

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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OCT 04 2016

**SC Court of Appeals**

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Appeal from York County  
Honorable Daniel D. Hall, Circuit Court Judge  
Appellate Case No. 2015-002130

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THE STATE,

Respondent,

vs.

DEAN DISTASIO,

Appellant.

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**MOTION TO FILE EXTENSION REQUEST OUT OF TIME  
AND  
MOTION FOR FIRST EXTENSION OF TIME WITHIN WHICH  
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT AND  
DESIGNATION OF MATTER**

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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 September 22, 2016. However, due to a calendaring error, counsel for the State mistakenly failed to file those documents on September 22, 2016.

**II.**

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 208(a), SCACR, and Rule 209(a), SCACR, and permit the State to file a motion for a first extension of time within which to serve and file the Initial Brief of Respondent

and Designation of Matter out of time. 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 respondent and does not believe this request will result in any prejudice to the respondent should it be granted.

### III.

Additionally, pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the State moves for a **first** extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I have been unable to complete this brief on time. This extension request is not intended for purposes of delay, but rather to ensure that the brief is properly researched and prepared. The undersigned is currently working on the brief in this case and hopes to have it completed in a timely manner. I would therefore ask this Court to accept the State’s motion for an extension of time out of time and to grant an extension of time within which to serve and file the Initial Brief of Appellant and Designation of Matter.

**WHEREFORE**, Appellant prays that the Court relax the requirements of Rule 242(f), SCACR; accept the filing of the Motion for First Extension of Time Within Which to Serve and File Initial Brief of Appellant and Designation of Matter out of time; extend the deadline for the service and filing of the Initial Brief of Appellant and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

DAVID SPENCER  
Senior Assistant Attorney General

By: 

David Spencer  
SC Bar No. 68571

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

October 4, 2016

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**SC Court of Appeals**

THE STATE,

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Appellant.

**PROOF OF SERVICE**

I, Anne A. Mueller, certify that I have served the within Motion to File Extension Request Out of Time and Motion for First Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to counsel of record, Laura R. Baer, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina.

I further certify that all parties required by Rule to be served have been served.  
This 4<sup>th</sup> day of October, 2016.



Anne A. Mueller  
Legal Assistant for Respondent

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



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ALAN WILSON  
ATTORNEY GENERAL

October 4, 2016

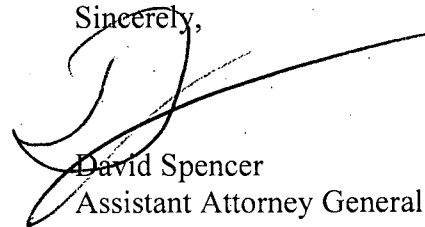
The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RE: State v. Dean Distasio**  
**Appellate Case No. 2015-002130**

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to File Extension Request Out of Time and Motion for First Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,



David Spencer  
Assistant Attorney General  
Bar Number 76901

DS/aam/  
Enclosures

cc: Laura R. Baer, Esquire (w/enclosures)  
Victim Services (w/enclosure)