

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Charleston County  
The Honorable Kristi L. Harrington, Circuit Court Judge  
Appellate Case No. 2010-153226

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SC Court of Appeals  
RESPONDENT,

THE STATE,

V.

JEFFREY HERRMANN,

APPELLANT.

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

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The undersigned counsel would respectfully request a ninety-three (93) day extension and permission to file the Initial Brief of Respondent in the above-referenced case out of time. In support of this motion, counsel would respectfully show the Court the following:

The Initial Brief of Respondent was due June 1, 2012, upon this Court's grant of Respondent's request for a fourth extension filed on May 25, 2012.

The undersigned attorney for the Respondent placed the original Initial Brief of Respondent, which was dated June 4, 2012, in the mail to this Court on June 3, 2012. Counsel also included a Motion to File Initial Brief of Respondent Out of Time. Counsel mailed copies of both the motions and the Initial Brief to opposing counsel at the same time.

Counsel for Respondent was advised by the Court of Appeals that they never received the Initial Brief of Respondent that were mailed on June 3, 2012.

In light of the fact that this Court has not received the copy of the Initial Brief of Respondent that was mailed on June 3, 2012, counsel for Respondent is re-serving the Initial Brief of Respondent upon this Court and counsel for Appellant today. Since this service would be outside the deadline set forth by this Court in its Order filed on May 25, 2012, counsel for Respondent respectfully requests permission to file the enclosed Initial Brief out of time. Counsel for Respondent would further request that if this Court grants Respondent's motion, any subsequent deadline based upon the filing and service of Respondent's Initial Brief be based upon this date of service.

This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests permission to serve and file the Initial Brief of Respondent and Designation of Matter out of time.

Respectfully submitted,

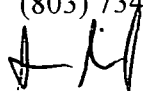
ALAN WILSON  
Attorney General

JOHN W. MCINTOSH  
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BY:



ALPHONSO SIMON, JR.  
Bar No. 74713  
ATTORNEYS FOR RESPONDENT

September 5, 2012.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Charleston County  
The Honorable Kristi L. Harrington, Circuit Court Judge  
Appellate Case No. 2010-153226

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THE STATE,

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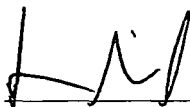
PROOF OF SERVICE

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I, Alphonso Simon, Jr., of Counsel for the Respondent, certify that I have served the within Motion to File Initial Brief of Respondent and Designation of Matter Out of Time and the Initial Brief of Respondent via United States Mail, first class, postage prepaid to his attorney of record, Katherine Hudgins, Esq., SCCID, Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, SC 29201.

I further certify that all parties required by Rule to be served have been served.

This 5<sup>th</sup> day of September, 2012.



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