

FALK LAW FIRM, LLC.

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March 13, 2019

Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RECEIVED
MAR 18 2019
S.C. SUPREME COURT

Re: James A Giles v State of South Carolina, Appellate Case No: 2018-00080

Dear Clerk Shearhouse:

I enclosed an original and seven (7) copies of a Motion to Reinstate Appeal and Certificate of Service in the above action. Please file stamp one of the copies and return to me in the enclosed SASE.

Thank you for your attention to this matter.

Sincerely Yours,



James Falk

Cc. Janell Gregory, Esq
Robert Dudek Esq.
James A Giles 264478

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM UNION COUNTY
Court of Common Pleas

J. Mark Hayes, Circuit Court Judge

Appellate Case No. 2018-000880

James A Giles,

Petitioner

vs.

State of South Carolina,

Respondent

MOTION TO REINSTATE APPEAL

Petitioner, by counsel moves the court to reinstate the appeal in this action. As grounds for this motion counsel for Petitioner states:

1. On April 20, 2018 the Honorable J. Mark Hayes, II signed the Order dismissing Petitioner's application for Post-Conviction Relief.
2. On May 11, 2018 Beth Ramsey Faulkner, Esquire filed the Notice of Appeal.
3. On October 18, 2018 Petitioner filed a pro se motion to relieve Wanda H Carter, Esquire and the Commission for Indigent Defense from further representation of him in the action.
4. On November 14, 2018 Wanda H Carter, Esquire filed a Petition for Appointment of Outside Counsel, in which she stated that Petitioner's post-conviction relief claims included, in part, claims of ineffective assistance of appellate counsel. Therefore her continued representation of Petitioner in this action creates a potential conflict of interest.

5. On November 20, 2018 this court granted the motion to relieve Wanda H Carter, Esquire and appointed Beth Ramsey Faulkner to represent Petitioner in this appeal.
6. On December 14, 2018 this court entered an order substituting undersigned counsel to represent Petitioner in this appeal.
7. On March 9, 2019 Petitioner's counsel received notice that this Court entered an order dismissing Petitioner's appeal pursuant to Rule 243(d) of the South Carolina Appellate Court Rules for counsel's failure to timely file the writ of certiorari and appendix in this case.

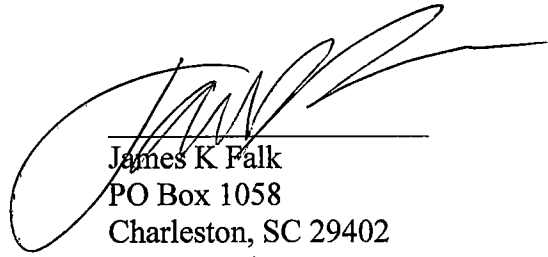
James Falk, Esquire respectfully contends that through inadvertence he never obtained a copy of the case file or transcript from January 30, 2018 evidentiary hearing Petitioner's PCR action. Additionally, undersigned states that at the time he received notice of his appointment to this case, he mistakenly believed that the hearing transcript had not yet been received and that the Commission for Indigent Defense would be forward the hearing transcript along with other file documents to him. As of March 13, 2019 undersigned now believes he has copies of all documents necessary to represent Petitioner including without limitation the General Sessions transcript, the PCR Common Pleas transcript, all pleadings filed in the PCR action, and all appellate pleadings.

Counsel has advised the Attorney General's Office of the requests made herein and can advise the court that the Attorney General consents to this motion.

WHEREFORE, undersigned counsel respectfully moves that:

1. Petitioner's appeal be reinstated;
2. That undersigned counsel be giving 21 days from the entry of the order granting relief to file a Petition for Writ of Certiorari and Appendix in this action.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'J. Falk', written over a horizontal line.

James K Falk
PO Box 1058
Charleston, SC 29402
(843) 606 6007
Attorney for Petitioner

This March 13, 2019.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM UNION COUNTY
Court of Common Pleas

J. Mark Hayes, Circuit Court Judge

Appellate Case No. 2018-000880

James A Giles,

Petitioner

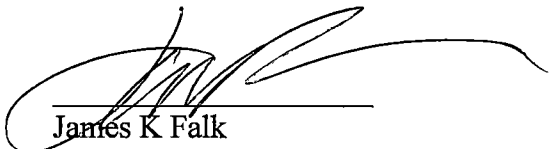
vs.

State of South Carolina,

Respondent

CERTIFICATE OF SERVICE

I, James Falk, certify that I have today served the within Motion to Reinstate Appeal upon the Respondent by depositing a copy of it in the U.S. Mail, postage prepaid, addressed to its attorney of record, Janell Gregory, Esquire Office of the S.C. Attorney General, PO Box 11549, Columbia, SC 29211-1549 and the Charleston County Clerk of Court. I further certify that all parties required by Rule to be served have been served this March 13, 2019.



James K Falk
PO Box 1058
Charleston, SC 29402
(843) 606 6007
Attorney for Petitioner

This March 13, 2019.



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Supreme Court of South Carolina
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