

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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AUG 09 2018

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Appellate Case No. 2017-001247

Corey Arness McCluney,

Appellant,

v.

South Carolina Department of Motor
Vehicles and South Carolina Department
of Public Safety,

Defendants,

Of which South Carolina Department of
Motor Vehicles is the Respondent.

**APPELLANT'S RETURN TO MOTION TO
ALLOW LATE FILING OF MOTION FOR COSTS**

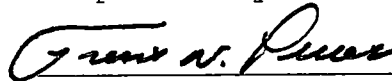
NOW COMES, the Appellant, filing this Return in response to a motion by the Respondent seeking to belatedly file its motion for attorney fees and costs.

That the Respondent has admitted its original motion for attorney fees and costs was filed fourteen (14) days after the filing deadline. The only excuse proffered by the Respondent is an "extraordinary heavy workload at the time and inadvertent late filing." The Appellant would respectfully submit that the Respondent's proffered explanation does not excuse the legal default of the Respondent.

It should be noted that subject of this appeal involved a contested case hearing under the Implied Consent Statute, S.C. Code Ann. §56-5-2951. Appellant would assert, and believes that Respondent would readily acknowledge, that the filing time requirements of the Implied Consent Statute for a person to timely request a contested case hearing are strictly enforced by the Respondent. Accordingly, if an individual acting pro se misses the filing deadline by a single day, the Respondent will successfully move to dismiss the individual's request for a contested case hearing. If pro se litigants, and others, are held to such an exacting standard by the Respondent, reciprocity demands no less when the Respondent belatedly files a motion by fourteen days. To borrow from an age old colloquial expression: "What is sauce for the goose, is sauce for the gander."

The Appellant requests that the Respondent's "Motion to Allow Late Filing of Motion for Costs" be denied.

Respectfully submitted,



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Attorney for the Appellant

August 7, 2018

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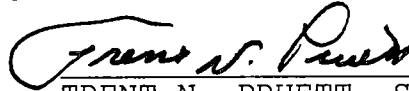
Defendants,

Of which South Carolina Department of
Motor Vehicles is the Respondent.

PROOF OF SERVICE

I certify that I have served the "Appellant's Return to Motion to Allow Late Filing of Motion for Costs" by depositing an original and six copies in the United States Mail, first class postage prepaid, on August 7, 2018, addressed to the following:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29201



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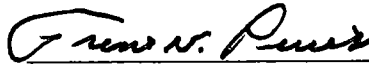
Defendants

Of which South Carolina Department of
Motor Vehicles is the Respondent.

PROOF OF SERVICE

I certify that I have served the "Appellant's Return to Motion to Allow Late Filing of Motion for Costs" by depositing two copies in the United States Mail, first class postage prepaid, on August 7, 2018, addressed to the following:

Brandy A. Duncan, Esq.
Office of General Counsel
S.C. Department of Motor Vehicles
P.O. Box 1498
Blythewood, South Carolina 29016-0020



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PRUETT LAW FIRM

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E-mail pruettlawfirm@bellsouth.net

August 7, 2018

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

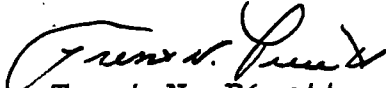
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Re: Corey Arness McCluney v. South Carolina Department of Motor
Vehicles and South Carolina Department of Public Safety
Appellate Case No. 2017-001247

Dear Ms. Kitchings:

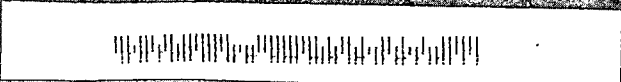
Please find enclosed the original and six (6) copies of the
"Appellant's Return to Motion to Allow Late Filing of Motion and
Costs," and Proofs of Service as to said Return. Copies of the
Return have been mailed to the Respondent. Please contact me if
you have any questions about this matter.

Sincerely,


Trent N. Pruett

Enclosed: As Stated

c: Brandy A. Duncan, Esquire
Office of General Counsel
S.C. Department of Motor Vehicles
P.O. Box 1498
Blythewood, South Carolina 29016-0020



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*Trent N. Pruett, Attorney At Law
202-B North Petty Street
Gaffney, South Carolina 29340*

To:

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