

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2019-001175
Case No. 2019-CP-40-2137

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MAR 09 2020
SC Court of Appeals

George M. Adams, #181283, Appellant,

v.

Richland County Sheriff's Department, Respondent.

**RESPONDENT'S RETURN TO APPELLANT'S
MOTION TO RESTORE AND MOTION
FOR ENLARGMENT OF TIME**

The Appellant George M. Adams has filed a motion that is captioned as a "Motion to Restore/Motion for Enlargement of Time." The relief sought by the Appellant's motion is unclear. In the "Conclusion" section of the motion, the Appellant asks the Court "to grant both parties an equal opportunity to establish a record as to whether Magistrate Peay had the jurisdiction on June 18, 1992, to have the arrest warrants for armed robbery and murder returned to his office." He

further asks for the Court to “reverse and remand to the Magistrate Court for proceedings consistent with finding of probable cause on June 18, 1992.” The Respondent Richland County Sheriff's Department opposes this motion for the following reasons.

The Appellant brought this action in the lower court pursuant to the South Carolina Tort Claims Act for false arrest and malicious prosecution arising from his arrest and prosecution occurring in the 1992-1994 time frame. The lower court denied his request for *in forma pauperis* status, thereby requiring him to pay a filing fee in order to proceed with his lawsuit. The Appellant made no payment towards the filing fees as ordered, and his case was dismissed. That dismissal is on appeal. The merits of the Appellant's claim are not on appeal.¹

Therefore, with this motion, the Appellant cannot request or receive relief as to the merits of his underlying claims which were not decided in the lower court on the merits. Further, he appears to be seeking relief with this motion that would not be recoverable in a tort claim against the Sheriff's Department. He appears to be

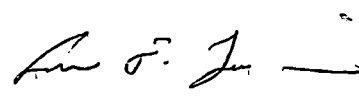
¹ In its brief, the Sheriff's Department did raise the statute of limitations as an additional sustaining ground. Clearly, the Appellant is suing for conduct or events that occurred almost thirty years ago arising from his arrest and prosecution for armed robbery and murder. The “History of Case” section of the present motion reflects that. The Appellant's motion may be an attempt to “enlarge the time period” to file suit, meaning that the Appellant seeks to enlarge the statute of limitations. The Appellant cites to Rule 6(b), SCRCP; however, by its very language, Rule 6(b) governs the enlargement of time periods prescribed by the rules or by an order of the court, but Rule 6(b) has no application to time periods set out in statutes, such as a statute of limitations. *See, O'Malley v. Town of Egremont*, 453 F.Supp.2d 240, 247-248 (D. Mass. 2006) (citing authorities in support of a finding that Rule 6(b) does not apply to extend statutes of limitations).

collaterally attacking his conviction. This is not and should not be construed as a petition for any post-conviction relief; yet, that is what the present motion appears to seek. Finally, the Appellant cannot circumvent the briefing stage of the case and seek a ruling on the merits of his appeal by way of a motion.

For each of these procedural reasons, the Respondent Richland County Sheriff's Department requests that the "Motion to Restore/Motion for Enlargement of Time" be denied.

Respectfully submitted,

LINDEMANN, DAVIS & HUGHES P.A.

BY: 

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(803) 881-8920

*Counsel for Respondent Richland County
Sheriff's Department*

February 28, 2020

CERTIFICATE OF SERVICE

The undersigned employee of Lindemann, Davis & Hughes, P.A., counsel for the Respondent, does hereby certify that service of **Respondent's Return to Appellant's Motion to Restore and Motion for Enlargement of Time** was made upon the *pro se* Appellant by placing copies in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 28th day of February 2020:

George M. Adams, #181283
Broad River Correctional Institution
4460 Broad River Road
Columbia, South Carolina 29210



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SC Court of Appeals



Telephone (803) 881-8920
Facsimile (803) 862-1181

5 Calendar Court, Suite 202 (29206)
Post Office Box 6923
Columbia, South Carolina 29260

February 28, 2020

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: George M. Adams, #181283 v. Richland County Sheriff's Department
Court of Appeals Case Number: 2019-001175
Civil Action Number: 2019-CP-40-2137
Claim Number: Risk Management
Our File Number: 314.20191

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of **Respondent's Return to Appellant's Motion to Restore and Motion for Enlargement of Time** in the above referenced matter. Please file the original and return a clocked-in copy to me in the enclosed envelope. By copy of this letter, I am serving a copy on the *pro se* Appellant.

Thank you for your assistance. If you have any questions, please advise.

Sincerely,

LINDEMANN, DAVIS & HUGHES, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosures

cc: (w/ Enclosure)

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