

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Anderson County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

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S.C. Supreme Court

Opinion No. 2011-UP-138 (S.C. Ct. App. filed 4/5/2011)

07-GS-04-650

THE STATE,

RESPONDENT,

V.

RAYMONDEZE L. RIVERA ,

PETITIONER

MOTION TO FILE THE PETITION FOR WRIT OF CERTIORARI
AND APPENDIX OUT OF TIME

Counsel for Raymondeze L. Rivera, respectfully moves this Court to allow the petition for writ of certiorari and appendix to be filed out of time by August 4, 2011 or a date determined by this Court's order. In support of this petition, counsel shows:

(1) On February 11-13, 2008, Raymondeze L. Rivera stood trial in Anderson County, before Judge J.C. Nicholson, Jr, and a jury, on an indictment charging him with murder. This is **not a death penalty case**. Petitioner Rivera was convicted and sentenced to life imprisonment.

(2) Petitioner was represented on appeal by Senior Appellate Attorney Joseph L. Savitz,
III. On of January 29, 2009, a final brief of appellant was filed in the Court of Appeals.

(3) On February 16, 2011, following the retirement of Mr. Savitz, undersigned counsel argued petitioner's case before the Court of Appeals at Furman University.

(4) On May 26, 2011 the Court of Appeals issued its opinion in State v. Raymondeze Rivera, 2011-UP-138 (filed April 5, 2011) affirming petitioner's conviction.

(5) Undersigned counsel filed a petition for rehearing on April 20, 2011 with the Court of Appeals.

(6) On May 27, 2011 rehearing was denied by the Court of Appeals and undersigned counsel informed Mr. Rivera of that fact, and stated that he would seek a writ certiorari from this Court. However, that certiorari petition through inadvertence was never placed on counsel's calendar. Consequently, the certiorari petition was not extended nor was it filed timely filed with this Court.

(7) Counsel was kindly informed by the Court of Appeals today, July 21, 2011, upon its inquiry about the status of this case that the remittitur has not been sent to the lower court, and the decision regarding the remittitur would now await action by this Court when counsel notified that Court that his intention had been to seek certiorari from the decision of the Court of Appeals.

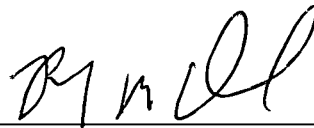
(8) Counsel is now respectfully requesting an order from this Court permitting undersigned counsel to file the certiorari petition out of time. Counsel would request until August 4, 2011 to file the petition for a writ of certiorari and the appendix out-of-time or such other date that this Court would accept or deem appropriate.

(9) As indicated by his signature below, Donald J. Zelenka kindly does not oppose this motion given the present procedural posture of this case as elaborated above. *Since the remittitur has not been sent* *DJZ.*

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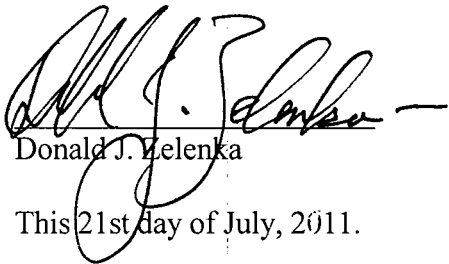
For these reasons, counsel for petitioner, requests that the Court allow the petition and appendix to be filed out-of-time by August 4, 2011 or such other date as this Court would accept or deem appropriate.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

I do not oppose:



Donald J. Zelenka

This 21st day of July, 2011.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Anderson County
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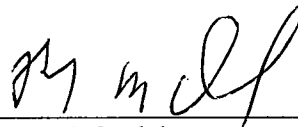
V.

RAYMONDEZE L. RIVERA ,

PETITIONER.

CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of Motion to File the Petition for Writ of Certiorari and Appendix Out-of-Time in the above referenced case has been served upon on the South Carolina Court of Appeals, and opposing counsel, Donald J. Zelenka, this 21st day of July, 2011.



Robert M. Dudek
Chief Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 21st day of July, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: May 16, 2021.