

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APR 27 2012

Appeal from Clarendon County
Honorable George C. James, Jr., Circuit Court Judge

S.C. Supreme Court

THE STATE,

Respondent,

vs.

BRIAN GARRIS,

Petitioner.

**MOTION TO EXCEED PAGE LIMITS AND
FOR SIXTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE RETURN TO PETITION FOR
WRIT OF CERTIORARI**

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

I.

The Return to Petition for Writ of Certiorari is due to be served and filed on April 27, 2012.

II.

In the Petition for Writ of Certiorari, Petitioner has raised four significant issues for this Court’s consideration. Due to the fact-intensive nature of the issues raised coupled with the length of the multi-volume appellate record, the State requests permission to exceed the twenty-five page limit permitted for a return to a petition for writ of certiorari if necessary in order to

enable the State to thoroughly and completely respond to the issues raised by Petitioner. See Rule 242(f), SCACR (“The total length of a return shall not exceed twenty-five (25) pages.”). The undersigned counsel will make every effort not exceed the permitted page limitations and believes no more than thirty pages will be required to complete the Return. The State further asserts this request will not result in any prejudice to Petitioner.

III.

Additionally, 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 sixth extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Court of Appeals, the undersigned counsel has been unable to complete this Return on time. In the past few weeks, the undersigned has participated in oral argument at the Court of Appeals in State v. Adrian Eaglin, State v. Otis Lamar Bland, Jr., and State v. Kevin Tjuan Hardy, has submitted Initial Briefs to the Court of Appeals in State v. Baylock, State v. Rice, State v. Gallishaw, State v. Maxwell, State v. Jackson, State v. McFarland, State v. Parker, State v. Poole, State v. Aiken, and State v. Dawson, has filed a Petition for Rehearing in the Court of Appeals in State v. Jamison, State v. Jenkins, and State v. Eaglin, has filed a Return to Petition for Rehearing in the Court of Appeals in State v. Salley, has filed a Petition for Writ of Certiorari in this Court in State v. Hill, State v. Jamison, and State v. Coaxum, and has filed a Return to Petition for Writ Certiorari in this Court in State v. Butler, State v. Johnson, and State v. Morris.

IV.

This extension request is not intended for purposes of delay, but rather to ensure that the Return is properly researched and prepared. The Return in the above case has required

significant research because the case involves four significant issues on appeal along with a substantial appellate record. The undersigned counsel is currently working on and finishing up the Return in this case and hopes to have it completed in a timely manner. The undersigned would therefore additionally request an extension of time within which to serve and file the Return to Petition for Writ of Certiorari in conjunction with the request for permission to exceed the page limits for the Return.

WHEREFORE, the State prays that the Court allow the page limits for the Return to Writ for Petition of Certiorari to be extended to thirty pages if necessary; extend the deadline for the service and filing of the Return to Petition for Writ of Certiorari in this case for thirty days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,


ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 
Mark R. Farthing

By: 
Salley W. Elliott

By: John W. McIntosh
John W. McIntosh

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

April 27, 2012

I Consent or Do Not Oppose:

By: LaNelle Cantey DuRant
LaNelle Cantey DuRant

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Clarendon County
Honorable George C. James, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

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PROOF OF SERVICE

I, Angela S. Bennett, certify that I have served the within Motion to Exceed Page Limits and for Sixth Extension of Time Within Which to Serve and File Return to Petition for Writ of Certiorari on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

LaNelle Cantey DuRant, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 27th day of April, 2012.


ANGELA S. BENNETT
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

April 27, 2012 **RECEIVED**

APR 27 2012

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

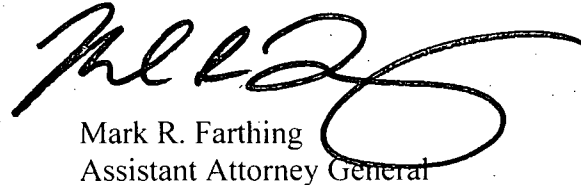
S.C. Supreme Court

RE: State v. Brian Garris

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the within Motion to Exceed Page Limits and for Sixth Extension of Time Within Which to Serve and File Return to Petition for Writ of Certiorari, along with proof of service, for filing in the above-referenced appeal.

Sincerely,



Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: LaNelle Cantey DuRant, Esquire
Victim Services