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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from Horry County Court of Common Pleas
The Honorable William H. Seals, Circuit Court Judge

Appellate Case No. 2018-000054

Theodore Wills Jr.,.....Petitioner,

v.

State of South Carolina,.....Respondent.

MOTION FOR REINSTATEMENT OF APPEAL

ATTORNEY FOR PETITIONER

WILLIAM G. YARBOROUGH III, Esq.

WILLIAM G. YARBOROUGH III, ATTORNEY AT LAW, LLC

522 North Church Street

Greenville South Carolina 29601

(864) 331-1612

NOW COMES Counsel for Petitioner Theodore David Wills, William G. Yarborough III, and would respectfully move this Honorable Court to reinstate the appeal in this case pursuant to Rule 260 of the South Carolina Appellate Court rules. Counsel submits that good cause exists for reinstating the petition for writ of certiorari, and acknowledges that the petition and appendix are now substantially past due. Counsel acknowledges that the untimeliness and the failure to seek an extension were imprudent and averse to the appellate rules, their objectives, and Petitioner's interests. Counsel submits that this motion is not made in remiss to the resulting unnecessary delay and inconvenience to the Court and to Respondent.

The petition for writ of certiorari and appendix in this case were due on May 4, 2018. The petition and appendix for *Robbie Bufkin v. State* (2018-000053) were also due for filing and service that same day. Counsel best recalls that the petitions, appendices, and proofs of service were packaged separately in brown boxes with Respondent's copies in large mailing envelopes, which were left for package pick-up by USPS in the designated area at the shared office space that same day. A copy of the proof of service is attached to this motion. Several attorneys were in the process of moving their practice out of the building at that time, but Counsel's office is unaware of any packages left for pick up being inadvertently moved or misplaced during the moving process. The *Bufkin* petition and appendix were received by the Court, but Counsel was notified in May and then June several times that the petition and appendix for Theodore Wills had yet to be received by the Court. Counsel began to recopy and bind the required copies of the appendix for this case at the office but was stalled because a significant portion of Petitioner's file had been accidentally closed and stored. The last approximately 20 pages of the complied record for the appendix retained by Counsel was misplaced, including the indictment and arrest

warrants, but also documents not as readily obtainable or reproduced, such as a proffer agreement and polygraph results.

In mid-May, Counsel's immediate family member entered intensive care hospice where she continues to be treated. Counsel consequently spent an increased amount of time overseeing her care and visiting between balancing the caseload with an associate attorney, Lauren C. Hobbis. Counsel's office's large caseload the past several months also contributed to the improper delay and inadvertence in not asking for an extension when recognizing that the appendix was not swiftly reproducible. Counsel had been preparing for trial scheduled throughout May and June in the cases of State v. Terrence McCrorey (2017GS4602561, 2562); State v. Dana Morton (2017GS4204141, 4142,) State v. William Crump (2017GS2400345, 346); State v. Leonard Scruggs (2018GS4200857, 857A, 858, 859); State v. Christel House (2018GS4201115); State v. Calvin Phillips (2017GS4203582 – 85). Note that several of these defendants pleaded guilty the day of trial and the other remaining scheduled trials were continued right before the trial date primarily at the State's request or by the Court due to docket or roster conflicts. Also throughout May and June, Counsel had been preparing and drafting filings then due in the cases of State v. Dazzelle Smith (2017GS24593, 594, 1634); Alvin Donnan, et. al v. Christen Leonard (2017CP207799); Christopher Tison v. State (2017-CP-46-1438); Efrain Thomas v. Warden, Perry Corr. (18-6383); Mark Elliott v. Warden Joyner (0:17-cv-02745-PMD); Travis Hipp v. Warden Michael Stephan (5:17-cv-02297-TMC).

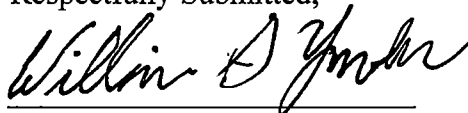
Counsel understands that the time periods and deadlines set forth in the appellate rules seek to promote swift and efficient disposition of cases, foster efficient court administration, and ensure diligence of counsel in their representation. The undersigned attorneys understand that the substantial untimeliness has frustrated these objectives and in good faith submit that there was no

intent to cause prejudice to the interests of the Court, Respondent, or Petitioner. The undersigned attorneys certify that more conscientious case management and attention to deadlines and due diligence in complying with court procedure and protecting clients' rights and interests shall be exercised in the future.

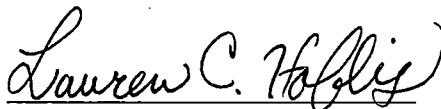
Counsel submits that good cause exists to reinstate the petition for writ of certiorari. Should this Court grant the motion for reinstatement, all orders or directives will be wholly and timely complied with.

WHEREFORE Counsel for Petitioner respectfully urges this Honorable Court to reinstate the petition for writ of certiorari.

Respectfully Submitted,



William G. Yarborough III, #10271



Lauren C. Hobbis, #103190

BY: William G. Yarborough III, Esq.

William G. Yarborough III, Attorney at Law, LLC
522 North Church Street
Greenville, South Carolina 29601
(864) 331-1612

Greenville SC
July 5, 2018

PROOF OF SERVICE

The undersigned hereby certifies that Motion for Reinstatement has been mailed for filing to the Honorable Daniel E. Shearouse, Clerk of Court for the South Carolina Supreme Court, by depositing it in the United States mail, postage prepaid addressed to:

The Honorable Daniel E. Shearouse
Clerk of Court for the S.C. Supreme Court
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

The undersigned further certifies that a true copy of same has been served upon the Respondent, represented by Assistant Attorney General, Johnny E. James, Jr., by depositing one (1) copy by United States mail, postage prepaid addressed to:

The Honorable Alan Wilson
S.C. Attorney General
Attn: Assistant A.G. Johnny E. James, Jr.
Post Office Box 11549
Columbia, South Carolina 29211

This 5th day of July, 2018

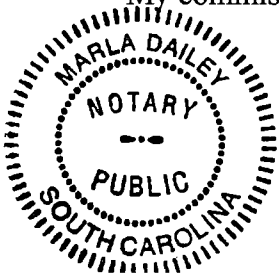
Sandy Ignacio

Sandy Ignacio
Administrative Assistant to William G. Yarborough III

Sworn to before me this 5
day of July, 2018

Marla Dailey
Notary Public for South Carolina

My commission expires: 10/9/23



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