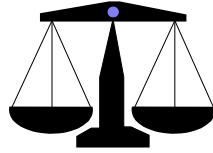


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Feb 08 2023

SC Court of Appeals

(803) 738-8622

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February 8, 2023

The Honorable Patricia A. Howard
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

Re: State v. Aaron M. Capers: Appellate Case No. 2019-000511

Dear Ms. Howard:

I previously wrote the Court and requested an extension of time in which to prepare, serve and file the Record on Appeal in the above captioned direct appeal. At that time, I indicated that a packet of letters offered by the defense in support of Appellant's Motion to Reconsider sentence had been left off my Designation of the Matter. I subsequently realized that was incorrect. What was inadvertently left off the Designation of the Matter was *the Dolan Report*, a research report on the life expectancy of incarcerated individuals, was referenced in the Initial Brief of Appellant. Those letter's marked as Court's exhibit No. 1, are missing. At this time, I am asking for an additional thirty (30) days to prepare, serve and file the ROA in this appeal. I also attach a COS on opposing Counsel Mark R. Farthing, Esquire.

The Record on Appeal in the above captioned matter is due for service and filing on today's date. Unfortunately, I have not been able to get this ROA printed in time for submission today. The packet of letters that was supposedly introduced during the January 6, 2020 hearing on the Motion for Reconsideration. As previously noted, that packet was marked as Court's Exhibit No. 1. Both opposing counsel and I have searched long and hard for that exhibit. The Clerk of Court's Office advises that they do not have it and also that the Court Reporter *did not* file a transmittal form used by Court Reporters to list the exhibits presented by them to the Clerk of Court for filing. I am advised that opposing counsel, or someone on his staff, spoke with the Court Reporter and was told she had that exhibit listed on her exhibit form, but did not have the packet of letters itself because the Judge had taken them under advisement. Today, I spoke with Judge Dennis, the now retired presiding circuit court judge in this case, and he advised that he did not

**The Honorable Patricia A. Howard
Clerk of Court
Supreme Court of South Carolina
Page 2 of 2**

have them. He further told me that he would not have taken possession of the original exhibit in question. I have contacted, Appellant's mother, Sharon Capers, Esquire, who represented her son at his jury trial, and asked that she search her file for this missing exhibit. She has not yet reported back to me concerning this missing Court's Exhibit. Tomorrow I intend to write Anne Williams, the prosecutor in this matter, and will ask that the state search their own files for this exhibit in case it somehow got packed with their materials at the end of the trial.

I have not yet spoken with Respondent's Counsel in this matter, Mark Farthing, concerning the exhibit I plan to ask for leave of Court to add to Appellant's Designation of the Matter and to the Record on Appeal. I will discuss it with him tomorrow. He has been tied up with two oral arguments in the Supreme Court of South Carolina that he participated in today. I did speak with his supervisor, William Blich, Esquire, and he agreed to discuss this matter with Mr. Farthing in the morning. I am serving them both with a copy of Appellant's request for an additional thirty (30) day extension of time in which to hopefully locate the missing exhibit and to finish preparing the ROA. I will prepare my Petition for Leave of Court to Amend my Designation of the matter after I talk to Mr. Farthing.

Thank you very much. I remain,

Respectfully yours,

S/ *Tara D. Shurling*

Tara Dawn Shurling

Attorney at Law

TDS/ts

Cc:

Mark R. Farthing, Esquire (by email)
William M. Blich, Jr., Esquire (by email)
Sharon Capers, Esquire (by email)
Aaron Capers SCDC No. 00379561, by USPS;
Lee County Correctional Institution

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Feb 08 2023

SC Court of Appeals

**IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM BERKELEY COUNTY
Court of General Sessions
The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Lower Court Cases No. 2018-GS-08-00532, 2018-GS-08-00531, 2018-GS-08-00528,
2018-GS-08-00529 and 2018-GS-08-00530

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

AARON MCKENZIE CAPERS

APPELLANT.

CERTIFICATE OF SERVICE
OF
REQUEST FOR A SECOND EXTENSION OF TIME
IN WHICH TO FILE RECORD ON APPEAL

Undersigned Counsel for Appellant in the above captioned direct appeal hereby certifies that she has on today's date, February 8, 2023, served opposing counsel, Mark R. Farthing, Assistant Attorney General, with a copy of her request for a second extension of time in which to file the Record on Appeal in the above captioned matter. This petition was served upon opposing counsel by way of an email sent to Attorney Farthing to the address listed below.

mfarthing@scag.gov

Respectfully submitted,

Tara D. Shurling

Tara Dawn Shurling

S.C. Bar No. 5099

Attorney and Counselor at Law

ATTORNEY FOR APPELLANT

This 8th day of February, 2023.