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December 6, 2016
Sent via Telefax to 803-734-1839

The Honorable Jenny A. Kitchens
Clerk, SC Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: State v. Tony L. Kinard
Appellate Case No. 2016-001639

RECEIVED

DEC 06 2016

SC Court of Appeals

Dear Ms. Kitchens:

This is in response to the letter dated December 1, 2016 from William M. Blich, Jr, Assistant Attorney General, concerning his failure to timely file required documents and requesting additional time to file those documents in the above referenced matter. Although Mr. Blich indicated that he hand delivered that letter to your office, copies of it were mailed to counsel for the Respondent, and not received until December 5, 2016.

Please be advised that Counsel for the Respondent object to any extension what so ever being granted to the State in this matter on following grounds:

1. This appeal was initially filed while a written order on Trial Court's decision to deny State's Motion for Reconsideration of the Trial Court's earlier decision to dismiss the case was pending. In filing the appeal when it did the State completely ignored the provisions of Rule 29, South Carolina Rules of Criminal Procedure, which clearly require that jurisdiction of the case remain with the Trial Court until a written Order had been issued. The State had to go through the process of obtaining an order remanding the case back to the Trial Court so that it could issue its written order. This process took more than 2 months, during which time the State was well aware of the both the trial judge's ruling, and the proposed order that had been submitted by Respondents Counsel, and had ample opportunity to prepare its case.
2. The State asserts that it's request for an extension is due to a "calendar oversight" but provides no further information as to the cause and nature of this "oversight." In his October 24, 2016 letter to the Court, wherein Mr. Blich filed his Amended Notice of Appeal, he states, "It is my understanding that the Initial Brief of Appellant and Designation of Matter is due to be served and filed on November 23, 2016." Thus, it is clear that he was aware of the date that the documents he is responsible for were required to be filed. Further, he provides no information as to how the calendar system is maintained in the Office of the Attorney General of South Carolina, who is responsible for assuring that information is timely and correctly entered into it, and what it generates insofar as alerts and warnings of upcoming time sensitive events. Rather, he relies on mere assertion that, if true, would indicate that the Office of

the Attorney General of South Carolina lacks a reliable system to keep track of deadlines in important matters such as this. The failure of the Office of the Attorney General to maintain an effective calendar tracking system is not the fault of the Respondent or his Counsel, and should not be considered to be "excusable neglect" on the part of the State to timely file documents in this matter.

3. Further, Mr. Blicht claims a "heavy workload," but presents no evidence to support his implication that the Office of the Attorney General of South Carolina is not adequately staffed to meet dead lines in cases it is handling. And he only makes such a claim after he was advised by this Court that his deadline had past. In this matter, the Respondent has done nothing that would increase his workload or cause the State to need more time to meet the deadline which it, as stated above, acknowledged in writing on October 24, 2016.

4. Finally, as set forth in its October 20, 2016 Order on the State's Motion for Reconsideration, the hypothetical situations upon which the State based its motion were not supported by the facts in the record in this matter. Respondent takes the position that the State's appeal of Trial Court's October 20 2016 Order in this matter is, on a factual basis, with out merit, and that appeal should be dismissed.

Based on the above, the undersigned Counsel for the Respondent respectfully request that the Court deny Mr. Blicht's request for an extension, made after the dead line for the materials that he is responsible for producing had past, be denied, and that the State's Appeal in this matter be dismissed.

Sincerely,



Michael V. Laubshire

Attorneys for the Respondent, Tony L. Kinard



Richard J. Dolce

cc: William M. Blicht, Jr. via USPS