

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

MOTION FROM JASPER COUNTY
Court of General Sessions

Carmen T. Mullen, Circuit Court Judge

2009-GS-000368

Appellate Case No. 2017-002023

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NOV 16 2017

SC Court of Appeals

THE STATE

TERRY DEAN SWANGER

RESPONDENT

APPELLANT

MOTION TO FILE OUT OF TIME

The Attorney for the Appellant would move before this Honorable Court to be allowed to file the Appellant's Notice of Appeal out of time based upon the following:

The Appellant pled, against advice, to the charge of Murder with no negotiated charge or term of imprisonment. At the conclusion of the plea, heard on December 5, 2011, Counsel for the Appellant advised the Defendant of his right to an appeal. Attorney for Appellant was instructed verbally not to file such an appeal. In spite of these instructions and out of an abundance of caution, Attorney for Appellant prepared and filed a Notice of Intent to Appeal dated December 8, 2011. The Notice of Appeal

CLERK OF COURT
JASPER COUNTY

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FILED

was filed with the Jasper County Clerk's Office on December 13, 2011. The Appeal was served upon The Honorable Carmen T. Mullen and Isaac McDuffie Stone, Solicitor.

On or about December 14, 2011, Attorney for Appellant received a copy of a letter of instruction written by Mr. Swanger to the Jasper County Clerk of Court which was date stamped December 9, 2011, advising the Clerk of Court that Attorney for Appellant "ceased to be" Mr. Swanger's attorney on December 5, 2011. Thereafter, the Notice of Intent to Appeal was not filed with the Court of Appeals.

Attorney for the Appellant was not served with the Defendants PCR Application or the Defendants Writ of Habeas Corpus. Upon information and belief for the Defendant to be able to proceed with his legal remedies, the reinstatement of his appeal is necessary.

WHEREFORE the Attorney for the Appellant hereby moves that the Attorney for the Appellant be given leave to file his Notice of Appeal out of time.

I SO MOVE



Catherine D. Badgett
Post Office Box 2020
Ridgeland, South Carolina 29936
843-726-9553
Attorney for Appellant

November 8, 2017

Other Counsel of Record
Issac Duffie Stone, III
Solicitor for 14th Circuit
Post Office Box 1880
Bluffton, South Carolina 29910
843-470-3725

CATHERINE D. BADGETT
ATTORNEY AT LAW
600 THIRD AVENUE ON COURTHOUSE SQUARE
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CERTIFIED MEDIATOR
CIRCUIT & FAMILY COURT

November 8, 2017

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

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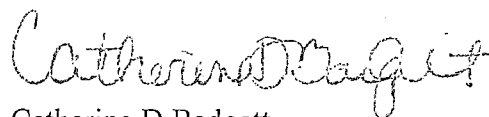
SC Court of Appeals

RE: The State v. Terry Dean Swanger
2009 GS-27-000368
Appellate Case No. 2017-002023

Dear Ms. Kitchings:

As an Officer of the Court, I am unable to set forth any arguable basis for asserting any grounds for appeal in the above-captioned matter. By copy of this letter I am notifying the Defendant that he must, no later than twenty days from the date of this letter, submit a pro se explanation, should he so desire.

Sincerely,



Catherine D Badgett
Post Office Box 2020
Ridgeland, South Carolina 29936
843-726-9553
Attorney for Appellant

Cc: Terry Swanger, Appellant
SCDC ID 00214364
Perry Correctional Institute
430 Oaklawn Road
Pelzer, South Carolina 29669

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THE STATE

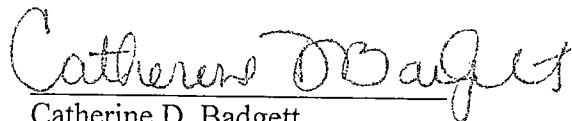
TERRY DEAN SWANGER

RESPONDENT

APPELLANT

PROOF OF SERVICE

I certify that I have served the Motion To File Out Of Time on Terry Swanger, Appellant SCDC ID# 00214364 by depositing a copy of it in the United States Mail, postage prepaid, on November 9, 2017, addressed to 430 Oaklawn Road, Pelzer, South Carolina 29669.



