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SC SUPREME COURT

STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

The Honorable Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2016-000666

Brian A. Diggs, ..... Petitioner,

v.

State of South Carolina, ..... Respondent.

**RETURN TO PETITIONER'S POST-CONVICTIONS RELIEF APPEAL AND MOTION  
TO REMAND**

Respondent, the State of South Carolina, respectfully requests this Court to deny Petitioner's petition for the following reasons.

A.

First and foremost, the undersigned, J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office has taken over this case until further notice as J. Croom Hunter, Esquire, is no longer employed with this office.

B.

Second, this case is not ripe for appeal as a Final Order has yet to be issued in Mr. Diggs PCR

case. Mr. Diggs is correct in that a hearing was held on May 31, 2016 in order to argue his Motion to Restrict Future Filings. Since there is no Final Order issued in this case, a 59(e), SCRCP and an appeal are premature and should not be considered by this Court as this Court does not have jurisdiction to decide this matter at this point in time. As such, this appeal should be dismissed without prejudice until this matter is fully adjudicated in the lower court. Therefore, the Respondent respectfully requests that this action be dismissed without prejudice until this matter is fully adjudicated in the circuit court.

Respectfully submitted,

ALAN WILSON  
Attorney General

J. RUTLEDGE JOHNSON  
Assistant Deputy Attorney General  
S.C. Bar # 78871

Post Office Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

By:   
ATTORNEYS FOR RESPONDENT

August 9<sup>th</sup>, 2016

STATE OF SOUTH CAROLINA  
In The Supreme Court

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Appeal from Lancaster County  
Court of Common Pleas

The Honorable Brian M. Gibbons, Circuit Court Judge

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BRIAN A. DIGGS,

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

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**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of **Return to Petitioner's Post-Conviction Relief Appeal and Motion to Remand** has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

**Brian A. Diggs, #248964  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, SC 29210**

This 9<sup>th</sup> day of August, 2016

  
ASHLEY HAWORTH  
LEGAL ASSISTANT



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SC SUPREME COURT

ALAN WILSON  
ATTORNEY GENERAL

August 9, 2016

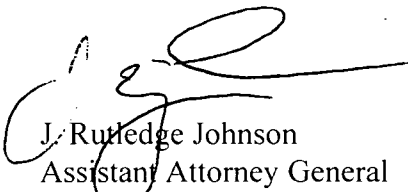
The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

**RE: Brian A. Diggs v. State of South Carolina**  
**Lower Court Case No: 2015-CP-29-1434**  
**Appellate Case No. 2016-000666**

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of the **Return to Petitioner's Post-Conviction Relief Appeal and Motion to Remand** in the above-referenced case. By copy of this letter we are serving opposing counsel today.

Sincerely,



J. Rutledge Johnson  
Assistant Attorney General  
SC Bar No. 78871

JRJ/ah  
Enclosures

cc: Brian A. Diggs, #248964