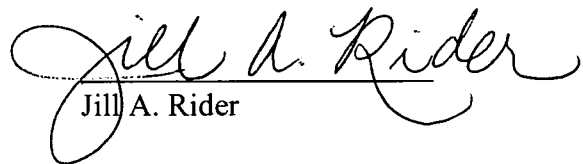
v.

STATE OF SOUTH CAROLINA *Respondent.*

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Petitioner's Second Petition for Extension to File Brief of Petitioner and Additional Copies of Appendix was served by first class United States mail, postage prepaid, this 14th day of January, 2015, upon the following:

William Edgar Salter
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211


Jill A. Rider