STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

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

Appellate Case No: 2011-196490

THE STATE,

Respondent,

vs.

RETHA PIERCE STURDIVANT,

Appellant.

**RETURN TO MOTION FOR CONTINUANCE**

Respondent, by and through undersigned counsel, would respectfully show unto this Court:

I.

This appeal arises from Appellant's conviction for resisting arrest. She was sentenced to one (1) year suspended upon eighteen (18) months probation.

II.

Appellant's Final Brief and Record on Appeal were filed and served on April 6, 2012. Senior Assistant Attorney General Harold M. Coombs, Jr., filed and served the Final Brief of Respondent on April 20, 2012.

III.

On April 11, 2012, Appellant moved this Court to direct the Clerk of Court for the Fifteenth Judicial Circuit to deliver state's exhibit #1, a CD of the traffic stop, to this Court for consideration.

IV.

The undersigned Senior Assistant Deputy Attorney General assumed responsibility for this appeal in March 2013 when this Court indicated that it will likely schedule the matter for oral argument.

V.

In reviewing the Record on Appeal over the weekend, counsel for Respondent determined that a CD of the traffic stop had been designated for this Court's consideration. The undersigned contacted the Court of Appeals this morning to review the CD and learned that it was not in the Court's possession.

VI.

Counsel for the undersigned then contacted counsel for Appellant to inquire as to the status of his motion for delivery of the exhibit and learned around noon today that an order was issued on July 18, 2012, requiring that the Horry County Clerk of Court release the exhibit to the Attorney General's Office or its designee to be transported to the Court of Appeals for consideration during this appeal.

VII.

While the mail log for Senior Assistant Attorney Harold M. Coombs, Jr. indicates an order was received from the Court in this case on July 19, 2012, the undersigned could not locate its copy of the order but obtained a copy from the Court today.

IX.

Upon learning that an Order requiring the Attorney General's Office to transport the exhibit had been issued, the undersigned dispatched an Attorney General's Office employee to Horry County to transport the exhibit from the Horry County Clerk of Court to this Court. Because the existence of the order was not discovered until mid-day, the CD will not arrive in Columbia prior to the close of business today but, unless transportation problems arise, the CD can be delivered to the Court of Appeals by 8:30 A.M. on June 4, 2013.

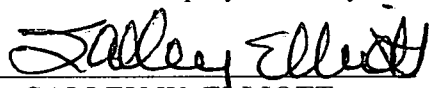
X.

Respondent is in no position to object to Appellant's request for continuance and leaves the matter to this Court's direction. Unless issues arise this afternoon during transport of the exhibit, the exhibit will be delivered to the Court of Appeals at 8:30 A.M. on June 4, 2013 regardless whether the argument proceeds or is postponed. The undersigned sincerely regrets the situation and is working quickly to resolve it.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BY: 
SALLEY W. ELLIOTT
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Columbia, SC 29211
(803) 734-3727
ATTORNEYS FOR RESPONDENT

June 3, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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

Appellate Case No: 2011-196490

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THE STATE,

Respondent,

vs.

RETHA PIERCE STURDIVANT,

Appellant.

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**PROOF OF SERVICE**

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I, Angela Bennett, certify that I have served the within Return to Motion for Continuance on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Stuart M. Axelrod, Esquire, 604 16th Avenue North, Myrtle Beach, South Carolina 29577.

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

This 3rd day of June, 2013.

ANGELA BENNETT
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(803) 734-3727