

No.

— — — —  
IN THE  
SUPREME COURT OF UNITED STATES  
— — — —

Steven Louis Barnes  
Applicant / petitioner

✓

STATE OF SOUTH CAROLINA  
Respondent

— — — —  
Application for an extension of time within which  
to file petition for writ of certiorari to the  
Supreme Court of South Carolina

— — — —  
APPLICATION TO THE HONORABLE JUSTICE  
JOHN G. ROBERTS, JR., CHIEF JUSTICE

— — — —  
Steven Louis Barnes  
McCormick Correctional Institution  
386 Redemption Way  
McCormick SC 29899

April 22, 2022

## APPLICATION FOR AN EXTENSION OF TIME

pursuant to Rule 13.5 of the Rules of this Court, Steven Louis Barnes, hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari from May 3, 2022 up and until July 2, 2022.

## JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is Steven Louis Barnes v. State of South Carolina Case # 2020 - 001230. (See Attached as Exhibit 1). The Supreme Court of South Carolina denied applicant's Writ of Certiorari on February 2, 2022.

## JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rule 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari was due to be filed on or before May 3, 2022.

## REASONS JUSTIFYING AN EXTENSION OF TIME

Petitioner respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the Supreme Court of South Carolina denying the petitioner's writ of certiorari up to and including July 2, 2022.

1. The petitioner is incarcerated at the McCormick Correctional Institution, in South Carolina. This prison is remodeling the prison by placing security cameras, fences, electric doors and other security devices reasonable related to security concerns. The movement at this prison has been extremely limited for security concerns.
2. Lastly, there's a COVID 19's outbreak at this prison where at one point the prison's dorm unit was on lockdown because of it. The petitioner's unit has just got off lockdown from quarantine about at least a month and half ago, and other units as well been quarantine on and off during the time the petitioner's dorm unit was quarantine.
3. The petitioner has been diligently putting his wait of clemency together for this court but due to the restrictions of movement and constant quarantine lockdowns for security reasons the petitioner could not complete the wait to this court.

### Conclusion

Wherefore, the petitioner prays that this Court grant this motion and such other and further relief this Court seems just and proper.

Date: 4/22/2022

  
Steven Louis Barnes #1327117  
McCormick CI  
386 Redemption Way  
McCormick, SC 29849

SEE EXHIBIT 1

THE FINAL DECISION FROM THE STATE  
SUPREME COURT OF SOUTH CAROLINA DENYING  
WRIT OF CERTIORARI



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330 Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

February 9, 2022

Mr. Steven Louis Barnes, #327117  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

Dear Mr. Barnes:

Enclosed is a copy of the opinion of the South Carolina Supreme Court affirming your conviction as modified. The South Carolina Supreme Court granted the petition for writ of certiorari filed on your behalf and reviewed the decision by the South Carolina Court of Appeals affirming your conviction and finding no violation of your speedy trial rights. The South Carolina Supreme Court issued the opinion without requesting additional briefs and without hearing argument. The South Carolina Supreme Court modified the opinion by finding that the time your trial attorney was under an order of protection should not count against you in the speedy trial analysis. Under the modified analysis, the South Carolina Supreme Court also found no speedy trial violation. The direct appeal process is now complete. Your next step is to file an application for post-conviction relief (PCR). Please be advised that our office will be closing your case along with this letter.

I have enclosed a blank PCR application that you will need to complete. Once you file your PCR application an attorney will be appointed to represent you. You should discuss PCR issues with that lawyer who can amend the PCR application if necessary.

Please be aware that there is a **one year statute of limitations for filing an application for post-conviction (PCR) relief**. This is one year from the date of the enclosed opinion. This statute of limitations is **very strictly enforced**, so please be sure that **you** comply with it. Please understand *it is your responsibility alone to be sure this PCR application is timely filed. This application must be filed with the clerk of court in the county of your conviction*. There is also now a **one year statute of limitations for filing for federal habeas**. However, you must **exhaust your PCR claims** in state court, before raising them in federal court.

Please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. I do wish you the best. Feel free to contact me if you have any questions.

Sincerely,

Kathrine H. Hudgins  
Appellate Defender

KHH/cws

Enclosure: Post-Conviction Relief Application

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

The State, Respondent,

v.

Steven Louis Barnes, Petitioner.

Appellate Case No. 2020-001230

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal from Edgefield County  
Diane Schafer Goodstein, Circuit Court Judge

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Opinion No. 28081  
Submitted December 10, 2021 – Filed February 2, 2022

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**AFFIRMED AS MODIFIED**

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Appellate Defender Kathrine Haggard Hudgins, of  
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Assistant  
Attorney General Mark Reynolds Farthing, both of  
Columbia; and Solicitor Samuel R. Hubbard III, of  
Lexington, all for Respondent.

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**PER CURIAM:** Steven Barnes killed Samuel Sturrup on September 3, 2001. In 2010, a jury convicted Barnes of murder and sentenced him to death. In 2014, this Court reversed his convictions. *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014). On remand, the State continued to seek the death penalty. *See State v. Barnes*, 413 S.C. 1, 3, 774 S.E.2d 454, 455 (2015) (*Barnes II*) (considering an interlocutory petition as to Barnes' right to counsel). Eventually, however, the State dismissed the death notice and set his case for trial. Barnes filed a pre-trial motion to dismiss, alleging his right to a speedy trial was violated. The trial court denied the motion. A jury convicted Barnes of murder again in 2017, and the trial court sentenced him to life in prison.

