

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Thomas L. Hughston, Circuit Court Judge

2015-CP-18-1308

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APR 10 2017

SC Court of Appeals

Adrian Smalls,

Respondent,

v.

Brenda Lee Barnett,

Appellant.

MOTION TO FILE
THE REINSTATEMENT OF APPEAL
OUT OF TIME

NOW COMES undersigned counsel and petitions this Court for an Order allowing the Appellant to file for Reinstatement Out of Time.

The grounds for the extension include, to wit:

- a) Appellant's Appeal was dismissed on February 17, 2017. Remittitur was then sent on March 7, 2017. An amended Remittitur was issued on March 10, 2017.
- b) The dismissal of the appeal stemmed from the failure to file the record on appeal on January 30, 2017.
- c) Undersigned counsel would opine to this Court that he continued to suffer an ongoing health crises that left him bed-ridden and in receiving ongoing inpatient treatment to include Roper Hospital, MUSC Hospital, an affiliate MUSC facility during the time frame in which the

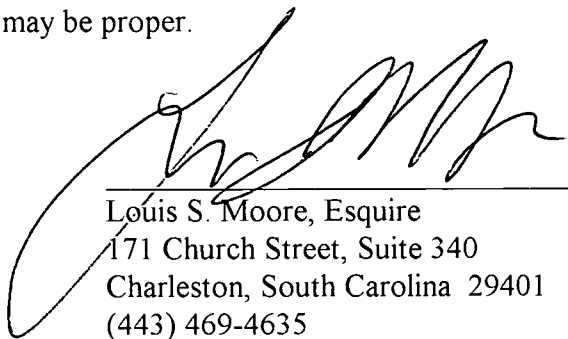
extended time for submitting the Record on Appeal was granted.

- d) Specifically the run of treatments included the months of January, February, and March.
- e) During much of that time, Counsel was not in his office and was not in receipt of much of his mail to include the notices concerning the appeal. As a sole practitioner, there was no other staff persons to provide the assistance or service of retrieving mail and keeping Counsel abreast.
- f) Even if Counsel had received notices, I was simply not in a position to function as the medications employed made counsel quite lethargic, sluggish, and dysfunctional in being responsive in any form.
- g) Counsel learned of the Court's decision from Appellant Barnett who now faces the peril of tremendous lost. This even as undersigned counsel received medical treatment earlier in the day from East Cooper Medical Center who employed a different mixture of treatment that was less impairing so I may respond.
- h) No prejudice would obtain as against Respondent as it relates to any extension granted nor as it relates to the submission of the Final Briefs in this matter and state their presenting position for the Court's review.

WHEREFORE, undersigned counsel prays this court will grant relief to the Petitioner by:

- 1. Issue an Order Reinstating the Appeal.
- 2. An Order granting thirty (30) days in which to do said filing of the Record on Appeal.
- 3. Rescind or Stay Execution of the Remittitur.
- 4. And for such other relief that may be proper.

Submitted by:



Louis S. Moore, Esquire
171 Church Street, Suite 340
Charleston, South Carolina 29401
(443) 469-4635

(843) 410-9496
Attorney for Appellant

Other Counsel of Record:
Kevin D. Hackler, Esquire
Theron W. Sandy II, Esquire
Attorneys for Respondent
3 Broad Street, 2d Floor
Charleston, South Carolina 29401

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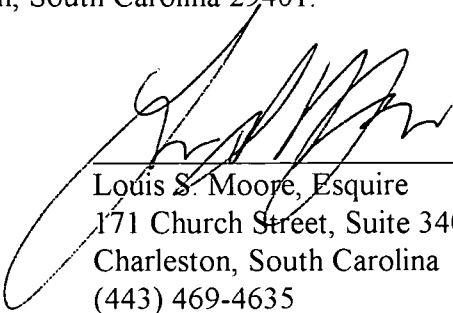
Brenda Lee Barnett,

Appellant.

AMENDED
PROOF OF SERVICE

I certify that I have served the foregoing Motion to File Reinstatement of the Appeal Out of Time upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, on April 5, 2017, addressed to his attorneys of record, Kevin D. Hackler and Theron W. Sandy, II 3 Broad Street, 2d Floor, Charleston, South Carolina 29401.

7th Day of April 2017



Louis S. Moore, Esquire
171 Church Street, Suite 340
Charleston, South Carolina 29401
(443) 469-4635
Attorney for Appellant

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SC Court of Appeals

THE MOORE LAW FIRM, LLC

Of Charleston

April 5, 2017

The Honorable Jenny Abbott Kitchings

Clerk, South Carolina Court of Appeals

Post Office Box 11629

Columbia, South Carolina 29211

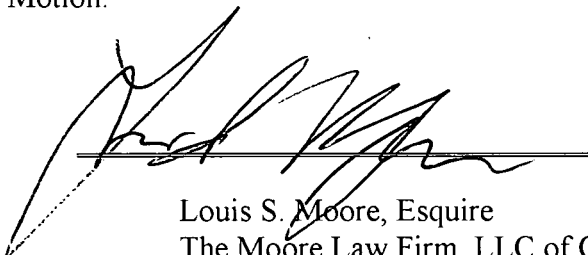
RE: Adrian Smalls, Respondent vs Brenda Lee Barnett, Appellant,

Case No. 2016-000100

Motion to File Reinstatement of Appeal Out of Time

Dear Ms. Kitchings:

Due to an oversight on my paralegal's part, the mailing to other counsel was not sent as previously indicated. I am therefore sending to counsel of record for the Respondent as indicated below. I am also enclosing an amended Proof of service with pleadings. I am not opposed to any additional time counsel may request to respond to the enclosed Motion.



Louis S. Moore, Esquire
The Moore Law Firm, LLC of Charleston
171 Church Street, Suite 340
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(443) 469-4635

Other Counsel of Record:

Kevin D. Hackler, Esquire
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SC Court of Appeals

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SC Court of Appeals

Hon. Jenny Abbott Kilbrays

Clerk, SC Court of Appeals

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