

RECEIVED

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

JAN 11 2016

SC Court of Appeals

Appeal from Dorchester County
Honorable D. Craig Brown, Circuit Court Judge
Appellate Case No. 2014-002337

THE STATE,

Respondent,

vs.

TYRONE DARIUS ELLISON,

Appellant.

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

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter were due to be served and filed on Friday, January 8, 2016. Due to an unintended scheduling miscalculation, the State was unable to complete the Initial Brief of Respondent and Designation of Matter in time to file and serve those documents on the day of the filing deadline. However, the State is contemporaneously serving and filing the Initial Brief of Respondent and Designation of Matter on Monday, January 11, 2016, with the filing of this motion.

II.

The State respectfully asks this Court to relax the requirements of Rule 208(a)(2), SCACR, and permit the State to file the Initial Brief of Respondent and Designation of Matter in

this case out of time on the first Monday after the Friday filing deadline. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). The undersigned counsel apologizes for any inconvenience this request has caused to the Court and to the appellant and does not believe this request will result in any prejudice to the appellant should it be granted.

WHEREFORE, Respondent prays that this Court relax the requirements of Rule 208(a)(2), SCACR; permit Respondent to file and serve the Initial Brief of Respondent and Designation of Matter out of time; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 

Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

January 11, 2016

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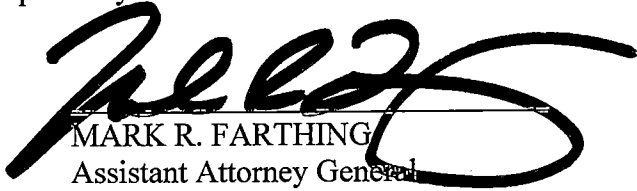
Appellant.

PROOF OF SERVICE

I, Mark R. Farthing, certify that I have served the within Motion to File Initial Brief of Respondent and Designation of Matter Out of Time on Appellant by delivering two copies of the same to:

David Alexander, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 11th day of January, 2016.


MARK R. FARTHING
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

January 11, 2016

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

RE: State v. Tyrone Darius Ellison – Appellate Case No. 2014-002337

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion to File Initial Brief of Respondent and Designation of Matter Out of Time, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General
Bar Number 76901

MRF/

cc: David Alexander, Esquire
Victim Services