

No. _____

In the Supreme Court of the United States

STATE OF SOUTH CAROLINA,

Petitioner,

vs.

RAYMOND LEWIS YOUNG,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE SOUTH CAROLINA COURT OF APPEALS**

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the Fourth Circuit:

Pursuant to Rule 13.5 and Rule 30.2 of the Rules of the Supreme Court of the United States, the State of South Carolina as petitioner, through its undersigned counsel, respectfully requests the time to file a petition for a writ of certiorari in the above-captioned matter be extended for a period of sixty days to and including September 17, 2018. In support of that request, the State would respectfully show unto the Court as follows:

I.

In January of 2013, the respondent, Raymond Lewis Young, was convicted by a jury of seven counts of attempted murder, one count of second-degree assault and

battery by a mob, and one count of conspiracy. Young appealed, and on November 15, 2017, the South Carolina Court of Appeals reversed his convictions and remanded for a new trial. Thereafter, the State timely petitioned the South Carolina Court of Appeals for rehearing, but the State's petition was denied on January 18, 2018. The State served and filed a timely petition for a writ of certiorari in the South Carolina Supreme Court seeking discretionary review of the decision of the South Carolina Court of Appeals; however, on April 19, 2018, that petition was denied. As a result, the State's petition for a writ of certiorari in Young's case is presently due to be filed with this Court on or before July 18, 2018. A copy of the South Carolina Court of Appeals' decision is attached to this application as Appendix A, a copy of the South Carolina Court of Appeals' denial of rehearing is attached as Appendix B, and a copy of the order of the South Carolina Supreme Court denying the State's petition for a writ of certiorari is attached as Appendix C.

II.

The State intends to petition for a writ of certiorari in regard to the South Carolina Court of Appeals' decision reversing Young's convictions. In reversing, the South Carolina Court of Appeals found the trial court erred in denying Young's *Batson* motion. *See State v. Young*, 2017 WL 5483256, Op. No. 2017-UP-426 (S.C. Ct. App. filed November 15, 2017) (finding the trial court erred in denying Young's *Batson* motion because it failed to conduct a proper analysis under the third step of a *Batson* review). In reaching that decision, the South Carolina Court of Appeals

relied on cases analyzing and applying the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and its prohibition against the striking of jurors on the basis of race, including *Batson v. Kentucky*, 476 U.S. 79 (1986) & *Purkett v. Elem*, 514 U.S. 765 (1995). *See Illinois v. Rodriguez*, 497 U.S. 177, 182 (1990) (recognizing this Court can review a state-court decision where the decision fairly appears to rest primarily upon federal law or to be interwoven with federal law and there is no plain statement it rests upon adequate and independent state grounds). This Court has jurisdiction to grant certiorari in Young’s case in light of the fact the appellate issue involved relates to a claim that Young’s rights pursuant to the Fourteenth Amendment of the United States Constitution were violated. *See* 28 U.S.C. § 1257(a) (“Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari . . . where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.”).

III.

In seeking an extension request, the State is not seeking undue delay but rather is attempting to ensure the State’s petition is properly researched and prepared. Before filing a petition for a writ of certiorari in Young’s case, undersigned counsel consulted with the appellate review committee at the South Carolina Office of the Attorney General and with the prosecuting agency. At

present, undersigned counsel has not yet been able to complete the State's petition for a writ of certiorari due to the time involved in the consultation process along with his responsibilities in other cases. Specifically, in the past few weeks, undersigned counsel has participated in oral arguments at the South Carolina Court of Appeals in State v. Joe Worley and State v. Tashon Hurell; has submitted a Return to Petition for Writ of Certiorari in the South Carolina Supreme Court in State v. Robert Young; and has submitted an Initial Brief of Respondent to the South Carolina Court of Appeals in State v. Jerome Williams, State v. State v. Wayne Couey, State v. Bruce Jones, and State v. Polly Hindman. Additionally, the pertinent issue in Young's case involves a significant federal constitutional question regarding the proper application of this Court's three-step inquiry for evaluating whether a party executed a peremptory challenge in a manner which violated the Equal Protection Clause, which has required substantial research and preparation time in order to ensure the petition is properly prepared. Undersigned counsel is currently working on the petition in this case and intends to have it completed within the time requested. For all the foregoing reasons, the State of South Carolina would respectfully request an extension of time within which to file the petition for a writ of certiorari to the South Carolina Supreme Court.

IV.

Pursuant to Rule 13.5 of this Court's rules, the State is filing its application for an extension of time at least ten days before the State's petition for a writ of certiorari is due. Moreover, prior to filing the application for this extension request,

undersigned counsel contacted the respondent's appellate counsel, J. Falkner Wilkes, Esquire, and Mr. Wilkes indicated he consents to the State's request.

WHEREFORE, the State prays this Court will issue an order extending the deadline for the filing of the State's petition for a writ of certiorari to the South Carolina Supreme Court in this case for a period of sixty days until September 17, 2018; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
South Carolina Attorney General

*J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General

By: _____
J. Benjamin Aplin

S.C. Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727
BAplin@scag.gov

June 29, 2018

**Counsel of Record for Petitioner*

No. _____

In the Supreme Court of the United States

STATE OF SOUTH CAROLINA,

Petitioner,

vs.

RAYMOND LEWIS YOUNG,

Respondent.

CERTIFICATE OF SERVICE

In compliance with Rule 22 and Rule 29 of the Rules of the United States Supreme Court, I, J. Benjamin Aplin, a member of the Bar of this Court, certify I have served the within Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari to the South Carolina Court of Appeals on Respondent by depositing one copy of the same in the United States Mail, postage prepaid, addressed to his attorney of record:

J. Falkner Wilkes, Esq.
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
Counsel for Respondent

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

This 29th day of June, 2018.

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
S.C. Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727
Counsel of Record for Petitioner

June 29, 2018

The Honorable Scott S. Harris
Clerk of Court, Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

RE: State of South Carolina v. Raymond Lewis Young

Dear Mr. Harris:

Enclosed please find the original and two copies of the Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari to the South Carolina Court of Appeals, along with a certificate of service, for filing in the above-referenced case.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General

JBA/
Enclosures

cc: J. Falkner Wilkes, Esquire (by mail and email)
Victim Advocacy Division