

PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

Honorable J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2015-001576

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SEP 09 2016

S.C. SUPREME COURT

The State of South Carolina,

Respondent/Petitioner,

v.

Venancio Diaz Perez,

Petitioner/Respondent.

MOTION TO ALLOW FILING
OF THE STATE'S "BRIEF OF RESPONDENT (RESPONDENT-PETITIONER)

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Pursuant to Rule 263(b), SCACR, and this Court's Order of July 16, 2014 (Re: Extensions in Cases Seeking a Petition for a Writ of Certiorari to Review a Decision of the South Carolina Court of Appeals), the State of South Carolina requests that, if the due date for its brief was miscalculated and the brief is late, this Court allow for the late filing of the State's Brief of Respondent (Respondent-Petitioner).

I.

Counsel for Petitioner-Respondent intended their "Principal Brief of Petitioner/Respondent Venancio Diaz Perez" to be served on the State by mail on August 8.

II.

The State did not receive a copy of the brief in the mail, but was served by hand delivery on August 10 with two copies of the brief and one copy of the Joint Appendix at the undersigned's office in Suite B-03 of the Wade Hampton Building, 1200 Senate Street, in Columbia.

III.

Based upon the service of Petitioner-Respondent's brief by hand on August 10, the undersigned counsel calculated that the State's "Brief of Respondent (Respondent-Petitioner)" was due today, September 9.

IV.

The undersigned counsel was contacted by the Court yesterday, September 8, because the Court had calculated the State's brief as being due on September 7.

V.

Any mistake in the calculation of the due date of the State's brief is due to confusion as to the effective service date of Petitioner-Respondent's brief on the State, and is inadvertent.

VI.

Under Rule 263, SCACR, the time for serving and filing the State's brief may be extended

by this Court or any justice thereof.

WHEREFORE, for the foregoing reasons, the State respectfully requests that, if its brief is late, this Court allow for its late service and filing; and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

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 BY: 
ATTORNEYS FOR PETITIONER

September 9, 2016

Columbia, South Carolina

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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

CERTIORARI TO THE COURT OF APPEALS
Appeal From Charleston County
Honorable J.C. Nicholson, Jr., Circuit Court Judge

Opinion No. 2015-UP-217 (SC. Ct. App. Filed May 8, 2015)

Appellate Case No. 2015-001576

THE STATE OF SOUTH CAROLINA,

Respondent/Petitioner,

vs.

VANANCIO DIAZ PEREZ,

Petitioner/Respondent.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Motion to Allow Filing of the State's Brief of Respondent (Respondent-Petitioner) on Petitioner/Respondent by depositing a copy of the same in the United States mail, postage prepaid, addressed to: Robert M. Dudek, Esquire, S.C. Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, SC 29211 and Jason Scott Luck, Esquire, 38 Broad Street, Suite 200, Charleston, SC 29401.

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

This 9th day of September, 2015.



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