

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

William H. Seals Jr., Circuit Court Judge

Appellate Case No. 2019-000363

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JUL 03 2019
SC Court of Appeals

General Sessions Case No. 2018-GS-46-08147

The State, Respondent,
v.
Darius J. Stewart,Appellant.

MOTION FOR EXTENSION

Darius J. Stewart, by and through his undersigned attorney, respectfully requests an extension of thirty (30) days for the transcripts to be ordered in the above case. The sentence of twenty (20) years was imposed by the Honorable William H. Seals, Jr. on February 14, 2019, for Assault and Battery of a High and Aggravated Nature (“ABHAN”). This appeal is taken from the order of the Honorable William H. Seals Jr., dated February 27, 2019, which denied appellant’s motion to reconsider. Appellant received written notice of entry of this order on February 27, 2019.

Mr. Stewart was mailed an Affidavit of Indigency to to complete and return to either our office or the South Carolina Commission of Indigency Defense. To date, neither of us has received this affidavit or confirmed whether or not Mr. Stewart has retained private counsel.

Counsel visited with Mr. Stewart on April 5, 2019, at Kirkland Correctional Institution. Mr. Stewart walked out of meeting with counsel and refused to speak with counsel regarding case or provide counsel with the name of his current attorney—though Mr. Stewart indicates he has a new attorney.

Counsel then mailed Mr. Stewart the indigent application to Kirkland Correctional Institution. Counsel later found out that Mr. Stewart had been transferred to McCormick Correctional Institution. Mr. Stewart may not have received the information in sufficient time in which to

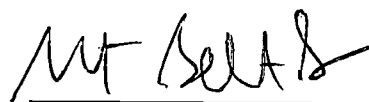
respond. Therefore, counsel requested an extension in which to order the transcript. That extension was granted by the Court of Appeals in an order filed June 4, 2019. Counsel immediately mailed Mr. Stewart all documents, including the application of indigency, to the McCormick Correctional Institution. Counsel has gotten no response from Mr. Stewart and was informed on Friday, June 28, 2019, by the Commission on Indigent Defense that Mr. Stewart had not returned the application of indigency to their office.

On Friday, June 28, 2019, counsel's office contacted a family member of Mr. Stewart. The family member informed counsel's assistant that Mr. Stewart had retained counsel to handle his legal matters and provided no further information.

To this end, on behalf of Mr. Stewart, counsel is requesting an another extension to provide his new counsel an opportunity to file a notice of appearance and order the transcripts. This is an important right in which Mr. Stewart is waiving, and counsel believes it is in Mr. Stewart's best legal interest to allow him to make this decision with competent counsel in which he retained. Furthermore, though counsel has been told by Mr. Stewart and his family member told my office assistant that Mr. Stewart has hired an attorney, no name has ever been provided to counsel.

Finally, accompanying this Motion for Extension is a Motion to be Relieved as Counsel pursuant to Rule 264, SCACR. By granting the Motion for Extension, it allows current counsel the opportunity to ensure all of Mr. Stewart's rights have been preserved during current counsel's representation and any rights that are waived will be done post current counsel's representation.

July 1, 2019



Montrio M. Belton
SC Bar #102189
125 Hampton Street
P.O. Box 566
Rock Hill, SC 29731
803-324-4529
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Sharon Ohayon
1675-1A York Highway
York, SC 29745
803-628-3020



Montrio Belton

LAW OFFICES OF MONTRIO BELTON, LLC

June 30, 2019

Via Certified Mail

The South Carolina Court of Appeals

Attn: Clerk

PO Box 11629

Columbia, SC 29211

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RE: State of South Carolina v. Darius Jermale Stewart
Appellate Case No.: 2019-000363

Dear Clerk:

Please find enclosed:

1. The original and one (1) copy of the Motion for Extension regarding the ordering of transcripts upon receipt of the Affidavit of Indigency in the above-referenced matter; **and**
2. The original and one (1) copy of a Motion to Relieved as counsel pursuant to Rule 264, SCACR.

Thank you for your time and attention to these matters. Please do not hesitate to contact our office if you have any questions or need further information.

Sincerely,

Montrio M. Belton
125 Hampton Street, Suite 200
PO Box 566
Rock Hill, SC 29731
(803) 324 – 4529
Attorney for Appellant

Other Counsel of Record:

Sharon Ohayon, Assistant Solicitor
Sixteenth Circuit Solicitor's Office
1675-1A York Highway
York, South Carolina 29745
Attorney for Respondent

PO Box 566 – Rock Hill, SC 29731 – (803) 324-4529
www.montriobelton.com

Appellant:

Darius J. Stewart

Inmate # 00299076

McCormick Correctional Institution

386 Redemption Way

McCormick, SC 29899

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