

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**RECEIVED**  
**Nov 02 2021**  
S.C. SUPREME COURT

Appeal from Georgetown County

Honorable W. Jeffrey Young & Honorable D. Craig Brown, Circuit Court Judges

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Appellate Case No. 2017-000211

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STEPHEN C. STANKO #6022,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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PETITIONER'S FOURTH MOTION FOR EXTENSION  
OF TIME TO FILE APPENDIX  
AND PETITION FOR WRIT OF CERTIORARI

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Petitioner, Stephen C. Stanko, through undersigned counsel, for the reasons stated below, respectfully requests that this Court grant a fourth and final extension of time for thirty (30) days to file the Petition for Writ of Certiorari and the Appendix presently due for filing on November 12, 2021. For the reasons that follow, undersigned counsel asserts extraordinary circumstances warrant this extension. Pursuant to this Court's order dated March 18, 2009, undersigned counsel also describes below the actions being taken to ensure that no further extensions will be required. The support for this motion is as follows:

1. On July 14, 2021, undersigned counsel informed this Court that the transcripts necessary for this appeal had been received, starting the clock for filing the petition for writ of certiorari and appendix. This Court granted extensions, including a third extension of time on October 7, 2021, setting the deadline for filing as November 12, 2021.

2. Since this Court granted the third extension of time, undersigned counsel prepared for oral arguments in two capital habeas appeals in the Fourth Circuit Court of Appeals. *Bryant v. Stephan*, No. 20-4; *Bowman v. Stirling*, No. 20-12. Preparation for these arguments demanded the majority of undersigned counsel's over the past month.

3. For James Bryant's case, undersigned counsel prepared for and argued before the full court en banc on October 26, 2021. Preparation for that argument included research and briefing (filed on September 2, 2021) on two legal issues raised by the full court, which had not previously been briefed or argued in the proceedings.

4. For Marion Bowman's case, undersigned counsel Vann assisted in preparation of the argument, which was ultimately presented by her co-counsel on October 28, 2021. Co-counsel in Mr. Bowman's case was not appointed to the case until after the briefing had been completed, and she was substituted for Ms. Vann's former co-counsel.

5. In addition to these arguments and briefing, since the transcripts were received in this case, undersigned counsel has prepared for the following other case proceedings: (1) response to a petition for writ of certiorari in the juvenile resentencing appeal of *State v. Morgan* on September 14, 2021; (2) status conference in the pretrial federal murder case of *United States v. Seward* on October 6, 2021.<sup>1</sup>

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<sup>1</sup> Mr. Seward's case was death-eligible, and treated as a potential death penalty case, until the Department of Justice notified counsel of its decision not to seek the death penalty on August 17, 2021.

6. In addition to the factual and legal complexities present in all capital cases, this case presents novel legal issues that require thorough research and briefing. Petitioner's case is the first appeal of proceedings occurring pursuant to *Robertson v. State*, 418 S.C. 505, 795 S.E.2d 29 (2016). This necessitates research and briefing of novel legal issues related to the standards applied by the lower courts in determining whether a post-conviction relief (PCR) applicant has been prejudiced by his initial PCR counsel's lack of qualifications. Undersigned counsel reasonably believes that an extension is needed to thoroughly and accurately brief the issues in this case to allow for their full consideration by this Court.

7. To ensure no further extensions are required, undersigned counsel submits that she has no other major case deadlines in the time this extension would allow. Further, undersigned counsel has made progress in researching and drafting and preparing the appendix such that counsel is confident an additional thirty (30) days will be adequate to fully brief the issues presented by this case. Undersigned counsel will also inform any other courts setting deadlines in other cases of this case's deadline to ensure other casework will not interfere with preparation of the petition in this case.

8. Undersigned counsel contacted counsel for the State who do not oppose this extension request.

THEREFORE, for the reasons stated above, which counsel believes constitute extraordinary circumstances under this Court's Order dated March 18, 2009, undersigned counsel requests that this Court extend the deadline for filing the Petition for Writ of Certiorari and Appendix in this case an additional thirty (30) days.

*[Signature block appears on the following page.]*

Respectfully submitted,

s/Lindsey S. Vann

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November 2, 2021.

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<sup>2</sup> Hannah Freedman's signature appears on this motion to comply with the requirements of Section 4 of this Court's order dated March 18, 2009, which requires another attorney from counsel's firm to sign as a certification that they believe extraordinary circumstances warrant this extension. Mr. Freedman is not assisting in the preparation of the petition for writ of certiorari or the appendix in this case.