

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Honorable James R. Barber, III, Circuit Court Judge
Appellate Case No. 2014-000254

DECEMBER
AUG 11 2014
SC COURT OF APPEALS

THE STATE,

Respondent,

vs.

TAMMY SMATHERS,

Appellant.

**MOTION TO FILE SECOND EXTENSION OUT OF TIME AND
HOLD THE TIME PERIOD FOR FILING
INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER
IN ABEYANCE**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter were due to be served and filed on July 28, 2014. However, due to a calendaring error, counsel for the State mistakenly failed to file a request for second extension on that date.

II.

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 242(f), SCACR, and permit the State to file a motion for a second extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter out of time. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). The undersigned counsel apologizes for any inconvenience this request has caused to the Court and to the appellant and does not believe this request will result in any prejudice to the appellant should it be granted.

III.

On June 3, 2012, the State also submitted a request to Lisa Davenport for the February 8, 2013 guilty plea transcript. We have been in contact with Ms. Davenport and Court Administration. The transcript is needed to complete the Initial Brief of Respondent and Designation of Matter.

IV.

Because the State has not yet obtained a copy of the February 8, 2013, guilty plea transcript, which is necessary for completion of the Initial Brief of Respondent and Designation of Matter, the State is currently unable to complete the Initial Brief of Respondent and Designation of Matter at this time. Accordingly, the State asks this Court to hold the matter in abeyance pending the State’s receipt of the requested transcript and asks this Court to allow the State thirty days (30) to complete the Initial Brief of Respondent and Designation of Matter after



ALAN WILSON
ATTORNEY GENERAL

RECEIVED
AUG 19 2014
SC COURT OF APPEALS

August 18, 2014

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

RE: State v. Tammy Smathers – Appellate Case No. 2014-000254

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to File Second Extension Out of Time and Hold Time Period for Filing Initial Brief of Respondent and Designation of Matter in Abeyance, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mary S. Williams
Assistant Attorney General
Bar # 76192

MSW/erd

Enclosures

cc: James E. Whittle, Jr., Esquire
Victim Services