

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAY 29 2019

S.C. SUPREME COURT

Appeal from Aiken County
Honorable R. Scott Sprouse, Circuit Court Judge
Appellate Case No. 2018-001674

JOHN UPSON,

Respondent,

vs.

THE STATE,

Appellant.

**MOTION FOR FOURTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE PETITION FOR WRIT OF CERTIORARI
AND APPENDIX**

Appellant ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Petition for Writ of Certiorari and accompanying Appendix are due to be served and filed on May 29, 2019.

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 **fourth** extension in the above-referenced post-conviction relief appeal and asks for an additional thirty days to complete the petition in this case. In the past few weeks, the undersigned counsel has participated in oral argument at the Supreme Court in

Conrad Lamont Slocumb v. State, State v. Mario Valerio Gonzalez Hernandez, and State v. Christopher D. Campbell; has participated in oral argument at the Court of Appeals in State v. James Bubba Patterson, State v. Joseph Bowers, State v. Jacob M. Hendrix, State v. Stacy Carol Riden, State v. Aaron Van Hendrix, State v. Maurice Marshall Harris, State v. Roy Ellis Smith, and State v. Robert Isaiah Graham; has submitted a Brief of Respondent Pursuant to White v. State to the Supreme Court in Gerald Edwards v. State, Harry Roller v. State, and Michael A. Richardson v. State; has submitted an Initial Brief of Respondent to the Court of Appeals in State v. Ontavious Derenta Plumer, State v. Christian Arenson Scowcroft, State v. Melvin Fourney, Sr., State v. Darell Oneil Boston, State v. Phillip Antoine Stackhouse, State v. Stephen Louis Barnes, State v. Bobby Leon Smith, and State v. Shelby Harper Taylor; has submitted an Initial Reply Brief of Appellant to the Court of Appeals in State v. Adam Keith Lunsford; has submitted a Petition for Writ of Certiorari to the Supreme Court in State v. James Archie Crews, IV and State v. John Kenneth Massey, Jr.; has submitted a Return to Petition for Writ of Certiorari to the Supreme Court in State v. Corey Andrew Brown, State v. Benjamin Cervantes Hernandez, State v. Robert Davis Smith, Jr., Antwan D. McMillan v. State, State v. James Bubba Patterson, Joshua Reed v. State, and State v. James Carmine Miranda, III; and has submitted a second 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 extraordinary circumstances and is not intended for purposes of delay. The petition in the above-referenced case has required significant research because the case involves important issues related to identification evidence and alibi. The undersigned counsel is currently working on the petition

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 petition. Accordingly, in order to ensure the petition is properly researched and prepared, I would therefore request an additional extension of time within which to serve and file the petition.

IV.

Before filing this extension request, the State has consulted with counsel for Respondent about the matter, and counsel for Respondent has graciously indicated he has no objections to the State's request for an additional extension.

WHEREFORE, Appellant prays that the Court extend the deadline for the service and filing of the Petition for Writ of Certiorari and accompanying Appendix in this case for thirty days from the date such relief is granted; hold the matter in abeyance pending a ruling on Appellant's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

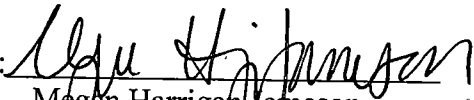
MARK R. FARTHING
Assistant Attorney General

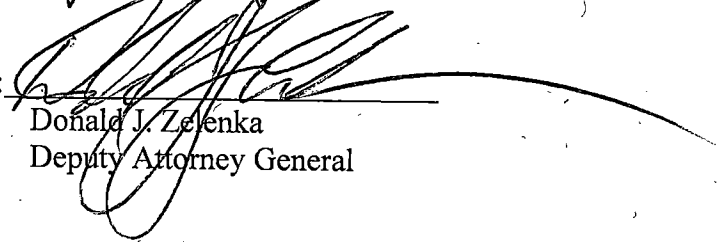
By: 

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: 
Megan Harrigan Jameson
Senior Assistant Deputy Attorney General

By: 
Donald J. Zelenka
Deputy Attorney General

May 29, 2019

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Aiken County
Honorable R. Scott Sprouse, Circuit Court Judge
Appellate Case No. 2018-001674

RECEIVED

MAY 29 2019

SUPREME COURT

JOHN UPSON,

Respondent,

vs.

THE STATE,

Appellant.

PROOF OF SERVICE

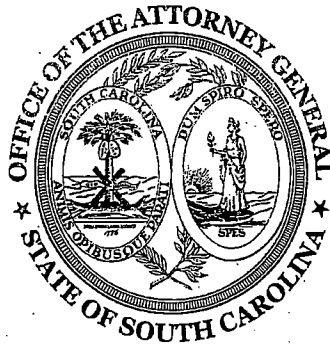
I, Kaitlyn Slice, certify I have served the within Motion for Fourth Extension of Time Within Which to Serve and File Petition for Writ of Certiorari and Appendix on Respondent by sending two copies of the same to:

Tommy A. Thomas, Esq.
Post Office Box 88
Irmo, SC 29063

I further certify all parties required by Rule to be served have been served.
This 29th day of May, 2019.



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



ALAN WILSON
ATTORNEY GENERAL

May 29, 2019

RECEIVED
MAY 29 2019
S.C. SUPREME COURT

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

RE: John Upson v. State – Appellate Case No. 2018-001674

Dear Mr. Shearouse:

Enclosed please find the original and six copies of the Motion for Fourth Extension of Time Within Which to Serve and File Petition for Writ of Certiorari and Appendix, 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: Tommy A. Thomas, Esq.
Victim Advocacy Division