

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Spartanburg County Court of General Sessions
The Honorable J. Mark Hayes, II Circuit Court Judge

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JAN 08 2019
SC Court of Appeals

Appellate Case No. 2018-001031

State of South Carolina.....Respondent,

v.

Calvin Phillips,II.....Appellant.

MOTION TO FILE OUT OF TIME

WILLIAM G. YARBOROUGH III

LAUREN C. HOBBS

WILLIAM G. YARBOROUGH III, ATTORNEY AT LAW, LLC
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(864) 331-1612

COUNSEL FOR APPELLANT

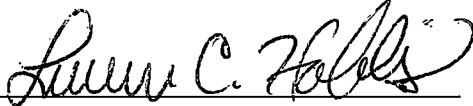
NOW COMES the Appellant, Calvin Phillips, II, by and through his undersigned attorneys, and hereby moves this Honorable Court to accept for filing the Appellant's initial brief and designation of matter.

The delay in filing the initial brief and designation of matter occurred due to confusion regarding the procedure for appeals from guilty pleas and an internal office oversight. From past cases and dealings with transferring cases to the SCCID, the undersigned attorneys understood the procedure to be that the Statement of Issues filed along with the notice of appeal in the above-captioned case must be accepted as containing a sufficient basis for appeal before the appeal would proceed forward. Counsel had seen in the past both notices for dismissal of an appeal due to an insufficient statement of issues, as well as a notice accepting the statement of issues in unrelated cases both affiliated and unaffiliated with our office. Shortly after filing the notice of appeal and before receiving a notice on the statement of issues, Counsel's office ordered the guilty plea hearing transcript and proceeded as normal from then on out of precaution due to uncertainty with the appeals from guilty plea process. For the same reasons, our office notified the Clerk's office about receipt of the transcript and filed the first motion for an extension of time in this case. Following the extension period, Counsel overlooked that an extension had been filed and granted and mistakenly understood the status of the appeal as still in the review process regarding the statement of issues due to not receiving a notice accepting the statement of issues or a notice of dismissal of the appeal for an insufficient statement of issues.

Counsel's request is not remiss to the delay caused this far. Counsel respectfully submits that the ends of justice are served by granting the motion to file out of time and accepting for filing Appellant's initial brief and designation of matter.

Respectfully submitted,

WILLIAM G. YARBOROUGH III
LAUREN C. HOBBS

By: 
Lauren C. Hobbs, SC Bar #103190

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Greenville SC
December 23, 2018

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CERTIFICATE OF SERVICE

WILLIAM G. YARBOROUGH III

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that Appellant Calvin Phillips's initial brief, designation of matter, and motion to file out of time were mailed by U.S. mail for filing to the SC Court of Appeals Clerk of Court and for 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 Deputy Attorney General J. Benjamin 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 pursuant to the SC appellate court rules have been served.

This 23rd day of December, 2018



Lauren C. Hobbis, SC Bar #103190
William G. Yarborough III, Attorney at Law, LLC



William G. Yarborough III, Attorney at Law LLC
522 N. Church Street
Greenville, SC 29601

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