

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
Appeal from Charleston County  
Kristi Lea Harrington, Circuit Court Judge

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**RECEIVED**

JUN 10 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

RYAN P. DELESTON,

APPELLANT

APPELLATE CASE NO. 2013-002224

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**RESPONDENT'S MOTION TO ALLOW FILING OF THE INITIAL BRIEF OF  
RESPONDENT AND DESIGNATION OF MATTER AS IS**

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The Respondent, above-named, hereby make a motion to allow filing of the Initial Brief of Respondent and Designation of Matter. The brief was due to be filed on June 5, 2015. On Tuesday June 9, 2015, the Respondent's Initial Brief of Appellant and Designation of Matter was served upon Appellant by mail and the original and copies sent to this Court.

On Friday June 5, 2015, below-signed counsel - after business hours - became aware of a need to review additional materials from the trial record specifically related to the Appellant's statements made on July 30, 2012 (State Exhibit 29 and State Exhibit 30) along with a consultation with the Solicitor's office. The matter concerned the contents of over 4 hours of interviews with the Appellant and the portions introduced but not transcribed by the court

reporter and commented. These matters directly related to the initial issue raised in the brief concerning the exclusion of evidence. Upon receipt and review of additional information and consultation with the Ninth Circuit Solicitor's Office on Monday and Tuesday, the Initial Brief of Respondent and Designation of Matter was placed in the U.S. mail on Tuesday June 9, 2015.

Since the need to consult and review additional materials occurred after business hours on Friday June 5, 2015, below-signed counsel was of the opinion that the better course would be to file a motion to allow filing out of time when the brief was mailed rather than requesting another weeks extension at that time, since counsel anticipate the brief would be completed before the Court would have been able to act upon the motion to extend. A copy of the Initial Brief of Respondent is attached to the original motion.

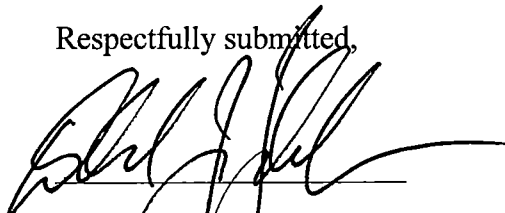
II.

Counsel is advising opposing counsel of this request by copy of this motion.

III.

Wherefore Respondents respectfully requests this Court to allow the filing of Respondent's brief as is as mailed on June 9, 2015.

Respectfully submitted,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General  
S.C. Bar # 5758  
Attorney for Respondent

June 10, 2015

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**CERTIFICATE OF SERVICE**

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The undersigned attorney hereby certifies that a true copy of the Motion to allow filing of the State's Initial Brief of Respondent and Designation of Matter As Is in the above referenced case has been served upon counsel for Appellant by depositing one copy of same in the United States Mail, postage prepaid, to each attorney, addressed as follows:

Lara M. Caudy  
Appellate Defender  
SCCID/Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211

This 10<sup>th</sup> day of June, 2015



Donald J. Zelenka  
Senior Assistant Deputy Attorney General  
Attorney for Respondent



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SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

June 10, 2015

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

Re: The State v. Ryan P. Deleston  
Appellate Case No. 2013-002224

Dear Ms. Kitchings:

Enclosed please find the Respondent's Motion to Allow filing of Initial Brief of Respondent and Designation of Matter As Is in the above-captioned matter for filing in your office. By copy of this letter, I am serving opposing counsel with same.

Sincerely,

Lonetta B. Brawley  
Legal Assistant to Donald J. Zelenka  
Senior Assistant Deputy Attorney General

/lbb  
Enclosure

cc: Lara M. Caudy, Esquire