

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Dillon County
The Honorable Steven H. John, Circuit Court Judge
Appellate Case No. 2012-212640

THE STATE,

Respondent,

v.

ROBERT LEE NELSON,

Appellant.

MOTION TO HOLD APPEAL IN ABEYANCE

Respondent State of South Carolina hereby moves to hold the deadlines in the above captioned matter in abeyance. The basis for Respondent's Motion is set forth below.

The jury at Appellant's trial convicted him of two counts of armed robbery, burglary in the first degree, and possession of a weapon during a crime of violence. The jury was unable to reach a unanimous verdict on two murder charges arising out of the same incident, however, and the circuit court declared a mistrial as to those charges. The re-trial on the murder charges is currently scheduled to begin on November 25, 2013.

Respondent was informed by the Fourth Circuit Solicitor's Office that Appellant has agreed to enter a guilty plea to the two murder charges, and Appellant will withdraw this pending appeal as part of the plea agreement,. The Solicitor's Office will provide Respondent with a copy of any written plea agreement, which the undersigned will forward to the Court upon receipt.


Respondent's Initial Brief and Designation are currently due today, November 13, 2013, after two extensions. In light of the pending guilty plea, Respondent requests that the appellate deadlines be held in abeyance until the guilty plea moves forward, which will result in withdrawal of the appeal. In the event the guilty plea does not move forward, Respondent will inform the Court immediately and Respondent's Initial Brief and Designation will be due thirty days thereafter.

The undersigned certifies she informed opposing counsel of this motion.

Respectfully Submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

BY: 
DEBORAH R.J. SHUPE

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

November 13, 2013

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ROBERT LEE NELSON,

Appellant.

PROOF OF SERVICE

I, Sally B. Ellison, certify I served Respondent's Motion to Hold Appeal Deadlines in Abeyance on Appellant by depositing a copy in the United States mail, postage prepaid, addressed to:

Susan B. Hackett
Assistant Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

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

This 13th day of November, 2013.


SALLY B. ELLISON
Legal Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

November 13, 2013

Susan B. Hackett
Assistant Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

Re: State v. Robert Lee Nelson
Appellate Case No. 2012-2122640

Dear Ms. Hackett:

Enclosed herewith and served upon you is a copy of Respondent's Motion to Hold Appeal Deadlines in Abeyance, with proof of service, in the above-referenced case.

Sincerely,

Deborah R.J. Shupe
Senior Assistant Deputy Attorney General

DRJS/sbe

Enclosures

cc: ✓ The Honorable Jenny Abbott Kitchings (original and 1 copy enclosed)
Victim Services (with enclosure)

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SC Court of Appeals