

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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RECEIVED  
JUN 28 2013  
SC Court of Appeals

Appeal from Greenville County  
The Honorable C. Victor Pyle, Jr., Circuit Court Judge  
Appellate Case No. 2011-203746

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THE STATE,

RESPONDENT,

V.

JULIAN DEANDRE BATTLE,

APPELLANT.

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MOTION TO FILE  
INITIAL BRIEF OF RESPONDENT  
AND DESIGNATION OF MATTER  
OUT OF TIME

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The undersigned counsel would respectfully request a twenty-eight (28) day extension and permission to file the Initial Brief of Respondent in the above-referenced case out of time. In support of this motion, counsel would respectfully show the Court the following:

The Initial Brief of Respondent was due May 31, 2013, upon this Court's grant of Respondent's third request for an extension filed on May 14, 2013.

The undersigned attorney for the Respondent thought he placed the original Initial Brief of Respondent in the mail to this Court on May 31, 2013, and mailed copies to opposing counsel at the same time.

Counsel for Respondent was advised by the Court of Appeals that the Initial Brief of Respondent was not received.

In light of the fact that this Court didn't receive the Initial Brief of Respondent that was mailed on May 31, 2013, counsel for Respondent is re-filing the Initial Brief of Respondent and re-serving same upon counsel for Appellant today. Since this service would be outside the deadline set forth by this Court in its Order filed on May 14, 2013, counsel for Respondent respectfully requests permission to file the enclosed Initial Brief out of time. Counsel for Respondent would further request that if this Court grants Respondent's motion, any subsequent deadline based upon the filing and service of Respondent's Initial Brief be based upon this date of service.

This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests permission to serve and file the Initial Brief of Respondent and Designation of Matter out of time.

Respectfully submitted,

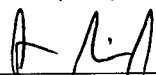
ALAN WILSON  
Attorney General

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Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR.  
Assistant Attorney General  
Post Office Box 11549  
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(803) 734-6305

BY:

  
\_\_\_\_\_  
ALPHONSO SIMON, JR.  
Bar No. 74713  
ATTORNEYS FOR RESPONDENT

June 28, 2013.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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THE STATE,

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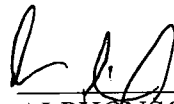
PROOF OF SERVICE

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I, Alphonso Simon, Jr., of Counsel for the Respondent, certify that I have served the within Motion to File Initial Brief of Respondent and Designation of Matter Out of Time and the Initial Brief of Respondent via United States Mail, first class, postage prepaid to his attorney of record, David Alexander, Esq., SCCID, Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, SC 29201.

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

This 28<sup>th</sup> day of June, 2013.



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ALPHONSO SIMON, JR.  
Office of Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

June 28, 2013

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JUN 28 2013

SC Court of Appeals

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

Re: *The State v. Julian Deandre Battle*  
Appeal from Greenville County  
Appellate Case No. 2011-203746

Dear Ms. Kitchings:

Enclosed for filing in your office is an original and six copies of a Motion to File Initial Brief of Respondent and Designation of Matter Out of Time, together with the Initial Brief of Respondent and Designation of Matter in the above-referenced case, along with a Certificate of Service.

Thank you for your assistance in this matter.

Sincerely,

Alphonso Simon, Jr.  
Assistant Attorney General

AS/dmd

Enclosures

cc: David Alexander, Esq. (w/ two copies of encls.)