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Apr 02 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

Thomas W. Cooper, Circuit Court Judge
J. Derham Cole, PCR Judge

Appellate Case No. 2019-000320

Zacoata Lopey,.....Petitioner,

v.

State of South Carolina,.....Respondent.

**MOTION TO RELAX RULE 243(g), SCACR, AND
FILE REPLY TO PETITION FOR WRIT OF CERTIORARI OUT OF
TIME**

COMES NOW, Respondent, by and through the undersigned counsel, making its Motion to Relax Rule 243(g), SCACR, and File Reply to Petition for Writ of Certiorari Out of Time, and would show unto this Court:

I. REQUEST FOR EXTENSION OUT OF TIME

The Return to Petition for Writ of Certiorari in the above-captioned post-conviction relief appeal was due to be filed and served on January 7, 2021. However, due to inadvertence, counsel for Respondent failed to timely file the Reply.

Accordingly, Respondent requests this Court relax the rules in order to file, out of time, its Reply to Lopey’s Return to Petition for Writ of Certiorari. *See* Rule 263(b), SCACR (“The time

prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). Counsel for Lopey has consented to this request via email.

Counsel for Respondent apologizes for any inconvenience this request has caused the Court and Lopey. However, Respondent does not believe this request will result in any prejudice to Lopey should it be granted.

II. PRAYER FOR RELIEF

WHEREFORE, Respondent respectfully asks this Court to relax the requirements of Rule 243(g), SCACR, and permit Respondent to file its Reply to Lopey’s Petition for Writ of Certiorari out of time.

Respectfully submitted,

ALAN WILSON
Attorney General

MICHAEL D. DAVIDSON
Assistant Attorney General
S.C. Bar #104114

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

By: s/ Michael D. Davidson

April 2, 2021

ATTORNEYS FOR RESPONDENT

Michael Davidson

From: Sarah Henry <sarah@sarahmhenrylaw.com>
Sent: Friday, April 2, 2021 11:50 AM
To: Michael Davidson
Subject: Re: Zacoata Lopey - State's Reply to Amended PWC

Of course Michael. Let me know if you need anything else?

Sarah

On Fri, Apr 2, 2021 at 8:24 AM Michael Davidson <michaeldavidson@scag.gov> wrote:

Good morning Sarah,

I received a call from Lynn at the Supreme Court inquiring if we planned to file a Reply to Amended Petition in the above case. I realized that this was never calendared by my legal assistant and we completely missed the filing deadlines. I have the Reply ready to file today, but I wanted to ask if you would consent to me filing the reply out of time?

Let me know, and I apologize for my oversight.

Thank you,

Michael



Michael D. Davidson

Assistant Attorney General

Post-Conviction Relief Section

S.C. Attorney General's Office

Rembert C. Dennis Building

1000 Assembly Street

Columbia, SC 29201

Office: (803) 734-1680

michaeldavidson@scag.gov

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Sarah M. Henry
Attorney at Law
406 Pettigru St.
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864.478.8324
864.232.9555 (fax)

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CERTIORARI TO RICHLAND COUNTY

Thomas W. Cooper, Plea Judge
J. Derham Cole, PCR Judge

Appellate Case No. 2019-000320

ZACOATA LOPEY,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

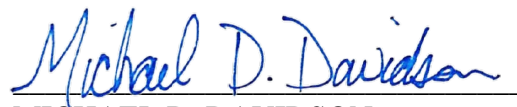
RESPONDENT.

PROOF OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of Respondent's Motion to File Reply to Petition for Writ of Certiorari Out of Time and Reply to Petition for Writ of Certiorari has been served upon opposing counsel by sending to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS):

Sarah M. Henry, Esquire
sarah@sarahmhenrylaw.com

This 2nd day of April, 2021.



MICHAEL D. DAVIDSON
Assistant Deputy Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-1680
michaeldavidson@scag.gov

Michael Davidson

From: Michael Davidson
Sent: Friday, April 2, 2021 12:54 PM
To: 'Sarah Henry'
Cc: Erik Marcusson
Subject: Zacoata Lopey Motion and Reply to Petition of Writ of Certiorari
Attachments: LOPEY Zacoata - Motion to File out of time and reply (02531775xD2C78).pdf

Follow Up Flag: Worldox

Sarah,

Attached is the motion and reply we spoke about this morning. I will be e-filing with the Court of Appeals shortly.

Thank you so much,

Michael



Michael D. Davidson

Assistant Attorney General
Post-Conviction Relief Section

S.C. Attorney General's Office

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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

April 2, 2021

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
(By Electronic Filing Only)

RE: Zacoata Lopey, #354734 v. State of South Carolina
Appellate Case No.: 2019-000320

Dear Ms. Kitchings:

Enclosed for filing please find the Respondent's Motion to File Reply to Petition for Writ of Certiorari Out of Time and Reply to Petition for Writ of Certiorari in the above-captioned case. Counsel for Petitioner is also being served with a copy of the same. Please let me know if you need anything additional at this time.

Sincerely,

Michael D. Davidson
Assistant Deputy Attorney General
S.C. Bar # 104114

MDD/em
Enclosures

cc: Sarah M. Henry, Esquire (email)
Victim Advocacy Division