

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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COURT of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, *Administrative Law Judge*

Lower Case No. 14-ALJ-04-0174-AP

Appellate Case No. 2014-002417

Van Starling, # 226109,.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

**RESPONDENT'S MOTION TO FILE INITIAL BRIEF AND
DESIGNATION OF MATTER OUT OF TIME**

COMES NOW, Respondent, South Carolina Department of Corrections (Department), and requests that this Honorable Court grant Respondent leave to file its Initial Brief and Designation of Matter out of time. In support of this request, Respondent would show unto this Honorable Court the following:

1. This matter comes before the Court by way of Appellant's appeal of the ALC's decision affirming Respondent's decision to uphold Appellant's July 26, 2013 disciplinary conviction.
2. On December 10, 2014, Appellant filed his initial brief and designation of matter.
3. However, Respondent took note of the Court's deficiency letter dated December 11, 2014, which stated that Appellant had failed to include a certificate of service for his

designation of matter. Respondent flagged Appellant's file and put a note that Appellant had an uncured deficiency. As a result of the deficiency, Respondent was under the impression that its initial brief and designation of matter were not due until 30 days after any deficiency was cured. As of today's date, that deficiency has not yet been cured.¹

4. Respondent's Initial Brief and Designation of Matter have been submitted contemporaneously with this motion, and it is Respondent's contention that Appellant has not been prejudiced by the delay in submitting the Respondent's Initial Brief and Designation of Matter.

WHEREFORE, Respondent respectfully requests to file and serve its Initial Brief and Designation of Matter out of time in this matter.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

Daniel J. Crooks III
Staff Attorney
Office of General Counsel
South Carolina Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-1355 [direct]

Counsel for Respondent

Signed at Columbia, South Carolina

on this 2nd day of February, 2015

¹ Counsel for Respondent called the Clerk's Office on February 2, 2015 and obtained clarification on this issue.

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SC Court of Appeals

Van Starling, # 226109,.....Appellant,

v.

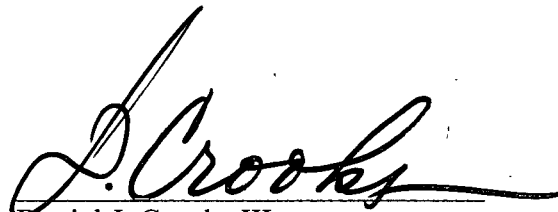
South Carolina Department of Corrections.....Respondent.

CERTIFICATE OF SERVICE

I, Daniel J. Crooks III, counsel for Respondent, hereby certify that on today's date I mailed a copy of the foregoing **RESPONDENT'S MOTION TO FILE INITIAL BRIEF AND DESIGNATION OF MATTER OUT OF TIME** to Appellant, addressed as follows:

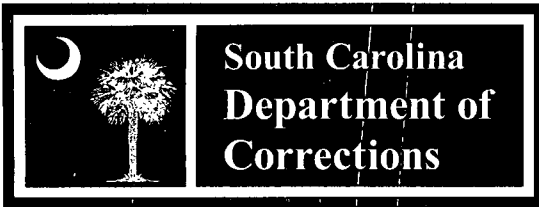
Van Starling, #226109
Perry Correctional Institution
430 Oaklawn Road
Pelzer, S.C. 29669

February 2, 2015



Daniel J. Crooks III
Staff Attorney
Office of General Counsel
South Carolina Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-1355 [direct]

Counsel for Respondent



South Carolina
Department of
Corrections

NIKKI R. HALEY, Governor
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

February 2, 2015

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

Reference: App. Case No.: 2014-0024 17

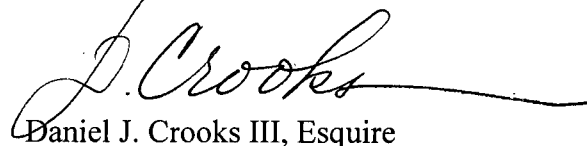
Dear Madam Clerk:

Enclosed herein, please find:

- (1) The original and one (1) copy of *Respondent's Motion to File Initial Brief and Designation of Matter Out of Time*. Kindly file the original and return the copy to me in the enclosed self-addressed, stamped envelope.
- (2) The original and one (1) copy of *Initial Brief of Respondent*. Kindly file the original and return the copy to me in the enclosed self-addressed, stamped envelope.
- (3) The original and one (1) copy of *Respondent's Designation of Matter to be Included in the Record on Appeal*. Kindly file the original and return the copy to me in the enclosed self-addressed, stamped envelope.

If you would, please mail all of the return copies in the same enclosed manila envelope.

Sincerely,



Daniel J. Crooks III, Esquire

Enclosures

cc: Van Starling, #226109
Perry Correctional Institution
430 Oaklawn Road
Pelzer, S.C. 29669

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