

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of General Sessions

D. Craig Brown, Circuit Court Judge

Appellate Case No.: 2020-000 198

The State Respondent,

v.

John Henry Davenport, Jr., Appellant.

RECEIVED

MAY 04 2020

SC Court of Appeals

MOTION OF APPELLANT
FOR LEAVE TO SERVE AND FILE
PROOF OF SERVICE
OUT OF TIME

Appellant moves for leave of the Court of Appeals to submit the Amended Proof of Service out of time, pursuant to Rule 207(a)(4), SCACR.

This appeal was filed on February 3, 2020. Counsel for Defendant neglected to file an amended proof of service and the appeal was dismissed on April 20, 2020. Counsel for Defendant submits the following as grounds for granting this motion. First and foremost, Defendant was convicted of a crime and sentenced to an active term of imprisonment of ten (10) years and dismissing this appeal would result in an unfair hardship on Defendant based on his current conditions.

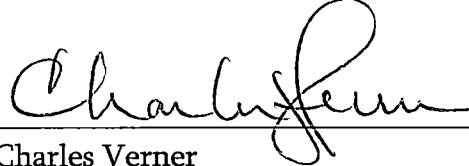
As for counsel, there is no sufficient grounds for the late filing. However, in mitigation, counsel is in practice with his partner, James Verner, who at age 83, submitted his resignation to the South Carolina Bar based on his age and the practice has been engaged in closing out the business of Mr. Verner, Sr. Secondly, the current quarantining situation caused by the outbreak of the covid-19 virus resulted in attorney Charles Verner losing free access to the Newberry County Courthouse on a daily business. Counsel has been involved in remote hearings via video and computer and no longer regularly working at the courthouse and was not personally aware of the request for the filing.

Counsel's understanding is that the Office of Appellate Defense is currently in possession of the trial transcript and prepared to staff this appeal.

For these reasons, counsel would request the court to reinstate Defendant's appeal.

I SO MOVE.

NEWBERRY COUNTY PUBLIC DEFENDER



Charles Verner
1219 Boyce Street
P. O. Box 484
Newberry, South Carolina 29108
(803) 276-4500

Attorney for Appellant

April 30, 2020
Newberry, South Carolina

Other Counsel of Record:

Asst. Dept. Att'y Gen. Salley W. Elliott
South Carolina Attorney General's Office
P O Box 11549
Columbia, South Carolina 29211

South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of General Sessions

D. Craig Brown, Circuit Court Judge

Case No.: 19-GS-36-00086

The State Respondent,

v.

John Henry Davenport, Jr., Appellant.

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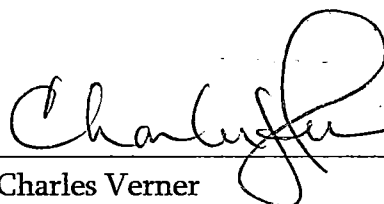
MAY 04 2020

SC Court of Appeals

AMENDED PROOF OF SERVICE

I certify that I have served the MOTION, by mail, postage prepaid to the Honorable David Stumbo, Solicitor of the Eighth Judicial Circuit, Suite 203, Park Plaza, P. O. Box 516, Greenwood, South Carolina 29648, on April 30, 2020; by hand to the Office of the Solicitor at the Newberry County Courthouse, 1309 College Street, Newberry, South Carolina 29108, and to other counsel identified below.

April 30, 2020



Charles Verner
Newberry County Public Defender
P. O. Box 484
Newberry, South Carolina 29108

Other Counsel of Record:

Asst. Dept. Att'y Gen. Sally W. Elliott
South Carolina Attorney General's Office
P O Box 11549
Columbia, South Carolina 29211

South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

NEWBERRY COUNTY PUBLIC DEFENDER

April 30, 2020

The Honorable Jenny Abbott Kitchings
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

*Re: State of South Carolina v. John Henry Davenport, Jr.
Appellate Case No. 2020-000 198
Newberry County*

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SC Court of Appeals

Dear Madam Clerk:

Enclosed please find Motion of Appellant for Leave to Serve and File Proof of Service Out of Time and Amended Proof of Service for the above captioned appeal.

With kindest regards, I am

Truly yours,

NEWBERRY COUNTY PUBLIC DEFENDER


Charles Verner

CV/m

Enclosure

cc: SC Court Administration
SC Attorney General
Solicitor David Stumbo
Honorable Elizabeth Folk, Newberry County Clerk of Court

HARLEY & VERNER LLP

ATTORNEYS AT LAW

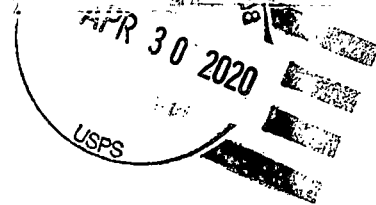
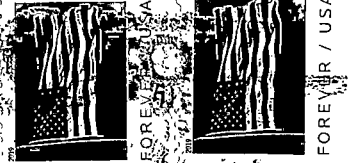
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