

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Honorable Steven H. John, Circuit Court Judge
Appellate Case No. 2021-000570

THE STATE,

Respondent,

vs.

JEREMIAH DICAPUA,

Appellant.

**MOTION TO ALLOW FILING OF
SUPPLEMENTAL RECORD ON APPEAL**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On August 31, 2022, the State filed and served its Initial Brief of Respondent and Designation of Matter. In its Designation of Matter, the State properly designated numerous items, including portions of the trial transcript and a number of exhibits, for inclusion in the Record on Appeal. Amongst the portions of the trial transcript designated, the State identified pages 465 through 473 in its designation of matter. Likewise, amongst the exhibits designated, the State identified the following exhibits in its designation of matter: (1) State’s Exhibit # 4, which was a composite sketch; (2) State’s Exhibit # 5, which was a series of photographs; (3) State’s Exhibit # 6, which was another series of photographs; (4) State’s Exhibit # 8, which was

a photographic lineup; (5) State's Exhibit # 13, which was a composite sketch; (6) State's Exhibit # 14, which was a photograph; (7) State's Exhibit # 15, which was a photograph; and (8) State's Exhibit # 21, which was a photograph. Notably, all of those exhibits are either paper documents or appropriately-sized photographs that are capable of being accurately reproduced and printed.

II.

On October 3, 2022, Appellant Jeremiah DiCapua served and filed the Record on Appeal. In the Record the Appeal as filed, Appellant included most of the matter designated by the State. However, Appellant appears to have inadvertently failed to include pages 465 through 471 from the trial transcript. Similarly, Appellant did not include State's Exhibit # 4, State's Exhibit # 5, State's Exhibit # 6, State's Exhibit # 8, State's Exhibit # 13, State's Exhibit # 14, State's Exhibit # 15, or State's Exhibit # 21 in the Record on Appeal as filed. Instead, as to those items, Appellant submitted a proposed transportation order seeking for those exhibits—along with some other exhibits that were designated—to be released for physical transportation to this Court. Earlier today, this Court issued a transportation order consistent with what was requested.

III.

Because properly-designated matter was omitted from the Record on Appeal, the State believes it is necessary to file a Supplemental Record on Appeal containing the omitted matter. See Rule 210(c), SCACR (“The Record on Appeal shall include all matter designated to be included by any party under Rule 209[.]”). Furthermore, since a number of the exhibits properly designated by the State can be accurately reproduced and printed, the State believes it is appropriate to include copies of those exhibits in the Supplemental Record on Appeal in addition to transporting the originals to this Court pursuant to the recently-issued transportation order.

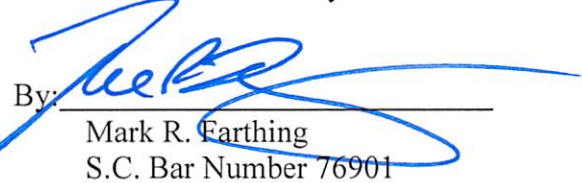
See Rule 210(f), SCACR (“Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size which permits them to be printed and inserted in the Record on Appeal, without folding more than one time. Where they are larger, or do not reasonably lend themselves to accurate reproduction, they need not be included in the Record on Appeal, but shall be filed separately. All exhibits other than paper exhibits must be retained in the trial court and delivered to the appellate court only upon receipt of an order from the clerk of the appellate court.”). Accordingly, for all the foregoing reasons, the State asks this Court to permit and accept the filing of a Supplemental Record on Appeal containing the properly-designated matter that has not been included in the Record on Appeal as currently filed.

WHEREFORE, Respondent prays that this Court will allow the State to file a Supplemental Record on Appeal; accept the filing of the State’s Supplemental Record on Appeal; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Attorney General

By: 
Mark R. Farthing
S.C. Bar Number 76901

October 4, 2022

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Oct 04 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Honorable Steven H. John, Circuit Court Judge
Appellate Case No. 2021-000570

THE STATE,

Respondent,

vs.

JEREMIAH DICAPUA,

Appellant.

PROOF OF SERVICE

I, Leigh Ann Stone, certify I have served the within Motion to Allow Filing of Supplemental Record on Appeal and the Supplemental Record on Appeal on Appellant by sending electronic copies via email to the address listed in AIS for the following individual:

David Alexander, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 4th day of October, 2022.



LEIGH ANN STONE

Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

Leigh Ann Stone

From: Leigh Ann Stone
Sent: Tuesday, October 4, 2022 4:30 PM
To: 'dalexander@sccid.sc.gov'
Cc: Mark Farthing; William Blicht; Matthews, Lindsey
Subject: The State v. Jeremiah DiCapua (2021-000570)
Attachments: DiCapua. Motion to File Supplemental Record on Appeal (03117604xD2C78).PDF; DiCapua.Supplemental Record on Appeal (03116612xD2C78).PDF

RECEIVED
Oct 04 2022
SC Court of Appeals

Good Afternoon Mr. Alexander,

Attached please find a copy of the Motion to File Supplemental Record on Appeal and the Supplemental Record on Appeal in The State v. Jeremiah DiCapua (2021-000570). This motion and supplemental will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to confirm receipt of this email.

Thank you!

LEIGH ANN STONE, Legal Assistant
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