

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO FLORENCE COUNTY
Court of Common Pleas

Honorable Paul M. Burch, Circuit Court Judge

Appellate Case No. 2018-001301

Charles Pennell,

Petitioner,

v.

State of South Carolina,

Respondent.

**MOTION FOR FIFTH EXTENSION TO FILE
RETURN TO PETITION FOR WRIT OF CERTIORARI AND
MOTION TO FILE OUT OF TIME**

Respondent, the State, moves this Court for an additional fifteen-day extension of time in which to file the Return to Petition for Writ of Certiorari, up to and including **Friday, September 27, 2019**. Due to Respondent's mistake in calendaring, this is Respondent's fifth request for an extension of time in which to file the return. In support of the request, undersigned counsel would respectfully show the Court:

1. The Return to Petition for Writ of Certiorari is due to be filed with the Court yesterday, September 12, 2019. The Court has granted counsel four previous extensions.
2. This is the fifth request for an extension of time in which to file a response.
3. On August 28, 2019, Counsel for Respondent mistakenly submitted to this Court a

letter requesting a third extension, rather than a motion requesting a fourth extension. This was due to a mistake in Counsel's file and on her calendar wherein two previous extension requests were both labeled as the second request.

4. This Court granted Counsel for Respondent a fifteen-day extension until September 12, 2019, presumably because Counsel's request of August 28, 2019, was not properly supported. The mistake was brought to Counsel's attention this morning.
5. Counsel now requests permission to file out of time this request for an additional fifteen-days, until **Friday, September 27, 2019**, in which to file the Return to Petition for Writ of Certiorari. This is equal to the amount of time Counsel intended to request on August 28, 2019.
6. Counsel was out of the office from July 31, 2019 until August 14, 2019, due to a death in her immediate family. Counsel appeared for the State at a term of PCR hearings in Richland County on August 19-23, 29. On August 28, 2019, Counsel submitted a Brief of Petitioner in Hubert Brown v. State (2016-001363) and a Return to Petition for Writ of Certiorari in Joshua Lee Phillips v. State (2018-000476). Counsel appeared on behalf of the State at a term of PCR hearings in Florence County the week of September 3-6, 2019, and at a scheduling conference in Richland County on September 12, 2019. Counsel has also assumed additional administrative duties while senior staff is out of the office on maternity leave.

This extension request is not intended for purposes of delay, but rather to ensure that the Return is properly researched and prepared. The undersigned is currently working on the Return and hopes to have it completed shortly. The undersigned therefore requests an extension of time within which to serve and file the Return. **THEREFORE**, undersigned counsel for Respondent respectfully requests a **fifth and final fifteen-day extension until Friday, September 27, 2019**, in

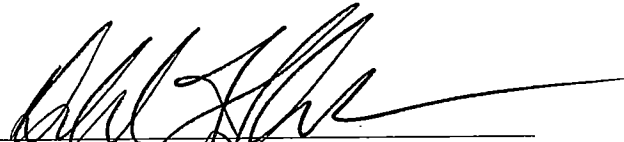
which to complete and file the Return to Petition for Writ of Certiorari in this case based upon the above exigent circumstances. Counsel for Petitioner has consented to the extension request.

Respectfully submitted,



Lindsey A. McCallister
Assistant Attorney General
S.C. Bar # 79054
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737
Attorney for Respondent

**We concur that extraordinary circumstances
have been shown:**



DONALD J. ZELENKA
Deputy Attorney General



W. JEFFREY YOUNG
Chief Deputy Attorney General

I consent:



Taylor D. Gilliam
Attorney for Petitioner

This 13th day of September, 2019.

STATE OF SOUTH CAROLINA
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CERTIORARI TO FLORENCE COUNTY
Court of Common Pleas
Paul M. Burch., Circuit Court Judge

Appellate Case No. 2018-001301

CHARLES PENNELL,

Petitioner,

v.

STATE OF SOUTH CAROLINA,


Respondent.

CERTIFICATE OF SERVICE

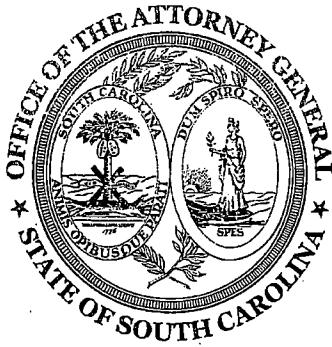
The undersigned hereby certifies that a true copy of **Motion for Fifth Extension to File Return to Petition for Writ of Certiorari and Motion to File Out of Time** has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

Taylor D. Gilliam, Esquire
S.C. Commission on Indigent Defense
Post Office Box 11589
Columbia, South Carolina 29201

This 13th day of September, 2019.



EVA COOK
Legal Assistant for Respondent



RECEIVED

SEP 13 2019

S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

September 13, 2019

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

RE: Charles Pennell, #231231 v. State of South Carolina
Appellate Case No. 2018-001301
Lower Court Case No. 2013-CP-21-1949

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of the **Motion for Fifth Extension to File Return to Petition for Writ of Certiorari and Motion to File out of Time** in the above-referenced case. By copy of this letter we are serving opposing counsel today.

Sincerely,

Lindsey A. McCallister
Assistant Attorney General
S.C. Bar No. 79054

LAM/em
Enclosures

cc: Taylor D. Gilliam, Esquire