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Feb 02 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Clifton Newman, Circuit Court Judge

STATE OF SOUTH CAROLINA,

APPELLANT,

V.

DELRICO EDMONDS,

RESPONDENT

APPELLATE CASE NO. 2022-001716

APPELLANT'S MOTION IN RESPONSE
TO RESPONDENT'S MOTION TO DISMISS APPEAL

The captioned matter is a State's appeal. The State has been served with Respondent's motion to dismiss the appeal dated January 27, 2023. The State disagrees with respondent's assertion that the transcript was not timely ordered, and submits that dismissal is not warranted. In support of its position, the State would respectfully show the Court:

1. The State first notes that respondent concedes that the notice of appeal was timely served pursuant to Rule 203 (b)(2), SCACR. (See Motion, pp. 2 and 3). Consequently, this Court has jurisdiction over the appeal. *See, e.g., Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14, 602 S.E.2d 772, 775 (2004) ("requirement of service of the notice of appeal is jurisdictional").

2. Respondent seeks dismissal of the appeal for “failure to order the transcript in the prescribed time.” (Motion, p. 3). Attached, and incorporated by reference is a copy of the timely email request, sent November 28, 2022, to the court reporter. (Attachment 1). The State admits, however, that the timely request was not copied to respondent, “the Office of Court Administration, and the clerk” of this Court. *See* Rule 207 (a)(1), SCACR. This was an inadvertent omission. In addition to providing a copy to this Court and opposing counsel by way of this return, the State has also today forwarded a copy to Court Administration. (Attachment 2). The State respectfully asks that this Court accept these attachments in satisfaction of the referenced rule provision.
3. In light of these copies being so provided, and without any showing of actual delay in ordering the transcript, or any identifiable prejudice to respondent, the State respectfully requests that the prior inadvertent omission be excused.

WHEREFORE, given the fact that jurisdiction is properly before this Court and that the transcript was, in fact, timely requested, and, further, having shown that appropriate copies have now been provided, the State submits, for all these reasons, the motion to dismiss should be denied.

Respectfully submitted,



C. Dale Scott
Senior Assistant Solicitor
Fifth Judicial Circuit

ATTORNEY FOR APPELLANT

This 2nd day of February, 2023

ATTACHMENT

1

DALE SCOTT

From: DALE SCOTT
Sent: Monday, November 28, 2022 4:07 PM
To: 'EHarris@sccourts.org'; JOHN WHITMIRE
Cc: Terri Barber Yarnall
Subject: Transcript request

Ms. Harris,

I'd like to request the transcript from the trial of State v. Delrico Edmonds heard by Clifton Newman during the week of March 14, 2022. Do you have an estimate of how long it would take to complete?



Dale Scott

Senior Assistant Solicitor
Fifth Judicial Circuit

1701 Main Street, Suite 302 • P.O. Box 192 (29202)
Columbia, South Carolina 29201
Phone: 803.576.1521 • Fax: 803.576.1718

ATTACHMENT

2

DALE SCOTT

From: DALE SCOTT
Sent: Thursday, February 2, 2023 9:45 AM
To: 'transcripts@sccourts.org'
Subject: Request for Transcript
Attachments: email to Court Reporter.pdf

To Whom It May Concern:

As proof of compliance with Rule 207(a)(1), SCACR I am attaching an email sent to Elizabeth Harris (court reporter) on November 28, 2022 requesting the transcript from the State v. Delrico Edmonds trial. While the request was timely sent, the proof of request was inadvertently omitted. Furthermore, it appears that on January 30, 2023, Tammie Holmes (SC Court Administration) sent a notice that the Supreme Court had granted Ms. Harris an extension up to and including February 28, 2023. Should you have any questions please do not hesitate to contact me. Thanks so much.

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From: DALE SCOTT
Sent: Monday, November 28, 2022 4:07 PM
To: 'EHarris@sccourts.org'; JOHN WHITMIRE
Cc: Terri Barber Yarnall
Subject: Transcript request

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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of Appellant's Motion in Response to Respondent's Motion to Dismiss Appeal in the above-referenced case has been served upon Susan B. Hackett, Esquire, at the primary email address listed in the Attorney Information System (AIS), which is shackett@sccid.sc.gov, this 2nd day of February, 2023.

Respectfully submitted,



C. Dale Scott
Senior Assistant Solicitor
Fifth Judicial Circuit

ATTORNEY FOR APPELLANT

DALE SCOTT

From: DALE SCOTT
Sent: Thursday, February 2, 2023 10:06 AM
To: 'shackett@sccid.sc.gov'
Cc: 'cstock@sccid.sc.gov'; JOHN WHITMIRE
Subject: Appellant's Motion in Response to Motion to Dismiss
Attachments: Appellant's Motion in Response to Respondent's Motion to Dismiss.pdf

Ms. Hackett,

Please find attached for service the motion in response to respondent's motion to dismiss for Delrico Edmonds' appeal which will be filed today with the Court of Appeals. I scanned in the certificate of service in this attachment inadvertently.

Thank you.

Dale



Dale Scott

Senior Assistant Solicitor
Fifth Judicial Circuit

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