

SUPREME COURT OF SOUTH CAROLINA

APPEAL FROM BEAUFORT COUNTY
In The Court of Common Pleas

Honorable G. Edgar Dickson
Common Pleas Judge
Fourteenth Judicial Circuit

Appellate Case No. 2015-001281

Kevin D. Brown

Petitioner,

v.

State of South Carolina,

Respondent.

Petition to File Amend Notice of Appeal Out of Time

On June 22, 2015, the Court requested counsel cure deficiencies in Petitioner's Notice of Appeal Explanation within 10 days. Counsel respectfully requests that the Court allow him to file the amended Notice of Appeal out of time. To support this Petition Counsel will show the following:

1. From a review of Counsel's file, it appears counsel received the Order of Dismissal on May 29, 2015.
2. Petitioner filed a *pro se* Notice of Appeal on June 15, 2015.
3. Counsel' office received the *pro se* Notice of Appeal in a letter from the Court on June 26, 2015.
4. Counsel has spoken to the Attorney for the State who indicates that the *pro se* notice

of Appeal on June 15, 2015. *See Exhibit A.*

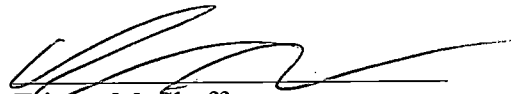
5. Counsel was out of the office on June 26, 2015. When Counsel returned on June 28, 2015, Counsel unintentionally overlooked the deficiency letter portion of the letter.
6. Counsel was reminded of this obligation on September 4, 2015.
7. Counsel sincerely apologizes to the Clerk's Office and the Court for this delay.
8. Counsel asks that this Court not prejudice Petitioner due to his mistake.
9. Counsel has consulted with Counsel for the State who does not oppose this request.

See Exhibit A.

10. Counsel is making this request in good faith and not for the purposes of delay.

Based on the foregoing, Counsel would respectfully request to be allowed to file the Amended Notice of Appeal out of time.

Respectfully Submitted,



Tristan M. Shaffer
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Myrtle Beach, SC 29577
(843) 916-9300
Tristan@gotaxelrod.com
Attorney for Petitioner

September 11, 2015

Exhibit A

From: Rutledge Johnson <rjohnson@scag.gov>
Sent: Friday, September 11, 2015 9:56 AM
To: Tristan Shaffer
Subject: RE: Kevin Brown

I received it on June 15, 2015- I don't oppose



J. Rutledge Johnson
Assistant Deputy
Attorney General

S.C. Attorney General's Office
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211

Office: (803) 734-3737
Fax: (803) 734-4113
rjohnson@scag.gov

From: Tristan Shaffer [<mailto:Tristan@gotaxelrod.com>]
Sent: Friday, September 11, 2015 9:55 AM
To: Rutledge Johnson
Subject: RE: Kevin Brown

My plan is to file a Petition to file Amended Notice of Appeal out of Time, and a proper notice of Appeal.

In the petition to file out of time I was going to note that you received the pro se notice on whatever date you received it.

Would you oppose this request?

Tristan M. Shaffer
Axelrod & Associates, P.A.
4701 Oleander Drive
Myrtle Beach, SC 29577
Phone: (843) 916-9300

From: Rutledge Johnson [<mailto:rjohnson@scag.gov>]
Sent: Friday, September 11, 2015 9:17 AM
To: Tristan Shaffer
Subject: RE: Kevin Brown

Yes we did, but because you're his counsel, you have to file it.



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MAILED FROM ZIP CO

AXELROD
— & ASSOCIATES —
ATTORNEYS AT LAW

4701 Oleander Drive ♦ Myrtle Beach, SC 29577

KMG

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