

State of South Carolina  
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY  
Governor



KELA E. THOMAS  
Director

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**RECEIVED**

JUN 15 2012

S.C. SUPREME COURT

June 14, 2012

Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
Post Office Box 11330  
Columbia, S.C. 29211


**RE: State v. Anthony Nation**

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the *Motion to Hold Appeal in Abeyance* dated June 14, 2012, along with proof of service in the above-referenced case.

Thank you for your cooperation in this matter.

Sincerely,

  
J/Benjamin Aplin  
General Counsel

JBA:dkn  
Enclosures

cc: Robert Dudek, Chief Appellate Defender  
E. Charles Grose, Esquire

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JUN 15 2012

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM GREENWOOD COUNTY  
Honorable Frank R. Addy, Circuit Court Judge

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THE STATE, .....RESPONDENT,

v.

ANTHONY NATION, .....APPELLANT.

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**MOTION TO HOLD APPEAL IN ABEYANCE**

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Comes now, J. Benjamin Aplin, General Counsel for the South Carolina Department of Probation, Parole and Pardon Services, on behalf of the Respondent, the State of South Carolina, and respectfully requests that the Court hold this appeal in abeyance pending the final outcome of State v. Dykes, Op. No. 27124 (Sup. Ct. filed May 9, 2012) (petition for rehearing pending).

The Amended Initial Brief of Appellant was submitted on May 3, 2012. Accordingly, it appears the State's Initial Brief is due by June 19, 2012. The State submits that most of the issues argued in Appellant's Brief are identical to the issues raised to this Court in Dykes. In particular, Appellant's arguments 5, 6, and 7, raise the substantive due process claims that were actually addressed by this Court in its published opinion in Dykes. Pursuant to the current holding in Dykes, the State submits Appellant would be entitled to a remand for the circuit court

to exercise its discretion to determine his likelihood of re-offending and whether to impose satellite monitoring. However, that holding is not yet final because the remittitur has not been sent down. Indeed, the State has submitted a Petition for Rehearing in Dykes, which is currently under review. The outcome of that review will have a direct impact on the continuing viability of Appellant's claim. Based on these reasons, the State respectfully moves this Court to hold this Appeal in abeyance until the decision in Dykes becomes final. The State further moves this Court to grant an extension of thirty (30) beyond that decision for the State to file its Initial Brief.

Respectfully submitted,

  
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**J. Benjamin Aplin**  
**General Counsel**

South Carolina Department of Probation,  
Parole and Pardon Services  
P.O. Box 50666  
Columbia, South Carolina 29250  
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Columbia, South Carolina  
June 14, 2012

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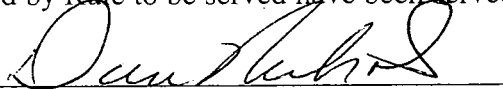
**CERTIFICATE OF SERVICE**

I, Dawn K. Nichols, Executive Administrative Assistant, hereby certify that I have served the within *Motion to Hold Appeal in Abeyance* dated June 14, 2012, on Appellant this 14<sup>th</sup> day of June, 2012, by depositing a copy of the same in the United States mail, postage prepaid, addressed to his attorneys of record:

Robert Dudek, Chief Appellate Defender  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, S.C. 29211-1589

E. Charles Grose, Jr., Esquire  
Chief Circuit Public Defender  
Greenwood County Public Defender's Ofc  
600 Monument Street-Box P-133  
Greenwood, SC 2929646

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



**Dawn K. Nichols**  
**Executive Administrative Assistant**

South Carolina Department of Probation,  
Parole, and Pardon Services  
P. O. Box 50666  
Columbia, South Carolina 29250