

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

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DEC 27 2018

SC Court of Appeals

Appellate Case No. 2018-000824

State of South Carolina.....Respondent,

v.

Nicholas McIver.....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

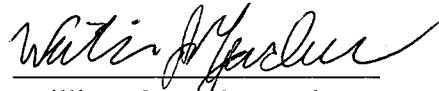
NOW COMES the Appellant, Nicholas McIver, by and through his undersigned attorneys, and hereby moves this Honorable Court to allow the filing of Appellant's initial brief and designation of matter out of time. The undersigned attorneys submit this motion to this Court in good faith, with the acknowledgment that Appellant's initial brief and designation of matter are substantially overdue. The undersigned attorneys also acknowledge their oversight has frustrated the objectives and policies set forth in the appellate court rules and carried out by this Court.

The delay in filing the initial brief and designation was the result of admittedly poor internal case management. Our office experienced ongoing difficulty and delay in receiving copies of all exhibits, and the undersigned attorneys found in Appellant's file the attached signed motion to hold the timelines in abeyance or a motion for an extension in the alternative, but no proof of service to show that it was sent, which is an oversight on the undersigned attorneys' part. The efficiency of our office's case management, and consequently the discovery and remedy of our oversight, was hampered by the unusually high frequency of the undersigned attorney's cases being called to trial from September through October, as well as staff changes in the addition of one new paralegal, the return of a former paralegal, and leaving of one paralegal all throughout September through November.

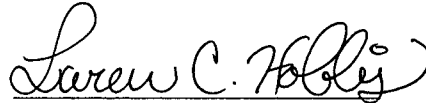
The undersigned attorneys accept responsibility for the untimely filing of the initial brief and designation of matter. The undersigned attorneys never intended to inconvenience the Court, or prejudice Respondent or Appellant's right to direct appeal. The undersigned attorneys certify more diligence and attention to deadlines and better case management will be undertaken in the future.

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 grant the motion to file out of time.

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

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

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SC Court of Appeals

Appellate Case No. 2018-000824

State of South Carolina.....Respondent,

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Nicholas McIver,.....Appellant.

PROOF OF SERVICE

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COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

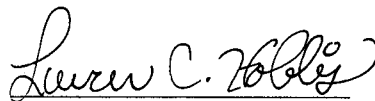
The undersigned hereby certifies that Appellant's opening brief, designation of matter, and motion to allow late filing were mailed by US mail for filing and service upon Respondent respectively, with sufficient postage attached and addressed as follows:

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 23 day of November, 2018



William G. Yarborough III, Attorney at Law, LLC

LAW OFFICE OF WILLIAM G. YARBOROUGH, III

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November 23, 2018

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

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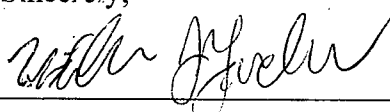
SC Court of Appeals

Re: The State of South Carolina v. James D. White
Appellate Case No. 2016-001302

Dear Ms. Kitchings,

I apologize for the delay in responding to your letter regarding my availability for oral argument in the above-captioned case. I have no current conflicts with the dates outlined in your letter and have blocked off these dates in my calendar to prevent any conflicts from arising. Thank you.

Sincerely,



William G. Yarborough III

Law Office of William G. Yarborough III
522 N. Church Street
Greenville SC 29601

~~SC Court of Appeals
1220 Senate St,
Columbia, SC 29201~~

Send to P.O. Box 11629
Columbia SC 29211

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