

**THE STATE OF SOUTH CAROLINA**  
**IN THE SUPREME COURT**

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**Certiorari to Greenville County**

**Letitia H. Verdin, Circuit Court Judge**

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**THE STATE,..... Respondent,**

**v.**

**MIGUEL ANGEL CANO,.....Petitioner.**

**Appellate Case No. 2018-002077**

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**PETITION TO FILE BELATED APPENDIX  
AND TO REINSTATE DIRECT APPEAL**

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The undersigned counsel petitions the Court to reinstate the direct appeal of Miguel Angel Cano. The appeal was dismissed by this Court on May 14, 2017. In support of this petition, counsel would respectfully show unto this Court that:

**I.**

Petitioner, a child, was charged with murder when he was thirteen years old. He was transferred by the Family Court to General Sessions for prosecution as an adult when he was fourteen years old. Prior to trial, Petitioner filed motions to the trial court for review of his transfer for adult prosecution and remand back to Family Court;

**II.**

The trial court ruled, without a hearing, that it did not have the authority to review

Petitioner's transfer nor the power to remand him back to Family Court. To protect his rights at trial and preserve an issue that will be lost for appellate review, Petitioner filed an immediate notice of appeal to the Court of Appeals;

### **III.**

The Court of Appeals dismissed the appeal as being interlocutory on January 10, 2019. Petitioner filed a petition for an extension of time to file for rehearing on January 25, 2019, which was granted on January 30, 2019. Petitioner filed a petition for rehearing on denied on February 14, 2019, which was denied on April 12, 2019;

### **IV.**

Petitioner, by and through undersigned counsel, filed a Petition for Certiorari with this Court on May, 13, 2019;

### **V.**

On May 17, 2019, undersigned counsel received an order dated May 14, 2019 by the Clerk of Supreme Court dismissing the matter for failure to file an appendix with the Petition for Certiorari;

### **VI.**

Upon receiving this order, undersigned counsel realized he had inadvertently failed to file an appendix. Undersigned counsel immediately prepared an appendix and has filed two copies with the Court, and has provided a copy to opposing counsel;

### **VII.**

Opposing counsel, Sherrie Butterbaugh, has been advised of the inadvertent failure to file an appendix in this matter. Ms. Butterbaugh has advised that she consents to the late filing of the appendix and reinstating of this matter;

VIII.

Undersigned counsel's failure to file the appendix was inadvertent. A late filing of the appendix will not cause unreasonable delay or prejudice in the resolution of this matter; and

IX.

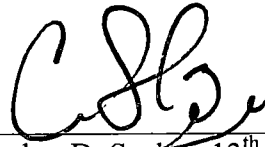
The resolution of this matter is crucial and necessary for the final disposition of this case at trial. This matter has been pending since September 1, 2015. Several motions and supporting pleadings have been filed regarding this matter without a substantive hearing or resolution to the legal issue as to whether the trial court erred in ruling it did not have the authority to review transfer nor the power to remand back to Family Court.

WHEREFORE, Petitioner respectfully requests that this Court reinstate Petitioner's direct appeal and permit him to belatedly file an appendix to the Petition for Certiorari.

Respectfully submitted,

GREENVILLE PUBLIC DEFENDER OFFICE

By: \_\_\_\_\_



Christopher D. Scalzo, 13<sup>th</sup> Circuit Public Defender  
Michael G. Martinez, Assistant Public Defender  
Attorney for Petitioner  
305 East North Street  
Greenville, SC 29601

Date: May 17, 2018

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MAY 20 2019

S.C. SUPREME COURT

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**PROOF OF SERVICE**  
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I certify that I have served the Petition to File Belated Appendix and to Reinstate Direct Appeal on Respondent by depositing a copy of the same via U.S. mail, first class, postage prepaid to the counsel of record listed below on May 17, 2019.

Sherrie Butterbaugh, Esq.  
Deputy Attorney General  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

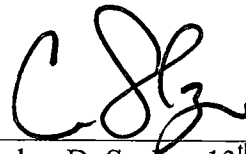
W. Walter Wilkins, Esq.  
13<sup>th</sup> Circuit Solicitor's Office  
Greenville County Courthouse  
305 East North Street, Suite 325  
Greenville, SC 29601

Respectfully submitted,

GREENVILLE PUBLIC DEFENDER OFFICE

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**MAY 20 2019**  
**S.C. SUPREME COURT**

By: \_\_\_\_\_



Christopher D. Scalzo, 13<sup>th</sup> Circuit Public Defender  
Michael Martinez, Assistant Public Defender  
Attorneys for Petitioner

Date: May 17, 2019