

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Anderson County

The Honorable R. Lawton McIntosh, Circuit Court Judge

RECEIVED
OCT 29 2018
SC Court of Appeals

THE STATE,

Respondent,

v.

JASON FRANKLIN CARVER,

Appellant.

Appellate Case No. 2017-002011

**RESPONSE TO APPELLANT'S MOTION TO
HOLD HIS APPEAL IN ABEYANCE**

On October 19, 2018, Appellant submitted a Motion to Hold his Appeal in Abeyance. In his supporting brief, Appellant indicates that, given the testimony provided by Steven Curry during the recent trial of Appellant's coconspirator James Gambrell, he believes it appropriate to seek an abeyance so that he may move for a new trial pursuant to SCRCrimP 29(b). Curry was a witness for the State in Appellant's trial, and Appellant contends that inconsistencies in Curry's most recent testimony in *State v. Gambrell* necessitate a new trial in Appellant's conviction.

Respondent disagrees with the assertions presented in Appellant's supporting brief on whether these new matters necessitate a new trial. Nevertheless, given its timeliness to the trial of James Gambrell, Respondent would not oppose the motion should this Court determine, based on the facts presented, that remand to the trial court to resolve the pending motion for a new trial pursuant to SCRCrimP 29(b) is the prudent course of action. Respondent would respectfully

request that should this Court agree to authorize review of the matter by Judge McIntosh on remand, and suspend the appeal, that the matter be expedited in the trial court.



SAMUEL M. BAILEY
Assistant Attorney General

October 29, 2018.

ATTORNEY FOR RESPONDENT

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PROOF OF SERVICE

I, Angela Bennett, certify that I have served the *Response to Appellant's Motion to Hold Appeal in Abeyance* on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to: Donald L. Smith, Esquire, 122 N. Main Street, Anderson, South Carolina 29621.

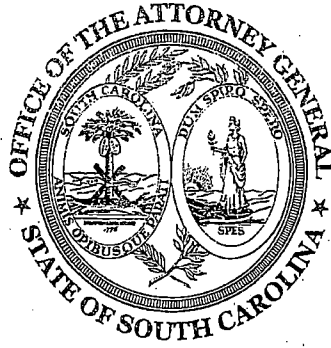
I further certify that all parties required by Rule to be served have been served.

This 29th day of October, 2018.



ANGELA BENNETT
Administrative Coordinator

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



ALAN WILSON
ATTORNEY GENERAL

October 29, 2018

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SC Court of Appeals

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

Re: The State v. Jason Franklin Carver
Appellate Case No: 2017-002011

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the *Response to Appellant's Motion to Hold Appeal in Abeyance* along with proof of service in the above-referenced case.

Sincerely,

Angela Bennett
Legal Assistant to Samuel M. Bailey
Assistant Attorney General
S.C. Bar No: 103131

/ab
Enclosures

cc: Donald L. Smith, Esquire
The Honorable David R. Wagner
Victim Advocacy Division