

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable J.C. Nicholson, Jr., Presiding Judge

INDICTMENT NO.: 2016GS1003454
WARRANT NO.: 2015A1021001053

STATE OF SOUTH CAROLINA, RESPONDENT

vs.

JOHN ANDREW BIGGS, APPELLANT

MOTION TO FILE OUT OF TIME

RECEIVED

FEB 02 2017

SC Court of Appeals

The Defendant requests the Notice of Appeal be filed out of time. Defendant filed a Motion for New Trial on December 21, 2016. The State filed its reply memorandum on December 28, 2016. The trial court denied Defendant's Motion in a *pro forma* order filed January 5, 2017. The court did not notify Counsel for Defendant of the trial court's Order.

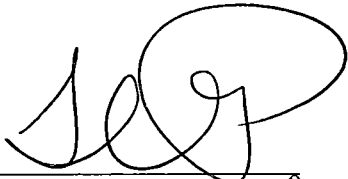
Upon receipt of Defendant's Motion, the court initially informed Counsel for Defendant that the court would be in touch regarding a disposition. See Exhibit A - Email from trial court. The court did not inform Counsel for Defendant that the court would not conduct a hearing. Defendant was not notified of the court's Order by the Clerk of Court. Counsel for Defendant discovered the trial court's Order on January 30, 2017.

Further, Counsel for Defendant has been on leave and out of the office due to the birth of his first child since January 23, 2017. Because Counsel for Defendant was not timely notified of the Order denying Defendant's Motion for New Trial by the trial court or the Clerk of Court,

Defendant respectfully requests the Notice of Appeal be filed out of time.

January 31, 2017

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Kozelski, III', written over a horizontal line.

John J. Kozelski, III
Assistant Public Defender
Attorney for John Andrew Biggs
Charleston County Public Defender's Office
101 Meeting Street, Suite 500
Charleston, South Carolina 29401
(843) 958-1850

-EXHIBIT A-

Rebecca A. Williams

From: Nicholson, J. C. Law Clerk (Brooklyn A. O'Shea) <JNicholsonLC@sccourts.org>
Sent: Monday, December 26, 2016 3:21 PM
To: Edward R. Corvey
Cc: John J. Kozelski; Tamara Van Pala
Subject: RE: State v. John Andrew Biggs

Received. Thank you. Take care.

Sincerely,
Brooklyn

Brooklyn A. O'Shea
Law Clerk to The Honorable J.C. Nicholson, Jr.
Circuit Court Judge
100 Broad Street
Charleston, South Carolina 29401
Tel: (843) 958-5047
jnicholsonlc@sccourts.org

-----Original Message-----

From: Edward R. Corvey [<mailto:CorveyE@scsolicitor9.org>]
Sent: Thursday, December 22, 2016 6:00 PM
To: Nicholson, J. C. Law Clerk (Brooklyn A. O'Shea) <JNicholsonLC@sccourts.org>
Cc: John J. Kozelski <JKozelski@charlestoncounty.org>; Tamara Van Pala <TVanpala@charlestoncounty.org>
Subject: RE: State v. John Andrew Biggs

Brooklyn,

Please find attached a copy of my reply to the Defense's motion for a new trial. I'll pass along a clocked copy next week.

Hope everyone has a Happy Holidays.

Warm regards,
Ted

-----Original Message-----

From: Nicholson, J. C. Law Clerk (Brooklyn A. O'Shea) [<mailto:JNicholsonLC@sccourts.org>]
Sent: Wednesday, December 21, 2016 12:29 PM
To: Rebecca A. Williams; Nicholson, J. C.
Cc: Edward R. Corvey; John J. Kozelski; Tamara Van Pala
Subject: RE: State v. John Andrew Biggs

Received. Thank you. I will be in touch. Happy holidays, everyone!

Sincerely,
Brook

-----Original Message-----

From: Rebecca A. Williams [mailto:RAWilliams@charlestoncounty.org]

Sent: Wednesday, December 21, 2016 11:58 AM

To: Nicholson, J. C. <JNicholsonJ@sccourts.org>; Nicholson, J. C. Law Clerk (Brooklyn A. O'Shea)

<JNicholsonLC@sccourts.org>

Cc: Edward R. Corvey <CorveyE@scsolicitor9.org>; John J. Kozelski <JKozelski@charlestoncounty.org>; Tamara Van Pala

<TVanpala@charlestoncounty.org>

Subject: State v. John Andrew Biggs

Good morning,

Attached please find a copy of the Defendant's Motion for a New Trial and Memorandum in Support that has been filed today re: State v. John Andrew Biggs.

Very respectfully,

Rebecca A. Williams

Paralegal

Ninth Circuit Public Defender's Office

101 Meeting Street, 5th Floor

Charleston, SC 29401

(843) 958-1893

(843) 958-1860-Fax

rawilliams@charlestoncounty.org

-----Original Message-----

From: copier-copyrm@charlestoncounty.org [mailto:copier-copyrm@charlestoncounty.org]

Sent: Wednesday, December 21, 2016 11:22 AM

To: Rebecca A. Williams

Subject: Message from "12950410"

This E-mail was sent from "12950410" (Aficio MP 7502).

Scan Date: 12.21.2016 11:22:06 (-0500)

Queries to: copier-copyrm@charlestoncounty.org

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