

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ADMINISTRATIVE LAW COURT

Chief Administrative Law Judge Ralph King Anderson, III

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Case No. 12-ALJ-04-0261-AP

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Gabriel Randolph, # 248729,.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

**RECEIVED**  
JUN 19 2013  
SC Court of Appeals

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**MOTION TO FILE OUT OF TIME**

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Comes Now, Respondent, the South Carolina Department of Corrections (SCDC), and requests that this Honorable Court grant respondent leave to file its Initial Brief and Designation of Matter out of time. In support of this request, Respondent shows this Honorable Court the following:

1. This matter comes before the Court by way of appellant's challenge to inmate disciplinary conviction pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000).
2. According to documentation contained in respondent's file, this appeal was originally dismissed by way of this Court's Order dated October 26, 2012 due to failure to timely serve the Notice of Appeal. Appellant sought rehearing in a motion filed October 30, 2012, and SCDC filed a letter in response to appellant's motion. SCDC is unaware of any disposition of the October 30, 2012 motion for rehearing.

3. On February 6, 2013, appellant served and filed his Initial Brief and an Appendix. On March 15, 2013, the Court advised appellant the Record on Appeal did not contain the required certificate or proof of service. On March 25, 2013, appellant once again filed and served his Initial Brief and Appendix. On April 2, 2013, the Court dismissed the appeal due to appellant's failure to provide a certificate of counsel and proof of service for the Record on Appeal. Appellant has filed a Motion for Rehearing dated May 16, 2013 arguing his appeal should be reinstated because he provided a proof of service for his Initial Brief, and SCDC has submitted a letter in response. That motion remains pending.
4. SCDC respectfully submits it did not previously submit an initial brief and designation of matter due to its impression the appeal was dismissed on October 26, 2012 and not reinstated.
5. Respondent's initial brief and designation of matter have been submitted contemporaneously with this motion.
6. Appellant has not been prejudiced by the delay in submitting the SCDC's initial brief and designation of matter.

WHEREFORE, respondent respectfully requests to file and serve its Initial Brief and Designation of Matter out of time in this matter.

Dated: June 17, 2013



Christopher D. Florian  
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S.C. Dept. of Corrections  
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Columbia, SC 29221  
Attorney for Respondent

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**CERTIFICATE OF SERVICE**

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I hereby certify that I have served a copy of the foregoing Motion to File Out of Time to appellant by depositing a copy of same in the United States Mail, postage prepaid, on June 17, 2013, addressed to the petitioner as follows:

Gabriel Randolph, # 248729  
Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, SC 29669



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