

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dillon County

Steven H. John, Circuit Court Judge

RECEIVED

JUL 29 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

ROBERT LEE NELSON,

APPELLANT

Appellate Case No. 2012-212640

PETITION TO EXCEED FIFTY
PAGE LIMIT FOR INITIAL BRIEF OF APPELLANT

The undersigned counsel would respectfully request an order allowing hER to file a initial brief of appellant and designation of matter in this case in excess of the fifty page limit imposed by Rule 208(b)(5), SCACR. In support of this motion, counsel would respectfully show the Court:

1. The initial brief of appellant and designation of matter in this case is due on July 29, 2013. The trial transcript is 723 pages, and the transcript of the pre-trial hearing is 186 pages. Numerous meritorious issues were raised to and ruled upon by the trial judge. Undersigned counsel has raised five meritorious issues involving federal and state constitutional law.

2. Initially, the state sought the death penalty against Appellant in this double homicide case. Only after the South Carolina Department of Disabilities and Special Needs and two other expert witnesses found Appellant to be mentally retarded did the state agree to withdraw the notice

of death. Numerous issues were raised to and ruled upon by the trial judge concerning Appellant's mental retardation. Ultimately, the jury convicted Appellant of burglary in the first degree, two counts of armed robbery, and possession of a weapon during the commission of a violent crime, but the jury was unable to reach a unanimous verdict on the murder charges.

3. Counsel does not think that justice to this case can be done in the fifty pages authorized by Rule 208(b)(5), SCACR.

4. Consequently, counsel respectfully moves that this Court allow her to file an initial brief of appellant and designation of matter not in excess of seventy pages. Counsel will make every effort for brevity.

5. Opposing counsel, Salley W. Elliott, of the Office of the Attorney General, graciously does not oppose this request as indicated by her signature below.

WHEREFORE, undersigned counsel would respectfully request an order from this Court granting him the right to exceed the fifty page limit of Rule 208(b)(5), SCACR. Counsel would also request that the order grant her the right to file an initial brief of appellant and designation of matter in this case not in excess of seventy pages.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

Attorney for Appellant

July 29, 2013

I do not oppose this request


Salley W. Elliott

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dillon County
Steven H. John, Circuit Court Judge

RECEIVED

JUL 29 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

ROBERT LEE NELSON,

APPELLANT

Appellate Case No. 2012-212640

CERTIFICATE OF SERVICE

I certify that a true copy of the petition to file a brief of petitioner in excess of the fifty page limit has been served on Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 29th day of July, 2013.

Susan B. Hackett

Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 29th day
of July, 2013.

Ernie M. [Signature] (L.S.)
Notary Public for South Carolina
My Commission Expires: November 16, 2022.