

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Oconee County
Honorable H. Steven DeBerry, IV, Post-Conviction Relief Judge

Appellate Case No. 2024-001193

Dennis M. Temple, SCDC #274802,

Appellant,

v.

State of South Carolina,

Respondent.

**RETURN TO APPELLANT'S OBJECTIONS AND MOTION
FOR EXTENSION OF TIME**

In response to Respondent's Initial Brief, Appellant filed his objections to the Court of Appeals granting Respondent's first and second motions for extension of time to file the Initial Brief. Additionally, Appellant moved to strike "all unfavorable parts" of Respondent's Initial Brief and Designation of Matter pursuant to Rule 240 of the South Carolina Appellate Court Rules. Respondent now makes its reply as follows:

1. Appellant concedes he was served with Respondent's motions for extension of time to file the Initial Brief, referring to Respondent's motions as "correspondence."
2. Appellant concedes that Respondent filed its motions for extensions with the Court of Appeals, and the Court of Appeals granted Respondent's motions.
3. On May 16, 2025, the Court of Appeals issued a correspondence indicating they had received

Appellant's record on appeal, informing Appellant that it was not yet time to file the record on appeal, and advising the parties that Respondent's Initial Brief was due on June 4, 2025.

4. On June 4, 2025, Respondent moved for its first extension of time to file the Initial Brief and indicated that its motion was served on Appellant. The Court of Appeals granted Respondent's motion on June 10, 2025, extending the time to file the Initial Brief of Respondent until July 7, 2025.
5. On July 7, 2025, Respondent moved for its second extension of time to file the Initial Brief and indicated that its motion was served on Appellant. The Court of Appeals granted Respondent's motion on July 8, 2025, extending the time to file the Initial Brief of Respondent until August 6, 2025. Further, the Court of Appeals indicated that no further extensions would be granted absent extraordinary circumstances.
6. On August 6, 2025, Respondent filed its Initial Brief and Designation of Matter with the Court of Appeals and indicated that Appellant was served with both.
7. Appellant contends the clerk of court had no authority to grant or deny Respondent's motion of extension of time pursuant to Rule 240, SCACR, as Respondent did not file a motion but a correspondence with the Court.
8. First, contrary to Appellant's contention, Respondent's motions for extension were properly formed for this Court's consideration pursuant to Chief Justice (Ret.) Jean Hoefler Toal's Order. See In Re; Extensions in Criminal and Post-Conviction Relief Cases, (S.C. Sup. Ct. order dated March 18, 2009) (Davis Adv. Sh. No. 13 at 1) (Establishing a uniform policy to processing extension requests by counsel in criminal direct appeals and post-conviction relief certiorari proceedings).¹ In each motion, Respondent plainly requested this Court to grant its

¹ The Order is attached to this Return for the Court's review.

requests for extension, citing undersigned counsel's heavy caseload as the basis of the requests. Respondent's motions were in compliance with Chief Justice (Ret.) Toal's Order, and this Court properly considered and granted Respondent's motions.

9. Moreover, Appellant failed to provide what the basis of his objection to Respondent's motions for extension of time would have been, and how he was prejudiced by the Court of Appeals' grant of Respondent's motions.
10. Additionally, Appellant moved the Court to strike "unfavorable parts of [R]espondent's Initial Brief and sanctions imposed and request a extension of time of (90) days to the respondent's failure to serve [A]ppellant with a copy of its Initial Brief and Designation of matter to be included in the Record on Appeal, to file a Reply Brief Startin when ever it's served on appellant" because he was not properly served with Respondent's brief. (App. Motion p. 11).
11. Appellant claims that SCDC mailroom personnel did not allow him to take possession of the mailbox containing Respondent's Initial Brief and Designation of Matter based on their determination that the mailbox contained crime scene photos. Appellant claims that the SCDC mailroom personnel informed him that, based on this determination, they were sending the documents to "Headquarter in Columbia" for review of the legal documents. (App. Motion p. 10).
12. On September 17, 2025, Respondent received a document from Appellant indicating that an incoming correspondence from the South Carolina Attorney General's Office was withheld from Appellant as it contained crime scene photos.² Respondent contacted SCDC to ascertain whether Respondent's filings were withheld and reviewed, and about the status of the

² Attached to this Return is the referenced correspondence Respondent received from Appellant, including a form completed by SCDC that on August 13, 2025, incoming correspondence from Respondent was withheld from Appellant, and the questionable material was sent for review by the Correspondence Review Committee pursuant to SCDC policy PS-10.08. The form indicated that the institution requested the review be expedited.

materials. SCDC advised Respondent that the materials had been withheld, but after a review, the Committee determined the materials were appropriate, and the materials were provided to Appellant. SCDC provided Respondent with a copy of the mail log establishing the materials were delivered to Appellant on September 3, 2025.³ Based on this, Respondent submits Appellant's contention that he did not receive and is not in possession of Respondent's Initial Brief and Designation of Matter is moot.

13. Additionally, Respondent contends that the Initial Brief and Designation of Matter were timely filed and served on Appellant, as evidenced by the Proof of Service filed with Respondent's Initial Brief and Designation of Matter indicating a copy was mailed to Appellant on the same day, August 6, 2025.⁴ Respondent does not control the SCDC mailroom, and any delays in the receipt of the materials due to SCDC processing and policy cannot be attributed to Respondent.

[CONCLUSION AND SIGNATURE ON FOLLOWING PAGE]

³ Attached is a copy of the referenced mail log provided by SCDC to Respondent.

⁴ Attached to this Return is the copy of Respondent's filed Proof of Service.


WHEREFORE, Respondent submits its motions for extensions were in compliance with the rules, and they were timely filed and served on Appellant. Furthermore, Respondent's Initial Brief and Designation of Matter were also timely filed and served on Appellant. The delay in receiving the materials was not due to any impropriety of Respondent, and Appellant's claim that he has not received the materials is now moot based on SCDC's representation that the materials were reviewed and ultimately provided to Appellant. Therefore, Appellant's motion should be denied.

Respectfully submitted,

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