

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Greenville County
Honorable James R. Barber, Circuit Court Judge

Appellate Case No: 2016-001574

RECEIVED

JUN 13 2017

SC Court of Appeals

THE STATE.

Respondent,

vs.

GERALD DEWAYNE POWELL,

Appellant.

**PETITION TO RELAX RULE 208(a)(2) SCACR, AND RULE 209(a) SCACR
AND MOTION FOR A FIRST EXTENSION**

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter were due to the Court Monday, June 12, 2017. However, due to a calendaring error, counsel for the State failed to file its Initial Brief of Respondent and Designation of Matter on June 12, 2017.

II.

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 208(a)(2) 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 its Initial Brief 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.”). Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this Initial Brief on time. I would therefore request an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter. No prior extension has been requested for Initial Brief of Respondent and Designation of Matter.

III.

This motion for extension is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared.

WHEREFORE, Respondent prays that the Court will relax the requirements of 208(a)(2) SCACR and 209(a) SCACR and permit the filing of this motion for a first extension for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case; 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
S. C. Bar No: 68571

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

(803) 734-3727

ATTORNEYS FOR RESPONDENT

June 13, 2017

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Greenville County
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SC Court of Appeals

THE STATE.

Respondent,

vs.

GARY DEWAYNE POWELL,

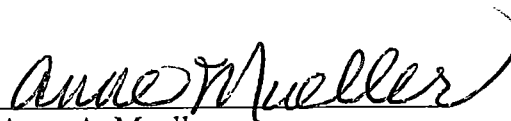
Appellant.

PROOF OF SERVICE

I, Anne Mueller, certify that I have served the Petition to Relax Rule 208(a)(2) SCACR and 209(a) SCACR and Motion for First Extension on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Laurar R. Baer, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 13th day of June, 2017.



Anne A. Mueller
Legal Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

June 13, 2017

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SC Court of Appeals

Laura R. Baer, Esquire
SCCID, Division of Appellate Defense
P.O. Box 11589
Columbia, SC 29211

RE: State v. Gerald Dewayne Powell
Appellate Case No: 68571

Dear Ms. Baer:

Enclosed please find two copies of the Petition to Relax Rule 208(a)(2) SCACR and 209(a) SCACR and Motion for First Extension in the above case.

Sincerely,

David Spencer
Senior Assistant Attorney General
S.C. Bar No: 68571

DS/aam
Enclosures

cc: ~~The Honorable Jenny A. Kitchings (with original and 6 enclosed)~~
Ms. Trisha Allen