

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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CERTIORARI TO HORRY COUNTY  
Court of Common Pleas  
William H. Seals, Circuit Court Judge

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Appellate Case No. 2018-000466

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Timothy L. Frady,

Petitioner,

v.

State of South Carolina,

Respondent.

**RECEIVED**  
DEC 06 2019  
SC Court of Appeals

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

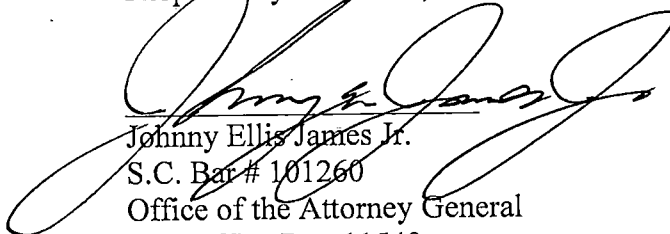
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Respondent, the State, moves this Court accept out of time a request for twenty-nine (29) days from the date of this filing in which to file the Return to Petition for Writ of Certiorari, up to and including Friday, January 4, 2020. This would constitute Respondent's first request for an extension of time. Respondent erroneously calendared the due date for its response for Friday, December 20, 2019, in light of standard procedure respecting the timeframe for filing returns to petitions submitted by the Office of Appellate Defense. However, the Return was originally due December 4, 2019, per the Court's order filed October 3, 2019. Respondent failed to catch the error until otherwise alerted to it due to focus on post-hearing briefs and orders due in the circuit court in the matters of Thomas A. Styla v. State (2017-CP-42-00801) and Marcus D. Wright v. State (2017-CP-26-02564).

Respondent contacted Counsel for the Petitioner regarding this motion, who expressed no objection. A copy of Petitioner's response is here attached.

THEREFORE, undersigned counsel for Respondent respectfully requests this Court relax the rules to permit filing of this motion and thereby grant an extension until **Friday, January 4, 2010**, or other such time the Court deems appropriate, in which to complete and file the Return to Petition for Writ of Certiorari in this case based upon the above circumstances.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Johnny Ellis James Jr.", is written over the typed name and address.

Johnny Ellis James Jr.  
S.C. Bar # 101260  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737  
Attorney for Respondent

## Johnny James

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**From:** Hudgins, Kathrine <KHudgins@sccid.sc.gov>  
**Sent:** Friday, December 6, 2019 10:51 AM  
**To:** Johnny James  
**Subject:** RE: [External] Timothy L. Frady v. State (2018-000466) - Motion for Extension

Johnny – Per our phone conversation, I have no objection to the out of time motion for an extension of time in the above case.

Kat Hudgins

Kathrine Haggard Hudgins, Appellate Defender  
South Carolina Commission on Indigent Defense  
Appellate Division  
1330 Lady St. P.O. Box 11589  
Columbia, SC 29211  
(803) 734-1343  
Fax (803) 734-1397  
[khudgins@sccid.sc.gov](mailto:khudgins@sccid.sc.gov)

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**From:** Johnny James <JJJames@scag.gov>  
**Sent:** Friday, December 6, 2019 10:47 AM  
**To:** Hudgins, Kathrine <KHudgins@sccid.sc.gov>  
**Subject:** [External] Timothy L. Frady v. State (2018-000466) - Motion for Extension

Kat,

I tried calling you at the office a moment ago but was only able to leave a voicemail. I intend to file a motion out of time for an extension to file the State's Return to the Petition for Writ of Certiorari. Please let me know at your soonest convenience if you have any objection.

Kind regards,

Johnny Ellis James Jr.  
Assistant Attorney General  
Post-Conviction Relief Division  
4<sup>th</sup>, 7<sup>th</sup>, & 15<sup>th</sup> Judicial Circuits  
P: 803-734-3737

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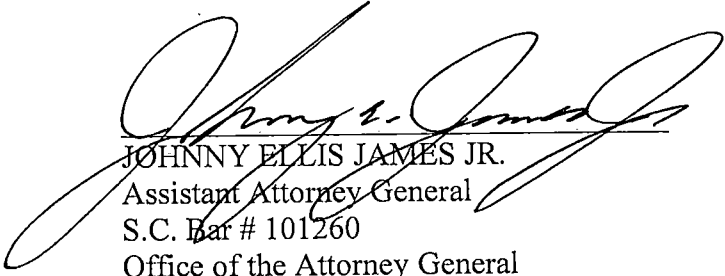
CERTIFICATE OF SERVICE

I, Johnny Ellis James Jr., hereby certify that I have served the Motion Out of Time for Extension to File Return to Petition for Writ of Certiorari, on Petitioner by courier hand-delivery:

**Kathrine H. Hudgins, Esq.**  
**S.C. Commission on Indigent Defense**  
**1330 Lady St., Ste. 401**  
**Columbia, SC 29201**  
**khudgins@sccid.sc.gov**

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

This 6<sup>th</sup> day of December, 2019

  
JOHNNY ELLIS JAMES JR.  
Assistant Attorney General  
S.C. Bar # 101260  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

ATTORNEY FOR RESPONDENT



ALAN WILSON  
ATTORNEY GENERAL

December 6, 2019

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

**RE: Timothy L. Frady v. State of South Carolina**  
**Appellate Case No. 2018-000466**  
**Lower Court Case No. 2015-CP-26-8676**

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SC Court of Appeals

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the **Motion out of Time for Extension to File Return to Petition for Writ of Certiorari**. By copy of this letter we are serving opposing counsel today.

Sincerely,

Johnny E. James Jr.  
Assistant Attorney General  
S.C. Bar No. 101260

JEJ/ec  
Enclosures

cc: Katherine H. Hudgins, Esquire  
Victim Advocacy Division (without enclosures)