

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Lancaster County
The Honorable R. Knox McMahon, Circuit Court Judge

General Sessions Case No. 2013-GS-29-00758; 00760-00759
Appellate Case No. 2014-000166

RECEIVED

NOV 13 2015

THE STATE,

SC Court of Appeals

Respondent,

vs.

DAVID STALK,

Appellant.

**MOTION FOR LEAVE TO FILE INITIAL BRIEF OF
RESPONDENT OUT OF TIME**

Comes now Respondent, above named, by and through the Office of the South Carolina Attorney General, and hereby moves for permission to file its Initial Brief of Respondent out of time. On July 27, 2015, counsel for the Respondent, mailed via the United States Postal Service the Initial Brief of Respondent to the Honorable Jenny Abbott Kitchings, Clerk, South Carolina Court of Appeals. Counsel served two copies of the Initial Brief of Respondent to Appellant's counsel, Raia Jane Hirsch, Esq. and to Robert M. Dudek, Esq. via the United States Postal Service on July 27, 2015.

On September 1, 2015, and again on September 23, 2015, copies of the Initial Brief of Respondent were emailed to the Court of Appeals upon learning that the Court

did not receive the Initial Brief of Respondent. On November 12, 2015, undersigned counsel learned that the Initial Brief of Respondent that was mailed had neither been received nor filed by this Court. Thus, by this motion, Respondent requests this Court to issue an Order allowing it to file the Initial Brief of Respondent out of time.

WHEREFORE, premises considered, Respondent respectfully requests this Court accept the Initial Brief of Respondent dated July 27, 2015 out of time. Respondent further requests any other relief this Court deems appropriate.

Respectfully Submitted,

ALAN WILSON
Attorney General

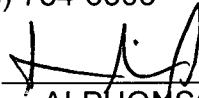
JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR.
Assistant Attorney General
Bar No. 74713

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By:



ALPHONSO SIMON, JR.

ATTORNEYS FOR RESPONDENT

November 13, 2015.

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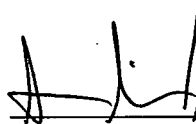
Appellant.

PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Respondent, certify that I have served two (2) copies of the within Motion for Leave to File Initial Brief of Respondent Out of Time vis U.S. mail to his attorneys of record, Raia Jane Hirsch, Esq., 1720 Main Street, Ste. #301, Columbia, SC 29201, and to Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, South Carolina 29201.

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

This 13th day of November, 2015.



ALPHONSO SIMON, JR.
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

November 13, 2015

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SC Court of Appeals

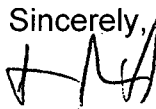
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. David Stalk
Appeal from Lancaster County
Appellate Case No. 2014-000166

Dear Ms. Kitchings:

Enclosed for filing in your office is an original and six (6) copies of a Motion for Leave to File Initial Brief of Respondent Out of Time, with Certificate of Service in the above-captioned matter. Also enclosed is a copy of the Initial Brief of Respondent and cover letter dated July 27, 2015.

Thank you for your assistance in this matter.

Sincerely,


Alphonso Simon, Jr.,
Assistant Attorney General

AS/dmd

Enclosures

cc: Raia Jane Hirsch, Esq. (w/two copies of encls.)
Robert M. Dudek, Esq. (w/two copies of encls.)