

3rd REB due 10/26/18

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED  
OCT 26 2018  
SC Court of Appeals

Appeal from Chester County  
Honorable Brian M. Gibbons, Circuit Court Judge  
Appellate Case No. 2018-000103

THE STATE,

Respondent,

vs.

MELVIN FOURNEY, SR.,

Appellant.

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

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

**I.**

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on October 26, 2018.

**II.**

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 and asks for an additional thirty days to complete the brief in this case. In the past few weeks, the undersigned counsel has participated in oral argument at the Court of Appeals in State v. James

Bubba Patterson and State v. Joseph Bowers; has submitted an Initial Brief of Respondent to the Court of Appeals in State v. Howard James Woods, Jr., State v. Ontavious Derenta Plumer, and State v. Christian Arenson Scowcroft; has submitted an Initial Brief of Appellant to the Court of Appeals in State v. Adam Keith Lunsford; has submitted a Return to Petition for Writ of Certiorari to the Supreme Court in State v. Antwan Jamal Jett; has submitted a Petition for Rehearing to the Court of Appeals in State v. Benjamin Cervantes Hernandez; and has submitted a Return to Petition for Rehearing to the Court of Appeals in State v. Benjamin Cervantes Hernandez..

### III.

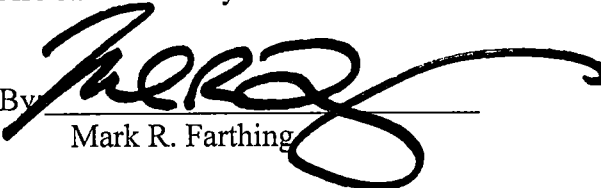
The undersigned counsel submits this extension request is supported by good cause and is not intended for purposes of delay. The Brief in the above-referenced case has required significant research because the case involves two important issues on appeal, including one involving a “good character evidence” jury instruction. The undersigned counsel is currently working on the Brief in this case and intends to have it finished in a timely manner. However, the undersigned counsel has not yet been able to finish the Brief. Accordingly, in order to ensure the Brief is properly researched and prepared, I would therefore request an extension of time within which to serve and file the Brief.

**WHEREFORE**, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty days from the date such relief is granted; hold the matter in abeyance pending a ruling on Respondent’s motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,


ALAN WILSON  
Attorney General

MARK R. FARTHING  
Assistant Attorney General

By:   
Mark R. Farthing

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

I have reviewed and approved this extension request.

By:   
J. Benjamin Apfin  
Senior Assistant Deputy Attorney General

October 26, 2018

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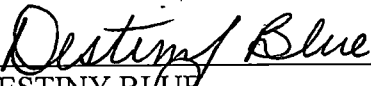
Appellant.

**PROOF OF SERVICE**

I, Destiny Blue, certify that I have served the within Motion for Third Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by sending two copies of the same to:

Lara M. Caudy, 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 26th day of October, 2018.

  
\_\_\_\_\_  
DESTINY BLUE  
Legal Assistant  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

October 26, 2018

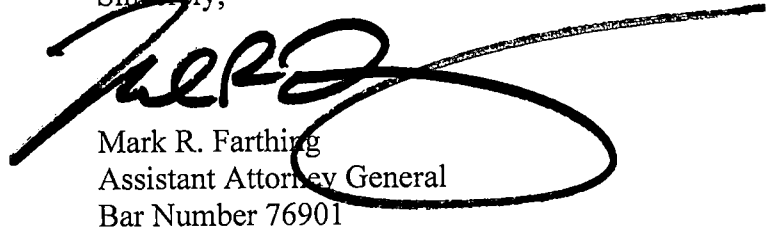
~~The Honorable Jenny A. Kitchings~~  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: State v. Melvin Fourney, Sr. – Appellate Case No. 2018-000103

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion for Third Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,



Mark R. Farthing  
Assistant Attorney General  
Bar Number 76901

MRF/  
Enclosures

cc: Lara M. Caudy, Esquire  
Victim Advocacy Division

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