

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge H.W. Funderburk, III

ALC Case No. 18-ALJ-04-0293-AP
Appellate Case No. 2018-002013

LUTHER BRIAN MARCUS, # 218408,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS;

RESPONDENT.

MOTION TO FILE OUT OF TIME

Comes now Respondent, through undersigned counsel, and requests leave to file its Initial Brief and Designation of Matter out of time. It appears that Respondent's Initial Brief was due to be served and filed on January 3, 2019. However, undersigned counsel (who did not handle this case before the Administrative Law Court) did not become actually aware of this case until late yesterday afternoon when the Appellant's Initial Brief was discovered in a stack of unrelated mail. Undersigned counsel immediately began working to complete the Initial Brief of Respondent (and Designation of Matter) and is submitting it today along with this Motion.

In light of the foregoing, Respondent respectfully requests that this Court permit it to file the accompanying Initial Brief of Respondent and Designation of Matter outside of the filing

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deadlines set forth in Rules 208 and 209 of the South Carolina Appellate Court Rules. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). Undersigned counsel apologizes to this Court and to Appellant for any inconvenience this request has caused. However, Respondent does not believe any prejudice to Appellant will result if the request is granted.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:


CHRISTINA CATOE BIGELOW

Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

January 10, 2019

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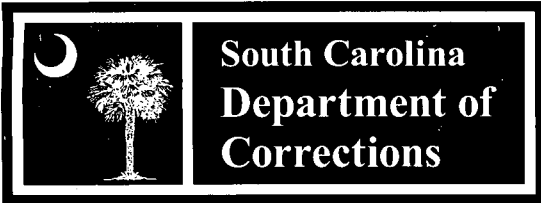
CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, she mailed a copy of the Respondent's **Motion to File Out of Time** to Appellant via U.S. Mail addressed as follows: Luther Brian Marcus, # 218408, Lee Correctional Institution, 990 Wisacky Highway, Bishopville, South Carolina, 29010.



Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

January 10, 2019



South Carolina
Department of
Corrections

HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

January 10, 2019

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

RE: Luther Brian Marcus, # 218408, v. South Carolina Department of Corrections
Appellate Case No. 2018-002013

Dear Ms. Kitchings:

Enclosed please find the **Initial Brief of Respondent** and **Designation of Matter** in the above captioned appeal, along with **Proof of Service**. Also enclosed is a **Motion to File Out of Time** and a corresponding **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina Catoe-Bigelow
Deputy General Counsel
South Carolina Department of Corrections

cc: Luther Brian Marcus, # 218408,
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina, 29010