

Fax Cover Sheet

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Re: State v. Sturdivant (2011-196490) – MOTION FOR CONTINUANCE

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JUN 03 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

Steven H. John, Circuit Court Judge

Trial Court Case No. 2008-GS-26-01027
Appellate Court Case No. 2011-196490

RECEIVED

JUN 03 2013

SC Court of Appeals

State of South Carolina,

Respondent,

v.

Retha Pierce Sturdivant,

Appellant.

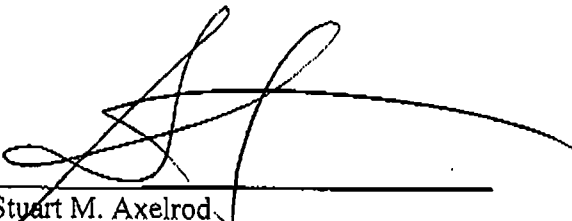
MOTION FOR CONTINUANCE

Comes now the Appellant pursuant to Rule 240, SCACR who respectfully moves for a continuance of the above matter presently scheduled for oral arguments tomorrow at 10:00 a.m. As grounds for this motion counsel asserts that an integral piece of evidence/information in this case is the C.D. of the traffic stop in question which was a trial exhibit in Appellant's original trial. On April 13, 2012 Appellant made a Motion requesting delivery of this Exhibit from the Trial Court to the Court of Appeals. On July 18, 2012 the Court of Appeals granted this request issuing an Order directing the Clerk of Court for Horry County to release this trial exhibit to the South Carolina Attorney General's Office who was to pick up the exhibit and deliver it to the Court. This Order was, upon information and belief, served upon the both the Clerk of Court for Horry County and the South Carolina Attorney General's Office by Jenny A. Kitchings, Clerk for the Court of Appeals. Upon information and belief, the South Carolina Attorney General's Office failed to contact the Horry County Clerk of Court and make the necessary arrangements to pick up this exhibit as Ordered by the Court thereby depriving the Appellant of a piece of evidence in this trial which Appellant requested.

Counsel for Appellant asserts that to proceed with oral arguments tomorrow without the Court having first had the benefit of viewing and listening to said trial exhibit prior to arguments would be prejudicial to the Appellant in that the Court would not have the complete picture and/or background prior to entering into the oral argument phase. Further, the Court may very well have questions about this tape and or the events depicted thereon which would otherwise be unable to be answered or addressed.

As a result of the foregoing Appellant requests that oral arguments scheduled for tomorrow be continued, that the Attorney General's Office be provided a specific deadline by which to procure and transport the trial exhibit which was the subject of the Court's July 18, 2012 Order, and that oral arguments be reconvened at such time thereafter as would allow the Court sufficient time to view the exhibit prior to oral arguments.

Respectfully submitted this 3rd day of June, 2013.

A handwritten signature in black ink, appearing to read 'Stuart M. Axelrod', is written over a horizontal line. The signature is stylized and cursive.

Stuart M. Axelrod
604 16th Avenue North
Myrtle Beach, South Carolina 29577
(843) 916-9300
Attorney for Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Steven H. John, Circuit Court Judge

THE STATE

Respondent

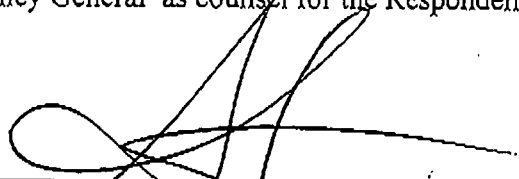
vs.

RETHA PIERCE STURDIVANT

Appellant

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of Appellant's Motion Continuance in the above-referenced case has this day been served upon the State via fax to Salley W. Elliott, Senior Assistant Deputy Attorney General as counsel for the Respondent in this action:



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ATTORNEY FOR APPELLANT

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SC Court of Appeals