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**Sep 06 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions

R. Scott Sprouse, Circuit Court Judge

Case No. 2023-GS-23-4000  
Appellate Case No. 2024-000359

State of South Carolina,.....Respondent,

v.

David Mitchell Padgett.....Appellant.

MOTION TO RESCIND APPEAL WITHDRAWAL

MOTION TO FILE OUT OF TIME

MOTION FOR EXTENSION OF TIME TO FILE INITIAL BRIEF  
AND DESIGNATION OF MATTER

The undersigned counsel has filed a notice of substitution of counsel in this matter. Counsel now files this additional motion requesting three related forms of relief. The relief requested on each ground is so closely related counsel believes it most efficient to file one motion addressing all grounds but will file separate motions at the Court’s request.

As brief background, counsel was retained by the Appellant on September 5, 2024, for all state post-conviction matters, including this appeal. At that time, counsel understands the Court had issued a deficiency letter requesting the initial brief by September 13, 2024. Counsel has also learned the appeal has been withdrawn by prior counsel.

Counsel first requests the Court rescind the withdrawal of the plea. Counsel will consult with Appellant and though he may ultimately wish to withdraw the appeal, counsel needs to evaluate the effects of that withdrawal of later proceedings and have the Appellant execute an affidavit related to any withdrawal.

Second, counsel requests the Court grant leave to file this motion out of time. He understands the Court has allowed until September 13th to file the initial brief and designation of matter, but counsel is going to request an extension to review the file and, if necessary, file the initial brief and designation of matter.

Finally, counsel requests the Court grant him 30 days from today to file these documents or take other action on the appeal. This would set a due date of October 7, 2024, to either withdraw the appeal if appropriate, or file the designation of matter and initial brief. Counsel has discussed these requests with the assigned Assistant Attorney General and he has no objection to them.

In summary, counsel requests the Court issue an Order granting the following relief:

1. The appeal shall remain pending until further action by the Appellant.
2. This motion will be considered timely filed.
3. Appellant will have until October 7, 2024, to file an initial brief and designation of matter or otherwise act on his appeal.

Respectfully submitted,

**s/ Joshua Snow Kendrick**  
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September 6, 2024