

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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MAY 16 2014

APPEAL FROM MCCORMICK COUNTY  
Court of Common Pleas

SC Court of Appeals

Judge Frank Addy, Jr., Circuit Court Judge

72217

Case No. 2013-002236

Samuel L. McPherson, as Presiding Elder of the Abbeville-Greenwood District of the African  
Methodist Episcopal (A.M.E.) Church.....Appellant-Respondent,

v.

Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison,  
.....Respondents- Appellants.

**APPELLANT-RESPONDENT'S MOTION FOR AN EXTENSION OF TIME TO FILE HIS  
INITIAL BRIEF AND DESIGNATION OF MATTERS TO BE INCLUDED IN THE  
RECORD ON APPEAL**

Appellant-Respondent moves for an Extension of Time to File his Initial Brief and  
Designation of Matters to be Included in the Record on Appeal as co-counsel has been retained  
to assist counsel in the prosecution of the Appellant-Respondent's case and he is not in  
possession of the transcript of the Rule To Show Cause Hearing held on June 29, 2011.  
Specifically, the grounds for this motion are as follows:

1. Additional time is required to allow co-counsel to digest the record and  
meaningfully assist in the appeal.

2. That neither party would be prejudiced by a grant of the Motion for an Extension of Time to File.

3. The constitutional implications regarding the relationship between church and state in this state require that the motion be granted.

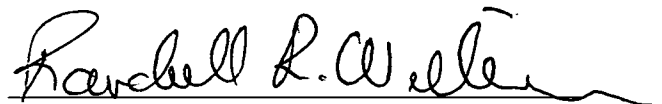
4. Appellant-Respondent has made a good faith effort to comply with the Appellate Court Rules of Procedure and there has not been flagrant violation of the Rules of Appellate Procedure.

5. Appellant-Respondent timely requested the transcripts for two (2) of the hearings but a request was not made as to a third hearing involving a Rule To Show Cause.

For these reasons, Appellant-Respondent moves for an order of this court granting the time to file an Initial Brief and Designation Of Matters To Be Included In The Record On Appeal.

This motion is based on the applicable rules, case law, and memorandum of law as well as affidavits.

I SO MOVE:



Randall R. Williams  
P.O. Box 3461  
Greenwood, SC 29648  
(864) 227-9156  
Attorney for Appellant-Respondent

Greenwood, South Carolina,  
May 13, 2014

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM MCCORMICK COUNTY  
Court of Common Pleas

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v.

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..... Respondents- Appellants.

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**APPELLANT-RESPONDENT’S MEMORANDUM IN SUPPORT OF A MOTION FOR AN  
EXTENSION OF TIME TO FILE AN INITIAL BRIEF AND DESIGNATION OF MATTER  
TO BE INCLUDED ON THE RECORD OF APPEAL.**

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Appellant-Respondent, Samuel L. McPherson has filed a Motion For An  
Extension Of Time To File An Initial Brief and Designation of Matter To Be Included In  
the Record of Appeal. The Appellant-Respondent respectfully requests that this court  
issue an Order extending the time to file an Initial Brief and Designation of Matters To  
Be Included in the Record of Appeal due to the addition of co-counsel and Appellant-  
Respondent’s failure to obtain the transcript of the Rule To Show Cause hearing. The

importance of this matter and the lack of prejudice to either party is sufficient justification to grant this motion. Appellant-Respondent would assert that he has made a good faith effort to comply with the Appellate court rules and there has not been a flagrant violation of the rules of appellate procedure.

The motion for an extension of time should be granted due to the appearance of co-counsel in this matter. In *United States of America v. Villar* 645 F.3d 543, (2011) counsel moved the court to grant an extension of time on behalf of his client as he was not involved in the lower court proceedings. The court granted the motion for an extension of time to allow his new appellate counsel to fully digest the record and prepare a vigorous defense. The court went on to say that an extension of six (6) months would not prejudice either party. *Id* at 544. Surely with new counsel, additional time is required so that the attorneys can consult and develop a vigorous prosecution of Appellant-Respondent's case. Neither party would be prejudiced by the grant of the motion.

The importance of this matter requires this court to grant an extension of time to file an Initial Brief and Designation of Matters To Be Included In The Record On Appeal. In *Knickerbockers Printing Corporation v. United States of America* 75 S. Ct. 212, 213 (1954) the court granted a Motion for an Extension of Time to File an Initial Brief and Designation Of Matters To Be Included in the Record On Appeal wherein the moving party failed to timely file an Initial Brief due to an overload of cases. The Supreme Court granted the Motion For An Extension Of Time To File An Initial Brief and Designation Of Matters To Be Included In The Record On Appeal due to the public importance of the issue presented. This is a matter that involves first amendment constitutional concerns

whose resolution will define the relationship between church and state in this state for decades to come.

