

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Court of Appeals Case No. 2015-001436

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JUN 03 2016
SC Court of Appeals

The State of South Carolina, Appellant

v.

Edward Lee Dean, Respondent.

**Response to State's Motion to Hold Timelines in Abeyance Pending Receipt of
Transcripts or in the Alternative an Extension of Time
&
Motion for Court to Determine Proper Venue for Mr. Dean's Motion for Bond**

Response to State's Motion to Hold Timelines in Abeyance Pending Receipt of
Transcripts or in the Alternative an Extension of Time

The respondent, Edward Dean, responds to the State's motion to hold timelines in abeyance pending receipt of transcripts or in the alternative an extension of time.

The sole ground identified in the State's notice of appeal for invoking this Court's jurisdiction is a final judgment pursuant to S.C. Code § 14-3-330. An order granting a new trial, however, is not a final judgment. Nothing contained in the transcripts will change this fact. As a threshold matter, the State should be able to identify the grounds for invoking this Court's jurisdiction. The South Carolina Appellate Court Rules impose a similar requirement on defendants desiring to appeal guilty pleas.

Mr. Dean does not oppose a reasonable extension of time for the State to respond to his motion to dismiss; however, as set forth below, he would respectfully request consideration from the Court and opposing counsel regarding setting bond.

Motion for Court to Determine Proper Venue for Mr. Dean's Motion for Bond

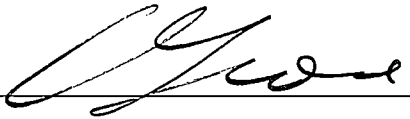
Following the order granting him a new trial, Mr. Dean requested the Circuit Court set a bond because the new trial order vacated his sentence. The Solicitor's Office objected, contending only this Court has jurisdiction to set bond because the now vacated sentence exceeded ten years, citing Rule 246(a). This rule, however, does not expressly address the situation where the State appeals an order granting a new trial. Although the rule stays "further proceedings in the lower court," meaning the Circuit Court cannot convene the new trial, the rule does not "stay[] the May 4, 2016 Order for a new trial" as the State contends in its notice of appeal.

To date, a bond hearing has not been held. Mr. Dean, therefore, respectfully requests that this Court declare that venue for setting bond is appropriate in the Circuit Court because Mr. Dean is not longer under a sentence of incarceration as a result of the new trial order. In the alternative, Mr. Dean respectfully requests this Court remand the matter to the Circuit Court for purposes of setting bond. *See e.g. Tommy Adams v. State*, Appellate Case No. 2011-200566. Mr. Dean should not be prejudiced by the State seeking appeal of an order that in all probability is not appealable.

IT IS SO MOVED.

(signature on next page)

Respectfully Submitted,

By  _____

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Appellant

June 1, 2016
Greenwood, South Carolina

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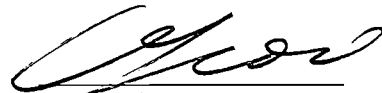
v.

Edward Lee Dean,..... Respondent.

Certificate of Service

I certify that I have served this pleading on the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on the date reflected below, addressed as follows:

David Spencer, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211



E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

June 1, 2016
Greenwood, South Carolina

The Grose Law Firm, LLC
404 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groselawfirm.com
Web: GroseLawFirm.com

June 1, 2016

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

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SC Court of Appeals

Re: *State v. Edward Lee Dean*
Appellate Case Number 2016-001004

Dear Ms. Kitchens:

Enclosed for filing, along with certificate of service, please find the original and six copies of Mr. Dean's Response to State's Motion to Hold Timelines in Abeyance Pending Receipt of Transcripts or in the Alternative an Extension of Time & Motion for Court to Determine Proper Venue for Mr. Dean's Motion for Bond.

Thank you for your attention to this matter. Please let me know if I can answer any questions or provide additional information.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: Mr. Edward Dean
David Spencer, Esquire

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Greenwood, SC 29646



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