

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from York County Court of General Sessions
The Honorable Brian Gibbons, Circuit Court Judge

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DEC 27 2018

SC Court of Appeals

Appellate Case No. 2018-000423

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

v.

Jonathan Ostrowski,.....Appellant.

MOTION TO FILE OUT OF TIME

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, Jonathan Ostrowski, by and through his undersigned attorneys, and hereby moves this Honorable Court to accept the late filing of Appellant's initial brief and designation of matter. Counsel submits that good cause exists for this motion and acknowledges that the brief and designation of matter are substantially past due. The undersigned attorneys submit that this motion is not made with remiss to the unnecessary delay and inconvenience caused to the Court, Respondent, and Appellant.

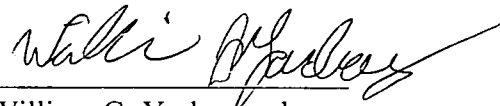
The delay and this now belated attempt to rectify the delay was the result of misplaced mail and admittedly poor internal office management. After the last motion for extension of time was filed, the order granting that extension as well as several other pieces of mail, was mistakenly given to, opened and held onto by another office member unaffiliated with undersigned's office. She remembered and gave the order to the undersigned attorneys almost five weeks after the date it was granted. From our own office's case management system, an additional extension was incorrectly noted as already filed. The undersigned attorneys should have followed up with the Court and Respondent immediately after personal receipt of that order, followed up with C-tracker, and generally been more aware of deadlines. The efficiency of our office's case management, and consequently the discovery and remedy of this oversight, was hampered by changes in staff in the addition of one new paralegal, the return of a former paralegal, and leaving of one paralegal in September through November, as well as the unusually high frequency of the undersigned attorney's cases being called to trial from September through October.

The failure to timely file the initial brief and designation of matter was due to the undersigned attorneys' own oversight, for which both accept responsibility. The delay in filing Appellant's initial brief and designation of matter was not intended to prejudice the Respondent

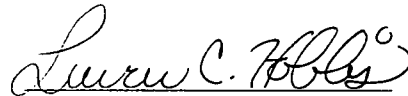
or delay the proceedings; the undersigned attorneys, however acknowledge that such delay in filing frustrates this Court's objectives for timely and efficient disposition of cases.

The undersigned attorneys respectfully submit that the ends of justice and Appellant's right to direct appeal are served by allowing the late filing and respectfully requests this Honorable Court to accept the late filing of Appellant's initial brief and designation of matter.

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
November 23, 2018

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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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that Appellant's opening brief, designation of matter, and motion to allow late filing were mailed by US mail for filing and service upon Respondent respectively, with sufficient postage attached and addressed as follows:

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

Senior Assistant Attorney General Benjamin J. Aplin
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211

The undersigned further certifies that all parties required to be served under the South Carolina Appellate Rules have been served.

This 23rd day of November, 2018

Lurren C. Folley #103190

William G. Yarborough III, Attorney at Law, LLC