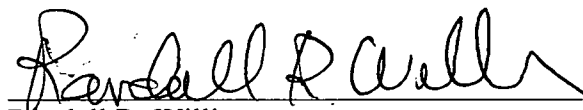
The Supreme Court of South Carolina has even granted extensions of time to file an Initial Brief and Designation Of Matters To Be Included In The Record On Appeal in situations where a party has submitted a defective Initial Brief under Rule 207 and Designation of Matter To Be Included In The Record On Appeal under Rule 208. In *Henning v. Kaye* 307 S.C. 436, 415 SE2d 794 (S.C. 1992) the Initial Brief and Designation of Matters To Be Included In the Record On Appeal were found to be defective by the Supreme Court. The Court without explanation refused to dismiss the appeal but instead allowed Appellant to serve and file an Initial Brief and Designation of Matters To Be included on the Record For Appeal. Id at 437, 794.

Also, appellate courts have granted extensions of time to file an Initial Brief and Designation of Matters To Be Included On The Record On Appeal in circumstances where the party has made a good faith effort to substantially comply with the appellate rules, Id at 99. Certainly, Appellant-Respondent has made a good faith effort to substantially comply with the Rules of Appellate procedure. Appellant-Respondent filed an Initial Brief and Designation of Matters To Be Included on the Record On Appeal on April 22, 2014.

The Appellant-Respondent has not committed a flagrant violation of the South Carolina Appellate Court Rules of Procedure. The appellate courts in some instances have refused to grant extensions when faced with flagrant violations of appellate rules. *Haimbaugh Landscaping Inc. v. Jergen* 653 N.E. 2d 95,99 (Ind. App. 1995) There

were 3 hearing in the circuit court. Appellant-Respondent timely requested the transcripts for two of the hearings but a request was not made as to a third hearing involving a Rule To Show Cause Hearing held on June 9, 2011. The two requested transcripts were not timely produced by the court reporter and Appellant-Respondent as per the rules advised the Court of Appeals that he had not received the transcripts as requested. Counsel mistakenly believed that he was in possession of and read the transcript of the Rule to Show Cause hearing. This court allowed Appellant-Respondent to file his Initial Brief and Designation of Matter To Be Included On The Record Of Appeal on April 22, 2014. Appellant-Respondent is not in possession of the transcript of the Rule To Show Cause Hearing.

The Appellant-Respondent's motion for an extension of time should be granted to allow his attorneys to consult and develop a common plan of action. Further, the extension is needed to allow the Appellant-Respondent to obtain the transcript of the Rule To Show Cause Hearing on June 9, 2011. Not only will the parties not be prejudiced by this courts grant of the motion for an extension of time, but the importance of this matter along with Appellant-Respondent lack of a flagrant violation of the rules is sufficient reason to grant the motion.



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(864) 227-9156  
Attorney for Appellant-Respondent

Greenwood, South Carolina,  
May 13, 2014

**RANDALL ROSEL WILLIAMS**  
ATTORNEY AT LAW



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(864) 943-1898-Fax

[randall.williams@randallwilliamsllaw.com](mailto:randall.williams@randallwilliamsllaw.com)

**COPY** October 17, 2013

Jo Rice  
P.O. Box 561  
Abbeville, SC 29620

RE: Samuel L. McPherson, as Presiding Elder of the Abbeville-Greenwood District of the African Methodist Episcopal (A.M.E.) Church, Appellant, v. Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison, Respondents,  
Case No. 2011-CP-35-00034

Dear Ms. Rice:

On May 22, 2013, the above case was tried before the Honorable Frank Addy, Jr., Circuit Court Judge, in McCormick County. My records indicate that you were the court reporter for this case.

I request, that you provide me with a transcript of the proceedings. Please transcribe the entire record [except for the following parts:

- (1) Selection and swearing of the jury;
- (2) Opening statements of counsel for appellant and respondent;
- (3) Closing arguments of counsel for appellant and respondent].

I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall R. Williams", written over a horizontal line.

Randall R. Williams  
Post Office Box 3461  
Greenwood, South Carolina 29648  
(864) 227-9156  
Attorney for Appellant

cc: Marvin Watson, Esq.  
Desiree Allen, S.C. Court Administration  
The Honorable Jenny Kitchings, Clerk, Court of Appeals

**RANDALL ROSEL WILLIAMS**  
ATTORNEY AT LAW



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[randall.williams@randallwilliamslaw.com](mailto:randall.williams@randallwilliamslaw.com)

COPY

October 17, 2013

Maryann S. Nevers  
6609 Satchelford Road  
Columbia, SC 29206

RE: Samuel L. McPherson, as Presiding Elder of the Abbeville-Greenwood District of the African Methodist Episcopal (A.M.E.) Church, Appellant, v. Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison, Respondents,  
Case No. 2011-CP-35-00034

Dear Ms. Nevers:

On September 5, 2013, the above case was tried before the Honorable Frank Addy, Jr., Circuit Court Judge, in Greenwood County. My records indicate that you were the court reporter for this case.

