

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County Court of General Sessions
The Honorable Steven H. John, Circuit Court Judge

RECEIVED
DEC 28 2018
SC Court of Appeals

Appellate Case No. 2018-000824

State of South Carolina.....Respondent,

v.

Nicholas McIver,.....Appellant.

**MOTION TO REINSTATE APPEAL OR IN THE ALTERNATIVE,
MOTION FOR REHEARING OR MOTION TO RECALL REMITTITUR**

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

COUNSEL FOR APPELLANT

NOW COMES the Appellant, Nicholas McIver, by and through his undersigned attorneys, William G. Yarborough III and Lauren C. Hobbis, and hereby move this Honorable Court to reinstate the appeal, or in the alternative, move for rehearing or to recall the remittitur for the above-captioned case.

On November 23, 2018, the initial brief, designation of matter, and a motion to allow late filing with its attachments for the above-captioned case were filed by U.S. mail in a large packet/envelope with filings for two other cases, *State v. James D.L. White* and *State v. Jonathan Ostrowski*, with each filing for each case in separate, labeled folders inside the packet. A large packet/envelope with copies of the same contents was mailed to the Attorney General's Office on the same date. Copies of the proof of service, the initial brief, designation of matter, the motion to allow late filing with its attachments, and the packets' postage have been included with this motion.

On December 27, 2018, Counsel contacted Counsel for Respondent, Senior Assistant Deputy Attorney General Melody J. Brown, by telephone regarding this motion. Ms. Brown relayed that she had no objection to this motion.

The undersigned attorneys respectfully submit that the ends of justice and Appellant's right to direct appeal are served by granting this motion. The undersigned attorneys respectfully request this Honorable Court to grant this motion.

Respectfully submitted,



William G. Yarborough
South Carolina Bar #10271



Lauren C. Hobbis
South Carolina Bar #103190

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

COUNSEL FOR APPELLANT

Greenville SC
December 27, 2018

The South Carolina Court of Appeals

The State, Respondent,

v.

Nicholas Jacob McIver, Appellant.

Appellate Case No. 2018-000824

The Honorable Steven H. John
Horry County
Trial Court Case No. 2016GS2605556, 2016GS2605557,
2016GS2605558

ORDER

Appellant has failed to serve and file the Appellant's initial brief and designation of matter, as required by Rules 208 and 209 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:
Alan McCrory Wilson, Esquire
William G. Yarborough, III, Esquire
Melody Jane Brown, Esquire
Lauren Carole Hobbis, Esquire

FILED

12/21/18

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County Court of General Sessions
The Honorable Steven H. John, Circuit Court Judge

Appellate Case No. 2018-000824

State of South Carolina.....Respondent,

v.

Nicholas McIver.....Appellant.

PROOF OF SERVICE

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

COUNSEL FOR APPELLANT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County Court of General Sessions
The Honorable Steven H. John, Circuit Court Judge

RECEIVED
DEC 28 2018
SC Court of Appeals

Appellate Case No. 2018-000824

State of South Carolina.....Respondent,

v.

Nicholas McIver,.....Appellant.

PROOF OF SERVICE

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

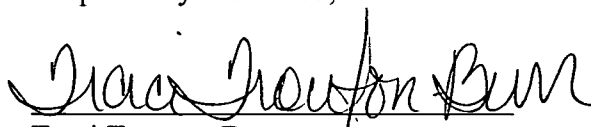
COUNSEL FOR APPELLANT

I, Traci Trouton-Burr, certify on this date, December 27, 2018, I served a *Motion to Reinstate, a copy of the Order to Dismiss, the Proof of Service for the initial filing, a copy of the postage to the South Carolina Court of Appeals, a copy of the postage to the South Carolina Attorney General's office, along with a copy for refile of the Appellant's Designation of Matter, and Initial Brief* dated November 23, 2018 on the Honorable Jenny Abbott Kitchings and Melody Brown, Assistant Attorney General, by mailing it to him/her at his/her work address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

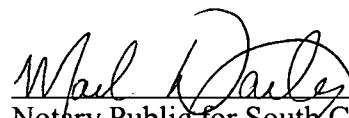
Clerk of Court, Jenny Abbott Kitchings
South Carolina Court of Appeals
PO Box 11649
Columbia, SC 29211

Melody Brown
SC Attorney General's Office
PO Box 11549
Columbia, SC 29211

Respectfully submitted,


Traci Trouton-Burr
Paralegal to William G. Yarborough, III

SWORN TO before this 27
Day of December, 2018


Notary Public for South Carolina
My Commission expires: 10/9/23