

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JAN 07 2016

SC Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions
W. Jeffery Young, Circuit Court Judge

Court of Appeals Case No. 2015-000718

The State, Respondent

v.

Michael Vernon Beaty, Jr. Appellant.

**Petition to Exceed the Page Limit of Initial Brief
And File Out of Time**

Pursuant to Rule 208(b)(5), SCACR, the appellant, Michael Beaty, moves the Court for an order accepting his initial brief as filed and exceeding the 50-page limit and to file out of time. Excluding the tables of contents and authorities, Mr. Beaty's initial brief is 55 pages. The following supports this motion:

1) Mr. Beaty appeals his conviction for murder and sentence of life imprisonment, which followed a five-day jury trial.

2) Mr. Beaty's initial brief raises eight issues for this Court to review alleging error and prejudice throughout his trial, including *voir dire*, opening instructions to the jurors, opening statements, exclusion of relevant evidence, closing arguments, the sufficiency of the evidence, and the final charge on the law.

3) Mr. Beaty's appeal, accordingly, requires carefully research and drafting in order for counsel to fulfill their constitutional obligation to provide effective

representation. *Strickland v. Washington*, 466 U.S. 668, (1984); *Patrick v. State*, 349 S.C. 203, 562 S.E.2d 609 (2002).

4) Counsel for Mr. Beaty has communicated with Don Zelenka, counsel for the State, who does not oppose the request to exceed the page limit.

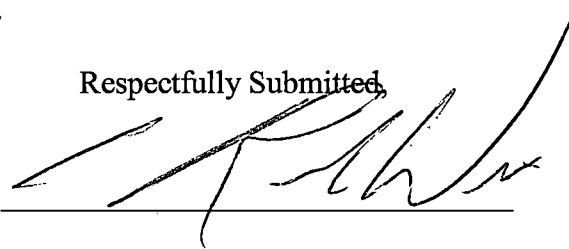
5) Counsel had petitioned to file Mr. Beaty's initial brief on January 6, 2016. Counsel, however, encountered a formatting problem that prevented mailing the brief on this date. Furthermore, because of the weight, the Post Office would have to be open to accept the package. Counsel, therefore, respectfully requests this Court accept the brief as filed out of time.

Mr. Beaty, therefore, respectfully requests an order accepting his 55 page initial brief as filed out of time and exceeding the 50-page limit.

IT IS SO MOVED.

Respectfully Submitted,

By



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January 7, 2016

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of General Sessions

W. Jeffrey Young , Circuit Judge

Appellate Case № 2015-000718

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The State, Respondent,

vs.

Michael Vernon Beaty, Jr. Appellant.

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me, Sandy Traynham who, after being duly sworn, deposes and says that she is the receptionist for C. Rauch Wise, Attorney for the Appellant in the above entitled case. That on January 7, 2016, she did deposit in the United States Mail with proper postage affixed thereto, a copy of the Initial Brief, Designation of Matter and Motion to Exceed Page Limit and to File Out of Time in the above case addressed to Donald L. Zelenka, Office of the Attorney General, P.O. Box 11549 Columbia, SC, 29211.

Sworn to and Subscribed

Sandy Traynham

before me this 7 day

Of January, 2016

Mary Jane Harter
Notary Public for South Carolina

My Commission Expires: 11/30/22

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January 7, 2016

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SC Court of Appeals

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Jenny Abbott Kitchings, Clerk
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

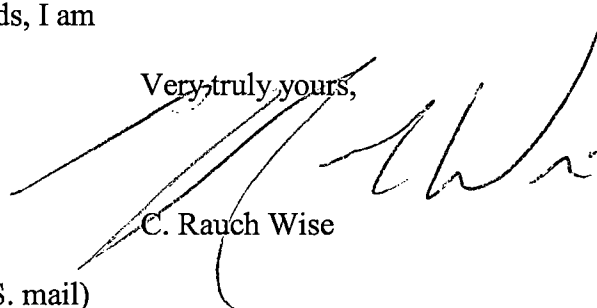
Re: State vs. Michael Vernon Beaty (2015-000718)

Dear Ms. Kitchings:

Enclosed herewith for filing is the original and six copies of the Petition for Exceed the Page Limit of Initial Brief and File Out of Time concerning the above referenced matter, together with the original Initial Brief of Appellant, Designation of Matter, and Affidavit of Service.

With kindest regards, I am

Very truly yours,



C. Rauch Wise

CRW/mjh

cc: Donald L. Zelenka (by U.S. mail)