I request, that you provide me with a transcript of the proceedings. Please transcribe the entire record [except for the following parts:

- (1) Selection and swearing of the jury;
- (2) Opening statements of counsel for appellant and respondent;
- (3) Closing arguments of counsel for appellant and respondent].

I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall R. Williams", written over a horizontal line.

Randall R. Williams  
Post Office Box 3461  
Greenwood, South Carolina 29648  
(864) 227-9156  
Attorney for Appellant

cc: Marvin Watson, Esq.  
Desiree Allen, S.C. Court Administration  
The Honorable Jenny Kitchings, Clerk, Court of Appeals

PAGE 9

# The South Carolina Court of Appeals

Samuel L. McPherson, as Presiding Elder of the  
Abbeville-Greenwood District of the African Methodist  
Episcopal (A.M.E.) Church, Appellant-Respondent,

v.

Henry Banks, Mary Robinson, Delois Phillips, Naomi  
Mattison, and Frank Mattison, Respondents-Appellants.

Appellate Case No. 2013-002236

## ORDER

This corrects the Order dated February 28, 2014. The time for serving and filing the initial brief and designation of matter of the appellant-respondent is hereby extended until April 22, 2014.

FOR THE COURT

BY

*V. Clavin Allen, Deputy*  
CLERK

Columbia, South Carolina

**FILED**

3-10-14 AS

cc:

Randall Rosel Williams, Esquire  
Marvin R. Watson, Esquire

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APPEAL FROM MCCORMICK COUNTY  
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Frank R. Addy, Jr., Circuit Court Judge

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African Methodist Episcopal (A.M.E.) Church.....Appellant-Respondent,

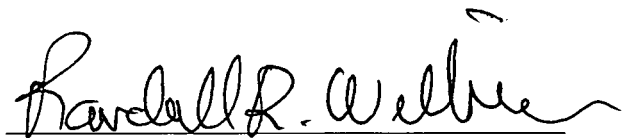
v.

Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison  
.....Respondents-Appellants.

**CERTIFICATE OF SERVICE**

I certify that I have served the Appellant-Respondent's Motion for Extension to file his Initial Brief and Designation of Matters to be included in the Record on Appeal, Appellant-Respondent's Memorandum in support for an Extension of Time to File Initial Brief and Designation of Matters to be included in the Record on Appeal, Correspondence, Affidavit of Rev. Samuel L. McPherson and Certificate of Service on Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison by Hand Delivery and U.S. Postal Service on May 13, 2014 addressed to their attorney of record, Marvin Watson at 333 Main Street, P.O. Box 799, Greenwood, South Carolina, 29648.

May 13, 2014

  
Randall R. Williams  
Post Office Box 3461  
Greenwood, South Carolina 29648  
(864) 227-9156  
Attorney for Appellant-Respondent

**RANDALL ROSEL WILLIAMS**  
ATTORNEY AT LAW



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May 13, 2014

The Honorable Jenny Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Samuel L. McPherson, as Presiding Elder of the Abbeville-Greenwood District of the African Methodist Episcopal (A.M.E.) Church, Appellant-Respondent, v. Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison, Respondents-Appellants. Case No: 2013-002236

Dear Ms. Kitchings:

Please find enclosed an original and six copies of **Appellant-Respondent's Motion for an Extension of Time to File His Initial Brief, Designation of Matter to Be Included in the Record on Appeal, Appellant-Respondent's Memorandum in Support of Motion, Correspondence, Affidavit of Elder Samuel L. McPherson and Certification of Service** regarding the above referenced matter. Also, enclosed is a \$25 cashier check for the filing fee.

I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "Randall R. Williams".

Randall R. Williams, Esquire  
RRW/mre

cc: Marvin Watson, Esquire (*Mailed and Hand Delivery*)

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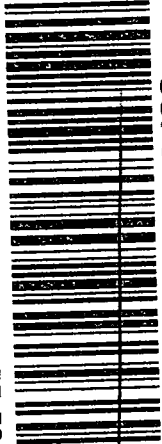
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**SC Court of Appeals**

Randall R. Williams, Esq.  
P.O. Box 3461  
110 Riley Avenue  
Greenwood, SC 29648



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The Honorable Jenny Kitchings  
Clerk, South Carolina Court of Appeals  
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**SC Court of Appeals**



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