

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY Court of
General Sessions

R. Lawton McIntosh Judge

C.A. Nos.: 2017-GS-04-0365
Appellate Case No. 2019-001502

RECEIVED

Oct 15 2020

SC Court of Appeals

State of South Carolina,

Respondent,

v.

Dustin Lee Hooper,

Appellant.

**MOTION FOR LEAVE TO FILE AND SERVE OUT OF TIME
RECORD ON APPEAL, FINAL BRIEF AND FINAL REPLY BRIEF OF
APPELLANT**

Appellant respectfully requests leave to file and serve out of time the Record on Appeal, Final Brief and Final Reply of Appellant In support of this request, Appellants state as follows:

On July 6, 2020, Appellant submitted his Reply Brief of Appellant on the above-captioned appeal. Based on Rule 210(a) of the SCACR, the deadline for serving the Record on Appeal was on August 5, 2020.

Counsel for Appellant relies on the following reasons, in addition to the routine matters that counsel must attend to in daily practice to explain the delay in the filing and service of the Record and Briefs.

As Appellant's counsel was of the belief Respondent's Motion to Dismiss had not been addressed. Thankfully, an inquiry as to the present status indicated the Final Brief had not been filed. That mistaken belief, in addition to addressing Federal briefs, caused a failure to maintain focus.

This request is not sought for delay but so that justice may be done. Appellant prays

the lack of resulting prejudice to opposing counsel will allow the Court to grant this Motion. Therefore, Appellants respectfully request this Honorable Court to allow them to file and serve the enclosed pleadings.

Anderson, South Carolina
October 15, 2020

s/Donald L. Smith
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Attorney for Appellant

**FORM 7
PROOF OF SERVICE**

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PROOF OF SERVICE

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I certify that I have served one copy of Appellant's Motion to Allow Late Filing and Service of Record on Appeal, Final Brief and Final Reply Brief of Appellant, Record on Appeal, and Proof of Service of same, upon The Honorable Jenny Abbott Kitchings, Clerk of South Carolina Court of Appeals via the AIS system.

Copies of the above-mentioned documents are served upon the Respondent, by and through its counsel of record, The Honorable Alan Wilson, South Carolina Attorney General; Mr. William M. Blicht, Jr., Senior Assistant Deputy Attorney General; and, The Honorable David R. Wagner, Solicitor, Tenth Judicial Circuit, on October 15, 2020, via electronic email as follows:

Ms. Jenny Abbott-Kitchings
Mr. Alan Wilson
Mr. William M. Blicht, Jr.
Mr. David R. Wagner

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Anderson, SC
October 15, 2020

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Attorney for Appellant

FORM 8
LETTER TO THE COURT OF APPEALS CLERK OF COURT

October 15, 2020

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

RE: The State v. Dustin Lee Hooper
Case No.: 2017-GS-04-0365
Appellate Case No. 2019-001502

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SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed the following materials for filing:

- (1) Motion to Allow Late Filing and Service of Record on Appeal;
- (2) Record on Appeal;
- (3) Final Brief of Appellant;
- (4) Final Reply Brief of Appellant; and,
- (5) Proof of Service for the same.

Sincerely,

s/Donald L. Smith

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Attorney for Appellant

cc: Mr. Alan Wilson, South Carolina Attorney General
Mr. William M. Blicht., Jr., Senior Asst. Dep. Attorney General
Mr. David R. Wagner, Solicitor, Tenth Judicial Circuit