

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas
Case No. 2015-CP-46-03059

JOHN C. HAYES, III, Circuit Court Judge

Appellate Case No. 2016-000544

City of Rock Hill,

Respondent,

v.

Theotis E. Dunham,

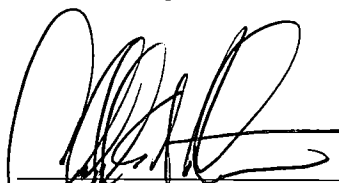
Appellant.

MOTION FOR AN EXTENSION OF TIME TO FILE INITIAL BRIEF
AND DESIGNATION OF MATTER OUTSIDE OF TIME

The City of Rock Hill seeks an extension to file the initial brief of the respondent and the designation of matter in this case with the South Carolina Court of Appeals. The initial brief of appellant and designation of material was due to be filed on or about September 12, 2016. Counsel for the City of Rock Hill was deployed for one year beginning on January 19, 2016 until January 18, 2017 with the South Carolina Army National Guard. A copy of the order is attached to this motion as an exhibit. Counsel for the City of Rock Hill upon his return to the office discovered that the individual who had been designated to take over this matter had not responded to the filing of Appellant's initial brief. Upon discovering this, Counsel for the City emailed Counsel for the Appellant and advised them of the situation. This is Respondent's first request for an extension in this matter.

For the foregoing reasons, the Appellant requests permission for an extension to file the initial brief of the appellant outside of time along with the designation of matter.

January 30, 2017



Christopher E. A. Barton
201 E. Main St., 3rd Floor
Rock Hill, South Carolina 29730
(803) 329-5692
Attorney for Respondent

RECEIVED

FEB 01 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA MILITARY DEPARTMENT
Office of the Adjutant General
Columbia, South Carolina 29201-4766

ORDERS 008-882

08 January 2016

BARTON CHRISTOPHER EDWARD
COLUMBIA, SC 29201

LTC JHFQ SCARNG (001)

You are ordered to full time National Guard duty (FTNGD) with the consent of the Governor of South Carolina in an Active Guard/Reserve (AGR) status in the grade shown for the period indicated below. Upon completion of the period of duty, unless sooner released or extended by proper authority, you will return to the place where you entered active duty, and be released from such duty. You will proceed from your current location in time to report on the date shown below.

Report to: National Guard Armory, COLUMBIA, S.C. 29201

Reporting date and time: 19 January 2016 0730hrs

Assigned to: SCARNG ELMT JF HQ SCARNG (001) COLUMBIA, SC

Attached To: N/A

Period (Active Duty Commitment): 1 Yr (19 JAN 16 – 18 JAN 17)

Purpose: To serve as Judge Advocate General FTM Para/Ln (01210-04)

Additional instructions:

- (a) You are subject to the South Carolina military code of justice.
- (b) Orders to OCONUS TDY will constitute an order to active duty in AGR status under 10 USC 672(d) for the duration of the period of TDY. Period of active duty will start at 0001 hours of the first day of TDY and will terminate at 2400 hours on the last day unless retained on active duty under other provisions of law or regulations. You will be in Federal status during this period and will be subject to UCMJ.
- (c) **This is a One Time Occasional Tour for the duration of this order. Officer will return to Title 32 M-Day status upon completion of this order.**
- (d) In the event your ARNG unit of assignment is called or ordered to Federal active duty, you will be terminated automatically from you 32 USC 502(f) AGR status the day before the effective date of federalization. You will then be included on unit mobilization orders the day following.
- (e) Government quarters and rations not available. Soldier authorized monetary allowance in lieu of subsistence. Variable housing allowance is authorized when applicable.
- (f) Personnel and health records will be forwarded to gaining unit. The provisions of AR 640-10, paragraph 2-1, must be followed. **Soldier must submit DA Form 5960 (Authorization to start, stop, or change BAQ/VHA) upon arrival at new duty station.**
- (g) **Soldier's current duty station and home of record qualify him for enrollment in Tri-Care Prime Remote. Soldier must enroll in Tri-Care Prime Remote immediately.**

FOR ARMY USE: Auth: "32 USC 502(f) (DO NOT ACCESS INTO THE STRENGTH OF THE ACTIVE ARMY)" Active status program code: A (AGR-FTM) INITIAL TOUR

Acct Class:

