

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
G. Thomas Cooper, Circuit Court Judge

Appellate Case No. 2013-213666

THE STATE,

Respondent,

v.

GREGORY SMITH,

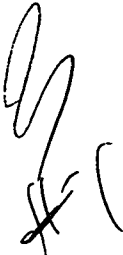
Appellant

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SC Court of Appeals

RETURN TO MOTION TO PLACE CASE IN ABEYANCE

 The Respondent, State of South Carolina, hereby makes a Return to the Motion to be Place Case in Abeyance. The Appellant request that the matter be held in abeyance for a period of time to allow Appellant to have a copy of a SLED investigative report which was in the possession of the trial judge G. Thomas Cooper.

Upon information and belief, Judge Cooper's chambers allowed opposing counsel to review, but not copy the report.

On Friday, November 1, 2013, below-signed counsel received the report and at the time of the filing is awaiting the approval of Judge Cooper's chambers to copy the report for both counsel. The report concerns a request of the State Law Enforcement Division through the Fifth Circuit Solicitor's Office from Judge Cooper to investigate allegations of official misconduct

involving the collection of possible attorney client privileged paperwork from the jail cell of Gregory Smith at or before the trial. The materials are approximately 2 and ½ inches thick. In light of that assertion concerning the underlying attorney/client privilege paperwork issue, below-signed counsel has not reviewed the particular document awaiting the opposing counsel and the court's approval other than read the first page of the report. Counsel anticipated from Judge Cooper's chambers that prior to the close of business this date information concerning copying would be advised.

WHEREFORE, Respondent has made Return to the Motion.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
S.C. Bar #5758

ATTORNEYS FOR RESPONDENT

By:


Donald J. Zelenka

P.O. Box 11549
Columbia, SC 29211

August 8, 2013

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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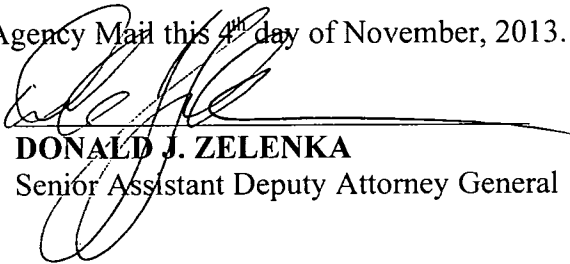
Appellant

CERTIFICATE OF SERVICE

I, Donald J. Zelenka, hereby certify that I have served Respondent's **Return to Motion**
to Hold in Abeyance on:

Benjamin J. Tripp, Esquire
Appellate Defender
PO Box 11589
Columbia, South Carolina 29211

by depositing a copies in the South Carolina Inter-Agency Mail this 4th day of November, 2013.


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

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SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

November 4, 2013

Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: The State v. Gregory Smith
Appellate Case No. 2013-213666

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of a **Return to Motion to Place Case in Abeyance** in the above-referenced case for filing. By copy of this letter, I am serving opposing counsel with same.

Thank you for your consideration.

Sincerely,

Donald J. Zelenka
Senior Assistant Deputy Attorney General

DJZ/lbb
Enclosure

cc: Benjamin J. Tripp, Esquire

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