

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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FEB 24 2023

SC Court of Appeals

Appeal from the Circuit Court  
The Honorable Frank R. Addy, Jr., sitting in Greenwood County

Trial Court Case No. 2002GS2309233, 2002GS2309234,  
2002GS2309235, 2002GS2309239 (Greenville County)

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Appellate Case No. 2022-000641

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PATRICK LEE BOOKER, .....APPELLANT

v.

STATE OF SOUTH CAROLINA, .....RESPONDENT

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**MOTION TO STRIKE PORTIONS OF APPELLANT'S DESIGNATION OF MATTER**

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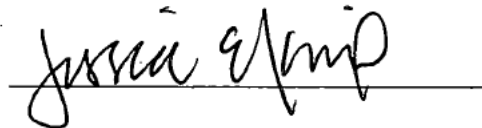
Comes now Jessica E. Kinard, Legal Counsel for Respondent, respectfully moving pursuant to Rule 240, SCACR for an order striking portions of Appellant's designation of matter. Despite Appellant's assertion that all listed matter is relevant to the appeal, Respondent is informed and believes that the bulk of his designations are irrelevant and inappropriate. These items include several memoranda and documents that were neither referenced in the order from nor made exhibits at either hearing in this matter (Appellant's items 1, 2, 3, 5, and 9). Appellant also wishes to submit an audio/visual recording of the hearing that Respondent is informed and believes he created himself and is, therefore, not certified or authorized (Appellant's item 12). Respondent

also objects to inclusion of any portion of transcripts that are less than the entirety (Appellant's items 6 and 10). Respondent does not object to inclusion of the citations proposed as items 4 and 8, as they represent the summonses initiating these hearings.

Rule 209, SCACR states in pertinent part that "the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal." Perhaps more importantly is the requirement of Rule 210(c) SCACR, which states that "the Record shall not, however, include matter which was not presented to the lower court or tribunal."

As noted above, the items proposed by Respondent were not before the court during these hearings and were not made exhibits or incorporated by reference in the orders. If this court considered them, it would be an inappropriate expansion of the record. For these reasons, to include Appellant's proposed items would be in clear violation of relevant parts of Rule 209 and 210, SCACR. As such, Respondent moves to strike these items from Appellant's designation of matter and seeks an order preventing their inclusion in the record of this case.

Respectfully submitted,



Jessica E. Kinard  
Legal Counsel

February 23, 2023

South Carolina Department of Probation,  
Parole and Pardon Services  
P.O. Box 207  
Columbia, South Carolina 29202  
(803) 734-9220

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Appellate Case No. 2022-000641

PATRICK LEE BOOKER, ..... APPELLANT

v.

STATE OF SOUTH CAROLINA, ..... RESPONDENT

**CERTIFICATE OF SERVICE**

I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within *Initial Brief of Respondent, Designation of Matter, and Motion to Strike Portions of Appellant's Designation of Matter* on Appellant this 23<sup>rd</sup> day of February, 2023, by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Patrick Lee Booker  
103 Rock Knoll Drive  
Greenwood, S.C. 29649

I further certify that all parties required by Rule to be served have been served.

  
**Dawn K. Nichols**

**Executive Assistant**

South Carolina Department of Probation,  
Parole, and Pardon Services

P. O. Box 207

Columbia, South Carolina 29202

State of South Carolina  
Department of Probation, Parole and Pardon Services

HENRY McMASTER  
Governor



JERRY B. ADGER  
Director

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SC Court of Appeals

February 23, 2023


The Honorable Jenny Kitchings  
Clerk of the S.C. Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211

Re: **State v. Patrick Booker**  
**22-000641**

Dear Ms. Kitchings:

Please find enclosed the Initial Brief of Respondent, Designation of Matter, and Motion to Strike Portions of Appellant's Designation of Matter dated February 23, 2023, along with proof of service in the above referenced case.

Sincerely,

  
Jessica E. Kinard  
Legal Counsel

JEK:dn

Enclosures

cc: Patrick Booker

State of South Carolina

Department of Probation, Parole, and Pardon Services

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COLUMBIA, SOUTH CAROLINA 29202

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**SC Court of Appeals**

The Honorable Jenny Kitchings  
Clerk of the S.C. Court of Appeals  
P. O. Box 11629  
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