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Nov 22 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS LAMONT GATHERS,

APPELLANT

APPELLATE CASE NO. 2022-001053

MOTION TO HOLD IN ABEYANCE

Undersigned counsel respectfully moves this Court to hold the timelines for filing the Initial Brief of Appellant and Designation of Matter in abeyance pending receipt of an additional transcript of the February 25, 2021, *Schmerber*¹ hearing. The Initial Brief of Appellant and Designation of Matter in this case are due for filing on December 12, 2022. There have been no extensions in this case. In support of this request, counsel shows:

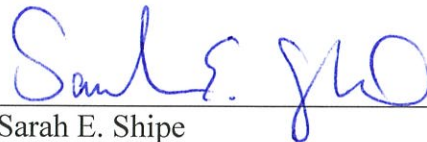
1. On August 18, 2022, this office ordered transcripts in this case for July 25-27, 2022, relying on an email from trial counsel Ben Stitely, which stated that all motions, the entire trial, and sentencing were heard on July 25-27, 2022. Transcripts for July 25-27, 2022 were received by this office on October 11, 2022.

¹ *Schmerber v. California*, 384 U.S. 757 (1966).

2. While reviewing this newly assigned case counsel discovered that we need additional transcripts from a *Schmerber* hearing held before the Honorable Daniel D. Hall in General Sessions Court in York County on February 25, 2021.
3. Undersigned counsel contacted trial counsel Ben Stitely and he explained that he did not represent appellant at the time of the above hearing.
4. On November 22, 2022, our office contacted court reporter Aileen Butler and requested the February 25, 2021, transcript. A copy of our transcript request is attached.
5. The undersigned discovered the missing transcript early and endeavored to prepare this motion before taking any extensions in appellant's case.

WHEREFORE, undersigned counsel respectfully requests this Court grant her motion to hold the appeal in abeyance until receipt of the February 25, 2021, *Schmerber* hearing transcript.

Respectfully submitted,



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of November, 2022

cc: William M. Blich, Jr.

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

—————
Certiorari to York County

William A. McKinnon, Circuit Court Judge
—————

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

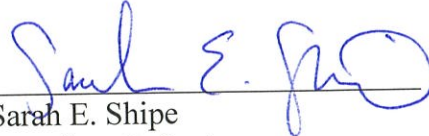
TRAVIS LAMONT GATHERS,

APPELLANT

APPELLATE CASE NO. 2022-001053
—————

CERTIFICATE OF SERVICE
—————

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Hold in Abeyance in the above referenced case have been served upon William M. Blicht, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 22nd day of November, 2022.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 22, 2022

Ms. Aileen Butler
Circuit Court Reporter
1642 Old Tara Lane
Fort Mill, SC 29708

Dear Ms. Butler:

Please provide us with the following transcript:

The State v. Travis Lamont Gathers

Case #: 2020-GS-46-04845,
2020-GS-46-04845A

Appellate Case No. 2022-001053

County: York

Date of Trial: February 25, 2021

Presiding Judge: Daniel D. Hall

Pursuant to the SC Court Reporter's Manual, please number the lines on the paper from 1-25 and include any and all recorded motions (pretrial and post-trial). Consecutive numbering of pages must be used throughout all volumes regardless of the number of volumes involved. Additionally, please transcribe the **jury selection** and the State and defense counsel's **opening and closing arguments** and include the **jury strike sheet**. Please be sure to include **headers** and a **complete index** including a **listing of exhibits**. **Please, do not include keyword indexing.**

If you are aware of any co-defendants, additional transcripts, or if the Attorney General's Office has already requested a transcript, please let us know.

SCCID **prefers** that all transcripts are sent via **certified mail**. If you choose to send transcripts electronically, you must use the SC Department of Technology's file transfer service at <https://scfiledrop.sc.gov>. New users click the register button to sign up for the service. For assistance with registration or passwords, contact the SC Department of Technology Service Center at 803-896-0001, option 2.

To ensure prompt payment, please sign and complete the enclosed form and include the original criminal case number (indictment number) where the space is provided.

Sincerely,

s/ Della White
Administrative Coordinator

cc: S. C. Court of Appeals
Attorney General's Office

Transcript Request Form

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter [and](mailto:transcripts@sccourts.org) to South Carolina Court Administration at transcripts@sccourts.org. Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to **any** party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
Full Name Della White	Phone Number 803-734-1330	Email Address dwhite@sccid.sc.gov	
Mailing Address 1330 Lady Street, Suite 401	City Columbia	State SC	Zip Code 29201
Transcript Information			
Docket Number 2020-GS-46-04845, 2020-GS-46-04845A	Case Caption (i.e. State v. John Doe or Smith v. Smith) The State v. Travis Lamont Gathers		
Date(s) of Proceeding February 25, 2021	Circuit X Family	County York	
Presiding Judge Daniel D. Hall	Expedited Yes No X		
Court Reporter(s) Ms. Aileen Butler	Opposing Counsel		

Requestor's Signature: Della White
(Typed name will serve as signature)

Date: 11/22/2022

Note: If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only			
Full Name _____	Date Received _____	Email Address _____	
Notice of Estimate to Requestor Party Date: _____ Number of Pages: _____ Estimated Amount _____			
Mailing Address for Payment _____	City _____	State _____	Zip Code _____

From: [Leverett, Scott](#)
To: [SC - BLITCH WILLIAM](#)
Cc: [SC - COLLINS CAROLINE](#); [Shipe, Sarah](#)
Subject: Travis Lamont Gathers - Motion to hold in Abeyance - Appellate Case No. 2022-001053
Date: Tuesday, November 22, 2022 3:53:00 PM
Attachments: [Travis Lamont Gathers - Motion to hold in Abeyance - Appellate Case No. 2022-001053.pdf](#)

Dear Mr. Blitch,

Attached please find a copy of the motion to hold the above referenced case in abeyance.

-Scott Leverett
Admin. Asst. for Sarah Shipe
Appellate Defense