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STATE OF SOUTH CAROLINA  
In the Court Of Appeals

**RECEIVED**  
JAN 04 2018  
SC Court of Appeals

APPEAL FROM HORRY COUNTY  
Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2015-002107

THE STATE,

Respondent,

v.

ARNOLD LEA WARD,

Appellant.

**RETURN TO MOTION OF DEFAULT FOR FAILURE TO  
TIMELY FILE, OBJECTION TO EXTENSION OF TIME AND  
MOTION FOR JUDGMENT ON THE PLEADINGS**

Respondent (the State), by and through undersigned counsel and making Return to the motion for default for failure to timely file, objection to extension of time and motion for judgment on the pleadings, would respectfully show unto this Court:

1. Appellant Arnold Lea Ward was indicted at the January 2007 term of the grand jury of Horry County for attempted first degree burglary. (Indictment No. 2007-GS-26-418). He was represented by William Thomas Floyd, Esquire. On April 13-14, 2010, Appellant proceeded to a trial by jury before the Honorable Steven H. John pursuant to which he was found guilty as indicted. Judge John sentenced Appellant to fifteen (15) years' imprisonment.

2. Appellant timely filed and served notice of appeal and Wanda H. Carter of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Appellant's conviction on February 29, 2012. State v. Ward, Op. No. 2012-UP-123 (S.C. Ct. App. filed February 29, 2012). The Court of Appeals returned the remittitur to the circuit court on March 16, 2012.

3. On August 12, 2012, Appellant filed an Application for Post-Conviction Relief (PCR) in the

Horry County Court of Common Pleas. The State made a return to the Application on December 17, 2012, and an evidentiary hearing into the matter was convened on June 19, 2014, before the Honorable Benjamin H. Culbertson at the Horry County Courthouse. Appellant was present and was represented by Tristan M. Shaffer, Esquire. The State was represented by Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office.

4. In an Order of Dismissal dated August 1, 2014, Judge Culbertson denied and dismissed the Application with prejudice. Appellant timely served and filed a notice of appeal and a *Johnson* petition for a writ of certiorari was submitted on his behalf by Assistant Appellate Defender John H. Strom of the South Carolina Office of Appellate Defense. In an order dated August 20, 2015, the Supreme Court denied the petition and on September 9, 2015, sent the remittitur to the lower court.

5. Appellant subsequently filed a motion for after/newly discovered evidence in the Horry County Court of General Sessions. On September 1, 2015, a hearing into the matter was convened before the Honorable Benjamin H. Culbertson at the Horry County Courthouse. Appellant was present and was appeared *pro se*. The State was represented by Assistant Solicitor Bradley C. Richardson of the Fifteenth Circuit Solicitor's Office. At the conclusion of the hearing, Judge Culbertson orally denied Appellant's motion.

6. In a Form 4C Order issued September 1, 2015, the day of the hearing, Judge Culbertson denied the motion for newly discovered evidence and in a separate Form 4C Order issued September 17, 2015, Judge Culbertson denied Appellant's motion for reconsideration of that denial.

7. In October of 2015 Appellant filed a notice of intent to appeal with this court and on August 1, 2017, he submitted his initial brief of Appellant. In an order dated November 15, 2017, this Court granted the State a first extension until December 13, 2017, to serve and file the initial brief of respondent. In a letter dated December 13, 2017, the State requested a second extension of time in which to serve and file the initial brief of respondent.

8. On December 18, 2017, Appellant filed the “Motion of Default for Failure to Timely File, Objection to Extension of Time and Motion for Judgement on the Pleadings” which is the subject of this return now filed on behalf of the State. He argues the State is in default for failing to file a responsive brief in a timely matter and asks this Court to grant him “judgment on the pleadings” by vacating his conviction and sentence vacated for the reasons set forth in his initial brief.

9. In an Order dated December 19, 2017, this Court granted the State’s request for an extension until January 12, 2018. As a result, Appellant’s motion is moot, without merit, and has effectively been denied. The State therefore asks this Court to issue an order formally denying and dismissing Appellant’s motion.


10. State further requests that the Court hold all time limits in this appeal in abeyance pending its ruling on Appellant’s current motion.

Respectfully submitted,

ALAN WILSON  
Attorney General

J. BENJAMIN APLIN  
Senior Assistant Deputy Attorney General

JIMMY A. RICHARDSON  
Solicitor, Fifteenth Judicial Circuit

BY:   
J. Benjamin Aplin  
S.C. Bar No: 8729

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Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 4, 2018

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Benjamin H. Culbertson, Circuit Court Judge

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THE STATE,

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Appellant.

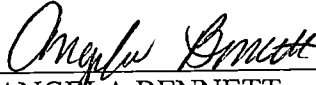
**PROOF OF SERVICE**

I, Angela Bennett, certify that I have served the *Return to Motion of Default for failure to timely file, Objection to extension of time and Motion for Judgment on the Pleadings* on Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Arnold Lea Ward, SCDC #109169  
Allendale Correctional Institution  
Post Office Box 1151 F-3-B-23  
Fairfax, SC 29827

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

This 4<sup>th</sup> day of January, 2018.

  
\_\_\_\_\_  
ANGELA BENNETT  
Administrative Coordinator  
Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

January 4, 2018

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JAN 04 2018

SC Court of Appeals

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

Re: State v. Arnold Lea Ward:  
Appellate Case No. 2015-002107

Dear Ms. Kitchings:

Enclosed for filing are the original and six copies of the Respondent's *Return to Motion of Default for failure to timely file, Objection to extension of time and Motion for Judgment on the Pleadings* in the above-referenced case.

Sincerely,

J. Benjamin Aplin  
Senior Assistant Deputy Attorney General

Enclosures

cc: Arnold Lea Ward, #109169  
Victim Advocacy Division