

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal from Colleton County  
Edgar Dickson, Circuit Court Judge

**RECEIVED**

**Nov 01 2021**

**S.C. SUPREME COURT**

DERRICK FISHBURNE,

RESPONDENT,

V.

THE STATE,

PETITIONER.

Appellate Case No. 2021-000107

**PETITION FOR EXTENSION OF TIME TO FILE  
RETURN TO THE PETITION FOR WRIT OF CERTIORARI**

The undersigned counsel would respectfully request a final **3-day** extension to file the Return to the Petition for Writ of Certiorari in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

1. The Return is due to be served and filed today, November 1, 2021.
2. In Counsel's third extension request, Counsel requested a 10-day extension because he believed that he would be able to work on the return last week. Unfortunately, Counsel unexpectedly had to try a burglary case in General Sessions. This was unexpected because it occurred when the Defendant failed to appear. The trial took three days and involved long hours due to Counsel having to research issues related to the trial. Counsel had other court appearances on Thursday and Friday.

3. Additionally, on Saturday Counsel had a family friend who pass away. This has caused additional stress and has required Counsel to take additional time away from working on this case.

4. Counsel respectfully submits that the trial in absentia and the death of his family friend constitutes extraordinary circumstances justifying the grant of a fourth extension.

5. Counsel has been attempting to complete his return today.

6. Moreover, Counsel is also attempting to complete a Motion to Alter or Amend in a separate PCR which is also due today.

7. Counsel is uncertain if he will be able to finish the Return tonight. As a result, Counsel is asking for this final 3-day extension.

8. In addition to this Return, the Motion to Alter or Amend, and his personal obligations, Counsel has been preparing for an immunity hearing scheduled for November 4, 2021 and another immunity hearing and trial scheduled for November 15, 2021.

9. To ensure no further extensions will be required, Counsel will be cancelling his jail visits which are scheduled for tomorrow. Counsel will be completing this Return prior to leaving for any non-mandatory court appearance.

10. This request is made in good faith, and not for purposes of delay.

11. Late this afternoon, Counsel became worried that he would be unable to complete this Return. Counsel attempted to communicate with Opposing Counsel concerning whether she would be willing to consent to a fourth extension. Counsel sent an email, but has yet to hear back concerning the State's Position.

Based on the foregoing, the undersigned counsel would respectfully request a Final **3-day** extension in which to file the Return to the Petition for Writ of Certiorari in this case. Counsel

requests that the time limits for filing the Return to the Petition for Writ of Certiorari be held in abeyance pending a ruling on this motion.

Respectfully submitted,

s/ Tristan Shaffer

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November 1, 2021