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Dec 09 2022
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Certiorari to Beaufort County
Court of Common Pleas
The Honorable Diane Schafer Goodstein, Post-Conviction Relief Judge
The Honorable J. Derham Cole, Trial Judge

Appellate Case No. 2018-000002

ANDRE GREEN,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION TO SERVE AND FILE BRIEF OF RESPONDENT OUT OF TIME

Respondent, through its undersigned counsel, moves this Court, out of time, to file the Brief of Respondent. In support of this request, undersigned counsel would respectfully show unto this Court:

1. The Brief of Respondent was due to be filed with this Court and served on November 2, 2022. This Court has granted Respondent three previous extensions. Due to undersigned counsel's inadvertence, the Brief was not timely filed.
2. On today's date, via email, undersigned counsel received a letter from this Court requesting a hard copy of the Brief of Respondent counsel believed she had previously submitted.

3. Upon realization counsel had not received a stamped copy of the Brief of Respondent, undersigned counsel referenced the South Carolina Appellate Case Management System to retrieve a copy of the clocked Brief of Respondent. As no Brief of Respondent is listed on the Case Management System, and upon belief Respondent's Brief of Respondent was not properly submitted and served, counsel now drafts this motion and pursuant to Rule 263, SCACR, respectfully requests that the rules be relaxed in order to submit the Brief of Respondent. *See* Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.").

WHEREFORE, Respondent respectfully asks that this Court relax the requirements of Rule 243(g), SCACR; permit Respondent to file out of time; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

s/ Samantha J. Weidauer
SAMANTHA J. WEIDAUER
Assistant Attorney General
S.C. Bar # 104883
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

December 9, 2022

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Certiorari to Beaufort County
Court of Common Pleas
The Honorable Diane Schafer Goodstein, Circuit Court Judge
The Honorable J. Derham Cole, Trial Judge

Appellate Case No. 2018-000002

ANDRE GREEN,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

PROOF OF SERVICE

I, Samantha J. Weidauer, certify that a true copy of the Brief of Respondent and the Motion to Serve and File Brief of Respondent Out of Time has been served upon Petitioner by electronically mailing a copy to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS):

Taylor D. Gilliam, Esquire
tgilliam@sccid.sc.gov

This 9th day of December, 2022.

s/ Samantha J. Weidauer

Samantha J. Weidauer
SC Bar No. 104833
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737



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ALAN WILSON
ATTORNEY GENERAL

December 9, 2022

The Honorable Jenny Abbott Kitchings
Clerk of Court of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
(via e-filing only-ctappfilings@sccourts.org)

Re: Andre Green v. State of South Carolina
Appellate Case No: 2018-000002

Dear Ms. Kitchings:

Enclosed please find the original Brief of Respondent and the Motion to Serve and File Brief of Respondent Out of Time in the above matter for filing. Please let me know if anything additional is needed.

Sincerely,

s/ Samantha J. Weidauer

Samantha J. Weidauer
Assistant Attorney General
SC Bar No. 104833

SJW/jj
Enclosures

cc: Taylor D. Gilliam, Counsel for Petitioner (by email only)