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ATTORNEY GENERAL

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December 12, 2017

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The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
P.O. Box 11330
Columbia, South Carolina 29211

S.C. SUPREME COURT

Re: Mikal D. Mahdi v. State
Appellate Case No. 2017-002212

Dear Mr. Shearouse:

This is to respond to the inquiry from the Clerk's office concerning whether this Office has a position on the November 28, 2017 request by Mr. Mahdi's counsel to allow late ordering of the transcripts of the PCR proceedings out of time. This matter before the Court concerns the denial by Judge Early of Mr. Mahdi's second application for post-conviction relief as time barred under Section 17-27-45 and successive to the earlier post-conviction relief action. The lower court issued the order of dismissal filed July 16, 2017 and the denial of a Rule 59 motion filed October 13, 2017. Motion hearings were held on May 1, 2017 and August 15, 2017. We do not have a record of either party ordering these transcripts previously and they are not in our possession.

This matter is on review by this Court pursuant to SCACR 243(c) because of the nature of the second PCR action. Although we have no objection to Mr. Mahdi's counsel ordering the transcripts out of time, we do not want the ordering of the transcripts to delay consideration under SCACR Rule 243(c) by this Court, unless the Court deems it imperative to consider the specific arguments of the motion hearings prior to its threshold determination. However, in light of the nature of the Orders and the prior proceedings before this Court in the first PCR action, it may be appropriate to dismiss the appeal prior to receipt of any transcripts pursuant to the failure to provide the appropriate explanation to allow the matter to proceed.

By copy of this letter, I am serving opposing counsel with same.

Sincerely,

Donald J. Zelenka
Deputy Attorney General

cc: E. Charles Grose, Esquire