

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2018-000289
Unpublished Opinion No. 2020-UP-021
(Rehearing denied March 27, 2020)

Mario Escalante,

Petitioner,

v.

David L. Rodgers and Janice W. Rodgers,
d/b/a Whitehall Express Mart,

Respondents.

**MOTION FOR LEAVE TO ALLOW LATE FILING OF
PETITIONER'S REPLY BRIEF**

Petitioner respectfully request leave to file and serve out of time Petitioner's Reply Brief in the above-mentioned case. In support of this request, Appellants state as follows:

On October 21, 2020, Petitioner submitted his Brief on the above-captioned petition. Respondents filed their Brief on November 23, 2020. Based on Rule 242(i) of the SCACR, the deadline for filing Petitioner's Reply Brief was on December 3, 2020.

Counsel for Petitioner 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 Reply Brief.

Petitioner submitted his Brief by hand delivering the required copies to the Court and served a copy of the same to Respondents on the same date. As Petitioner was required to submit hard copies of the Brief, he was of the belief Respondents had been directed to submit their Brief in the same manner. An inquiry to the Court's website as to the present status indicated a copy of the Brief for Respondent had been filed. Petitioner has not received a copy of the same prior to this finding. That mistaken belief, in addition to addressing Federal briefs as well as two (2) appeal cases, caused a failure to file this Reply Brief in a timely manner.

In the alternative, should this Honorable Court deem the filing dilatory, Counsel for Petitioner respectfully requests that his Reply to Respondents' Return to Petitioner's Petition for Writ of Certiorari submitted on June 4, 2020 be admitted in lieu of the Reply Brief.

This request is not sought for delay but so that justice may be done. Petitioner prays the Court will grant this Motion based on the lack of resulting prejudice to Respondents. Therefore, Appellant respectfully requests this Honorable Court to allow him to file and serve the enclosed pleadings.

s/Donald L. Smith

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January 20, 2021.