

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

Administrative Law Court Docket No. 12-ALJ-04-0059-AP

Billy Lee Lisenby, Jr., # 200273,.....Petitioner,

v.

South Carolina Department of Corrections.....Respondent.

MOTION TO FILE RETURN OUT OF TIME

Comes Now, Respondent, the South Carolina Department of Corrections, and requests that this Honorable Court grant respondent leave to file its return to the petition for a writ of certiorari out of time. In support of this request, Respondent shows this Honorable Court the following:

1. On February 15, 2013, the Court of Appeals denied petitioner's petition for rehearing in this matter. Petitioner requested this Court grant him an extension for filing his petition for a writ of certiorari on March 4, 2013. The Court granted the request for an extension until March 25, 2013. On March 12, 2013, petitioner served upon respondent his petition for a writ of certiorari. The Court of Appeals sent the remittitur on March 27, 2013.
2. Based upon receipt of the remittitur, respondent erroneously believed that this matter had been concluded, and no return was required to the petition for a writ of certiorari.

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S.C. Supreme Court

3. Respondent's Return to Petition for a Writ of Certiorari has been submitted contemporaneously with this motion.
4. Petitioner has not been prejudiced by the delay in submitting the return to the petition.

WHEREFORE, respondent respectfully requests to file and serve its Return to Petition for a Writ Certiorari Out of Time in this matter.

Dated: April 29, 2013



Christopher D. Florian
Deputy General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, SC 29221
Attorney for Respondent

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion to File Return Out of Time to petitioner by depositing a copy of same in the United States Mail, postage prepaid, on April 29, 2013, addressed to the petitioner as follows:

Billy Lee Lisenby, Jr., # 200273
Tyger River Correctional Institution
200 Prison Road
Enoree, SC 29355



Christopher D. Florian
Deputy General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, SC 29221-1787
Attorney for Respondent