OFF P & A: 2162060 18-099 1H12. 0400, 1198, 1199, 1210.1250 S44222
OFF P & A: 2172060 18-099 1H12. 0400, 1198, 1199, 1210.1250 S44222

APC: E7F801 Type Duty Code: AGR
HOR: 9 COLLEGE STREET YORK, SC 29745
Number of days lump sum leave paid since 10 Feb 76:
Date dependency status certified: 19 January 2016
MTOE/TDA No: NGW8BGAA Paragraph: 003A Line 01
PMOS/AOC: 27A DMOS: 27A00
UIC: (unit of attachment): W8BGAA
Scty Cl: Top Secret Date: 03 October 2011

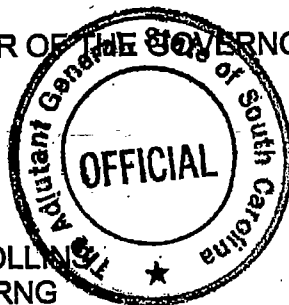
PEBD: 08 July 1998 BASD: 03 March 2010
Type of incentive pay/special pay: None
Marital status: Divorced Number of dependents: 01
Federal WE: S-2 State WE: S-2 State tax code: S.C.

Uniform allowance authorized: No
This is not a consecutive AGR tour renewal.
Soldier is currently on JUMPS-AA in DSSN 4945. "This is not a consecutive tour with change of component or State ARNG. DLA is not payable." Command sponsored dependents in OCONUS area: No
ARNG-DATA: PDP Requirement: Courses as required by Supervisor
JUMPS-AA payroll prefix: 6NG

FORMAT: 175

BY THE ORDER OF THE GOVERNOR:

OFFICIAL



MARION R. COLLINS
LTC, GS, SCARNG
Deputy Chief of Staff, Personnel

ROBERT E. LIVINGSTON, JR
Major General, SCARNG
The Adjutant General

DISTRIBUTION:
K(5) PORD(2)

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

FEB 01 2017

SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas
Case No. 2015-CP-46-03059

JOHN C. HAYES, III, Circuit Court Judge

Appellate Case No. 2016-000544

City of Rock Hill,

Respondent,

v.

Theotis E. Dunham

Appellant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Respondent's Motion for an Extension of Time to File the Initial Brief of Respondent and Designation of Matter Outside of Time has been served upon opposing counsel by mailing a copy via regular U.S. Mail to him on the 30th day of January, 2017, to James W. Boyd., Attorney for Appellant 1544 Ebenezer Road, Post Office Box 36425, Rock Hill, South Carolina 29732.



Christopher E. A. Barton
201 E Main Street, 3rd Floor
Rock Hill, South Carolina 29730
(803) 329-5692
ATTORNEY FOR RESPONDENT



ROCK HILL
SOUTH CAROLINA

RECEIVED

FEB 01 2017

SC Court of Appeals

January 30, 2017

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

Re: The City of Rock Hill v. Theotis E. Dunham
Appellate Case No. 2016-000544

Dear Ms. Kitchings,

The Initial Brief of Respondent and Designation of Matter in the above appeal were due to be served and filed on or about September 12, 2016. Based on matters outside of my control the initial brief was not timely filed. Enclosed please find Respondent's Motion for an Extension of Time to File the Initial Brief of Respondent Outside of Time and Designation of Matter. This is the first extension request in this case and it is not intended for the purpose of delay.

Counsel for Respondent, James W. Boyd is copied on this letter and a certificate of service is also enclosed.

Sincerely,

Christopher E. A. Barton
Senior City Solicitor
Attorney for Respondent

Enclosures (2)

Cc: James W. Boyd, Esq.

CITY OF ROCK HILL SOLICITOR'S OFFICE

201 E. MAIN STREET, 3RD FLOOR, ROCK HILL, SOUTH CAROLINA 29730

OFFICE 803/329-5619 FACSIMILE 803/326-3865

J

1204



CITY OF ROCK HILL SOLICITOR'S OFFICE
201 E. MAIN STREET, 3RD FLOOR
ROCK HILL, SC 29730



1000



29211

U.S. POSTAGE
PAID
ROCK HILL, SC
29732
JAN 30, 17
AMOUNT
\$0.49
R2305M147103-03

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

RECEIVED

FEB 01 2017

SC Court of Appeals



Recycled Paper

29211 11629 5012

