

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Administrative Law Court

The Honorable H.W. Funderburk, Jr., Administrative Law Judge
Appellate Case No. 2016-002492

Melissa Burris, #212040,.....Respondent

v.

South Carolina Department of Probation, Parole and
Pardon Services,.....Petitioner

Appellate Case No: 2017-001759

**MOTION TO REINSTATE APPEAL AND
MOTION TO ACCEPT FILING APPENDIX OUT OF TIME
OR IN THE ALTERNATIVE
MOTION TO ACCEPT LATE FILING OF THE PETITION
FOR CERTIORARI AND APPENDIX**

**Tommy Evans, Jr
Assistant General Counsel**

Other Counsel of Record:

Tommy Arthur Thomas
P.O. Box 88
Irmo, South Carolina 29063
(803) 732-5507

**South Carolina Department of Probation
Parole and Pardon Services
P.O. Box 50666
Columbia, South Carolina 29250
(803) 734-9220**

ATTORNEY FOR RESPONDENT

ATTORNEY FOR THE PETITIONER

Comes now, Tommy Evans, Jr., Legal Counsel for the South Carolina Department of Probation, Parole and Pardon Services (Petitioner), and respectfully submits this Motion to Reinstate the Appeal and Motion for this Court to Accept Filing of the Appendix Out of Time. A copy of the Appendix is attached to this Motion.

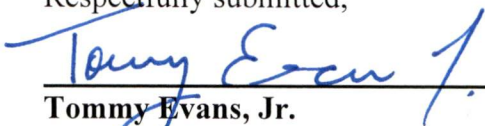
In the alternative, the Petitioner submits this as a Motion to Accept Late Filing of the Petition for Writ of Certiorari and the Appendix as a whole. The Petitioner submits that it is proper for this Court to grant either motion because this was an unintended oversight and that the opposing side has not been prejudiced by Petitioner's error.

On August 10, the Court of Appeals denied the Petitioner's petition for rehearing. The Petitioner timely served and filed the Petition for Certiorari on August 17, 2017; however, Petitioner failed to file the two copies of the Appendix as required by Rule 242(e), SCACR. On August 28, the Clerk of Court sent notice of the receipt of the filing of the Petition, which included a statement that the Appendix had not been filed.

Due to an unfortunate oversight, Petitioner did not initially see this statement and consequently did not correct the failure to timely file the Appendix. However, this error has not prejudiced the Respondent in any way, as the Appendix contains only information and documents already in the possession of or available to the Respondent. Two (2) copies of the Appendix are now attached to this Motion.

The Petitioner respectfully requests this Court grant its Motion to Reinstate the Appeal and to Accept Filing of the Appendix Out of Time, or in the alternative grant its Motion to Accept Late Filing of the Petition for Writ of Certiorari and Appendix as a whole.

Respectfully submitted,



Tommy Evans, Jr.
Assistant General Counsel

South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 50666
Columbia, South Carolina 29250
(803) 734-9220

Columbia, South Carolina
September 19, 2017

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

SEP 21 2017

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Administrative Law Court

The Honorable H.W. Funderburk, Jr., Administrative Law Judge
Appellate Case No. 2016-002492

Appellate Case No.: 2017-001759

Melissa Burris, #212040,.....Respondent

v.

South Carolina Department of Probation, Parole and
Pardon Services,.....Petitioner

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant, hereby certify that this 19th day of September, 2017, I served the following documents by first class mail, postage prepaid as follows:

1. Appendix; and
2. Certificate of Service;

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

Tommy Thomas, Esquire
PO Box 88
Irmo, S.C. 29063



Dawn K. Nichols,
Executive Assistant
S. C. Department of Probation, Parole and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250
(803) 734-9220

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Administrative Law Court

The Honorable H.W. Funderburk, Jr., Administrative Law Judge
Appellate Case No. 2016-002492

Appellate Case No.: 2017-001759

Melissa Burris, #212040,.....Respondent

v.

South Carolina Department of Probation, Parole and
Pardon Services,.....Petitioner

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within *Motion to Reinstate Appeal and Motion to Accept Filing Appendix Out of Time or in the Alternative Motion to Accept Late Filing of the Petition for Certiorari and Appendix*, on Respondent by depositing a copy of the same in the United States mail, postage prepaid, addressed to her attorney of record this 19th day of September, 2017:

Tommy Thomas, Esquire
PO Box 88
Irmo, S.C. 29063

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



Dawn K. Nichols
Executive Assistant

South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250