Catherine D. Badgett
Post Office Box 2020
Ridgeland, South Carolina 29936
843-726-9553
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of General Sessions

Carmen T. Mullen, Circuit Court Judge

2009-GS-000368

Appellate Case No. 2017-002023

THE STATE

TERRY DEAN SWANGER

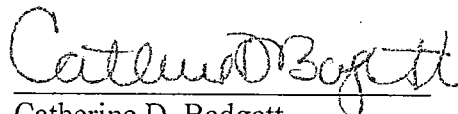
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SC Court of Appeals

I certify that I have served the Motion To File Out Of Time on The Honorable
Carmen T. Mullen by depositing a copy of it in the United States Mail, postage prepaid,
on November 9, 2017, addressed to 102 Ribaut Road, Suite 205, Beaufort, South
Carolina 29901.



Catherine D. Badgett
Post Office Box 2020
Ridgeland, South Carolina 29936
843-726-9553
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
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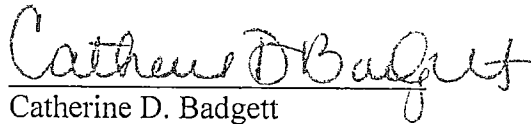
TERRY DEAN SWANGER

RESPONDENT

APPELLANT

PROOF OF SERVICE

I certify that I have served the Motion To File Out Of Time on Isaac McDuffie Stone, III by depositing a copy of it in the United States Mail, postage prepaid, on November 9, 2017, addressed to Post Office Box 1880, Bluffton, South Carolina 29910.


Catherine D. Badgett
Post Office Box 2020
Ridgeland, South Carolina 29936
843-726-9553
Attorney for Appellant

CATHERINE D. BADGETT

ATTORNEY AT LAW

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CERTIFIED MEDIATOR
CIRCUIT & FAMILY COURT

November 8, 2017

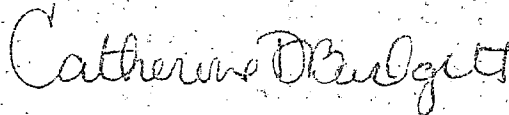
The Honorable Margaret Bostick
Jasper County Clerk of Court
Hand Delivered

RE: The State vs Terry Swanger
2009-GS-27-000368

Dear Mr. Bostick:

Enclosed for filing is a Motion to File Out of Time in the above case.

Sincerely,



Catherine D. Badgett

CLERK OF COURT
JASPER COUNTY

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FILED

CDB/hb:

CATHERINE D. BADGETT

ATTORNEY AT LAW

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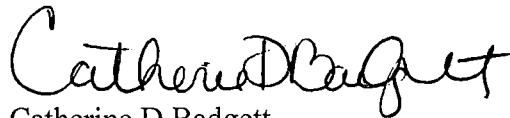
RE: The State v. Terry Dean Swanger
2009 GS-27-000368
Appellate Case No. 2017-002023

Dear Ms. Kitchings:

Enclosed for filing is a Motion to File Out of Time in the above case. Also enclosed are the following:

- (1.) Proof of service of the Motion to File Out of Time on the respondent.
- (2.) Letter pursuant to Dennison vs State.

Sincerely,



Catherine D Badgett
Post Office Box 2020
Ridgeland, South Carolina 29936
843-726-9553
Attorney for Appellant

Cc: Terry Swanger, Appellant
SCDC ID 00214364
Perry Correctional Institute
430 Oaklawn Road
Pelzer, South Carolina 29669

Isaac McDuffie Stone,III
Post Office Box 1880
Bluffton, South Carolina 29910

CATHERINE D. BADGETT

ATTORNEY AT LAW

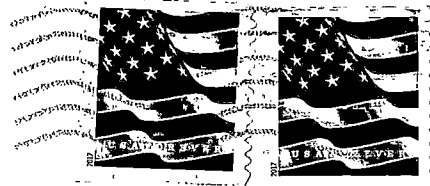
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