In a thorough opinion, the court of appeals affirmed the trial court's denial of Barnes' speedy trial motion. *State v. Barnes*, 431 S.C. 66, 91, 846 S.E.2d 389, 402 (Ct. App. 2020) (*Barnes III*). The court of appeals conducted a lengthy analysis of the factors the Supreme Court of the United States identified for consideration of a speedy trial claim in *Barker v. Wingo*, 407 U.S. 514, 530-32, 92 S. Ct. 2182, 2192-93, 33 L. Ed. 2d 101, 117-18 (1972), and which this Court repeatedly uses to analyze claims of a speedy trial violation, *see, e.g.*, *State v. Hunsberger*, 418 S.C. 335, 343, 794 S.E.2d 368, 372 (2016) (discussing the four *Barker* factors); *State v. Foster*, 260 S.C. 511, 513-14, 197 S.E.2d 280, 281 (1973) (same). *Barnes III*, 431 S.C. at 80-91, 846 S.E.2d at 396-402. While we agree with the court of appeals' analysis and ultimate decision to affirm, we grant certiorari to address one narrow point in the court of appeals' discussion of the second factor—the reason for the delay. We dispense with briefing and affirm as modified.

Analyzing the second factor, courts evaluate the reason for each specific period of delay and determine whether the reason weighs against the State, should be considered as "neutral" or "valid," or weighs against the defendant. *See Hunsberger*, 418 S.C. at 346, 794 S.E.2d at 374 (explaining "justifications for delay in trying a defendant are weighted differently: (1) a deliberate attempt to delay trial as a means to hamper the defense weighs heavily against the State; (2) negligence or overcrowded dockets weigh less heavily against the State, but are ultimately its responsibility; (3) a valid reason, such as a missing witness, justifies an appropriate delay; and (4) delays occasioned by the accused weigh against him" (citation omitted)); *see also Barker*, 407 U.S. at 531, 92 S. Ct. at 2192, 33 L. Ed. 2d at 117 (explaining "different weights should be assigned to different reasons. A deliberate attempt to delay . . . should be weighted heavily against the government. A more neutral reason . . . should be weighted less heavily but

nevertheless should be considered . . . . Finally, a valid reason . . . should serve to justify appropriate delay" (footnote omitted)).

In this case, we focus solely on one specific period of delay the court of appeals weighed against Barnes. One of Barnes' two attorneys—William McGuire—was given an order of protection by this Court from December 2015 until December 2016 due to his ongoing participation in another high-profile criminal trial.<sup>1</sup> Evaluating the reason for this specific period of delay, the court of appeals stated,

Therefore, despite being prepared for trial, the State could not proceed with Barnes's trial because Barnes chose to continue retention of counsel who he knew was subject to an order of protection. While we acknowledge that Barnes was entitled to retain counsel of his choice, this decision and the resulting delay cannot be properly attributed to the State. Consequently, the delay cannot be characterized as neutral and must be attributed to Barnes.

*Barnes III*, 431 S.C. at 86, 846 S.E.2d at 399.

While we agree with the court of appeals that this period of delay should not be attributed to the State, we do not agree it "must be attributed to Barnes." McGuire did not fail to act on Barnes' behalf;<sup>2</sup> rather, he was under an order of protection

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<sup>1</sup> The "high-profile" case was *United States v. Dylann Storm Roof*, 2:15-CR-472-RMG (D.S.C. July 22, 2015), in which the United States tried the defendant under the Federal Death Penalty Act in December 2016 for the June 2015 murders of nine members of the historic Emanuel African Methodist Episcopal Church in Charleston, commonly referred to as "Mother Emanuel." See *United States v. Roof*, 10 F.4th 314 (4th Cir. 2021). The dates of the order of protection extended from the remand date in *Barnes II* to the day after the *Roof* trial ended in United States District Court.

<sup>2</sup> The Supreme Court has weighed delays caused by a defendant's counsel against the defendant based on the reasoning "the attorney is the [defendant's] agent when acting, or failing to act, in furtherance of the litigation." *Vermont v. Brillon*, 556 U.S. 81, 91-92, 129 S. Ct. 1283, 1290-91, 173 L. Ed. 2d 231, 1240 (2009)

that authorized him to focus on his representation of another client, presumably so the other client's case could be brought to trial in a timely manner. Additionally, during this period the State was still seeking the death penalty against Barnes. The State did not withdraw its notice of intent to seek the death penalty until July 2017. Barnes was entitled to keep his lawyer, even though doing so delayed his trial. This specific period of delay should be weighed as neutral or valid.

This does not change the outcome of the speedy trial analysis. We affirm the court of appeals' decision as modified.

**AFFIRMED AS MODIFIED.**

**BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.**

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(alteration in original) (quoting *Coleman v. Thompson*, 501 U.S. 722, 753, 111 S. Ct. 2546, 2566-67, 115 L. Ed. 2d 640, 671 (1991)).

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IN THE  
Supreme Court of UNITED STATES  
— — —

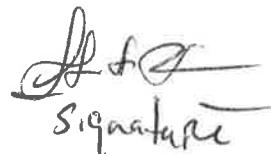
Steven Louis Barnes  
Applicant / petitioner  
vs

STATE OF SOUTH CAROLINA  
Respondent

— — —  
CERTIFICATE OF SERVICE  
— — —

I, Steven Louis Barnes, declare that he served the South Carolina  
Attorney General's office at p.o. Box 11549, Columbia, SC 29211  
the ~~extension of~~ time to file a writ of certiorari in this Court  
by depositing said documents in the United States mail with  
sufficient postage.

Date 4/21/2022

  
Signature

