

STATE OF SOUTH CAROLINA  
In the Court of Appeals

\_\_\_\_\_  
Appeal From Dorchester County  
The Honorable Maite Murphy, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**  
OCT 26 2017  
SC Court of Appeals

STATE OF SOUTH CAROLINA,

Respondent,

vs.

BREANNA FLANNERY,

Appellant.

Appellate Case No: 2016-001977  
\_\_\_\_\_

**MOTION TO FILE EXTENSION REQUEST OUT OF TIME  
AND  
MOTION FOR THIRD EXTENSION OF TIME WITHIN WHICH  
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT AND  
DESIGNATION OF MATTER**  
\_\_\_\_\_

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

**I.**

The Initial Brief of Respondent and Designation of Matter were due to be served and filed on October 23, 2017. However, due to a calendaring error, counsel for the State mistakenly failed to file those documents on October 23, 2017.

**II.**

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 208(a), SCACR, and Rule 209(a), SCACR, and permit the State to file a

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motion for a third extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter out of time. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). The undersigned counsel apologizes for any inconvenience this request has caused to the Court and to the petitioner and does not believe this request will result in any prejudice to the respondent should it be granted.

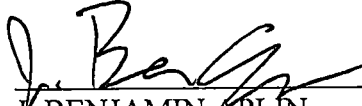
### III.

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 **third** extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I have been unable to complete this brief on time. This extension request is not intended for purposes of delay, but rather to ensure that the brief is properly researched and prepared. The undersigned is currently working on the brief in this case and hopes to have it completed in a timely manner.

**WHEREFORE**, Respondent prays that the Court relax the requirements of Rule 242(f), SCACR; accept the filing of the Motion To File Extension Request Out Of Time And Motion For Third Extension Of Time Within Which To Serve And File Initial Brief Of Respondent And Designation Of Matter; extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

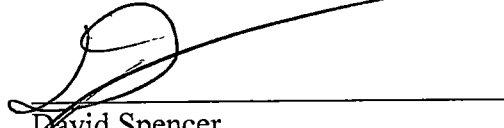
Respectfully submitted,

ALAN WILSON  
Attorney General



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J. BENJAMIN APLIN  
Senior Assistant Deputy Attorney General



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David Spencer  
Senior Assistant Attorney General  
S. C. Bar No: 68571

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Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

October 26, 2017

STATE OF SOUTH CAROLINA  
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Appeal From Dorchester County  
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STATE OF SOUTH CAROLINA,

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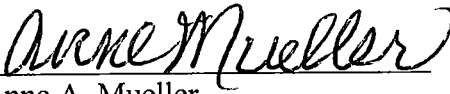
**PROOF OF SERVICE**

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I, Anne Mueller, certify that I have served the Motion To File Extension Request Out Of Time And Motion For Third Extension Of Time Within Which To Serve And File Initial Brief Of Respondent And Designation Of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Timothy D. Amey, Esquire, South Carolina Commission of Indigent Defense, Office of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 26<sup>th</sup> day of October, 2017.

  
Anne A. Mueller  
Legal Assistant for the Respondent

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3737



ALAN WILSON  
ATTORNEY GENERAL

October 26, 2017

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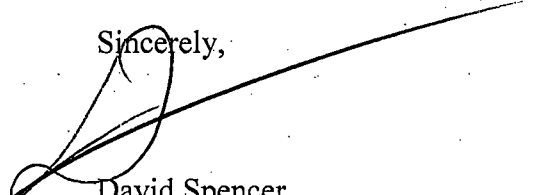
The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29201

**RE: State v. Breanna Flannery**  
**Appellate Case No: 2016-001977**

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion To File Extension Request Out Of Time And Motion For Third Extension Of Time Within Which To Serve And File Initial Brief Of Respondent And Designation Of Matter in the above matter.

Sincerely,



David Spencer  
Senior Assistant Attorney General  
S.C. Bar No: 68571

DS/aam  
Enclosures

cc: Timothy D. Amey, Esquire (w/enclosures)  
Victim Advocacy Division (w/enclosures)