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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions

The Honorable R. Markley Dennis, Circuit Court Judge

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS,

APPELLANT.

Petition for an Extension of Time to File ROA
Request for
Leave of Court to Submit a Copy of Court Exhibit No. 1
And
Request for Leave of Court to
Submit Evaluation of Appellant under Seal

NOW COMES the Appellant in the above caption Direct Appeal, requesting an additional thirty day extension to file his Record on Appeal. It has come to the Attention of undersigned Counsel and the State, that a Psychiatric Evaluation submitted in connection with the Appellant's Motion for Reconsideration of Sentence contains deeply personal information about him and his Family and should have preferably, been submitted with a request that it be entered under seal. It was not. I have confirmed with Trial Counsel that she would have wanted his exhibit to be sealed and that she would join in my request that the Court allow Appellate Counsel to submit this exhibit under seal so that it will not be part of the record accessible by the public. I have not had the opportunity to discuss this issue with my Client, but I am certain he would not want this document to be accessible to the public. Opposing Counsel, Mark R. Farthing, has graciously consented to his request. I now ask that that document be introduced under seal.

Court's Exhibit No. 1, from the January 6, 2020, hearing held before the Honorable R. Markley Dennis, Jr., Retired Circuit Court Judge, has been misplaced. Opposing Counsel, Mark R. Farthing, Esquire and I have both exhausted our efforts to locate this missing

exhibit. We have checked with the Solicitor who tried this case, with Judge Dennis, with the Court Reporter and the Clerk of Court. All we have been able to confirm is that it was not filed with the Clerk of Court following the proceeding. Thankfully, opposing counsel has agreed to consent to the inclusion of replacement copies of the letters which were marked and introduced as Court's Exhibit No. 1. We were able to reach this agreement because the record of that proceeding contains adequate information to verify what letters were introduced as Court's Exhibit No. 1. Trial Counsel, Sharon Capers, has confirmed that she has copies of the letters introduced as Court's Exhibit No. 1 in her possession and that she is willing to provide an affidavit, to be included in the ROA with these letters, attesting to the fact that the copies of the letters provided by her, and included in the Record on Appeal, are in fact the same letters she submitted to the Court on January 6, 2020. She has sent undersigned counsel copies of the letter in question, but the attachment to her email would not open. I have asked that she send me a hard copy of these letters back with her executed Affidavit which will be sent to her along with this Petition. I now ask for the Court's approval for Appellant to include the replacement copy of Court's Exhibit No. 1 in the ROA.

Appellant asks for a thirty (30) extension of time in which to file the ROA and asks that the time for filing run from the date of this Court's Order approving the requests addressed herein. For the convenience of the Court, Appellant has attached a copy of the Designation of the Matter, included with Appellant's Initial Brief, wherein both Court's Exhibit No. 1 and the psychiatric record addressed in this petition are addressed as part of the matter Appellant intended to have submitted in the ROA. See, ATTACHMENT A.

Respectfully submitted,

s/ Tara Dawn Shurling

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ATTORNEY FOR APPELLANT

ATTACHMENT A

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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The Honorable R. Markley Dennis, Circuit Court Judge

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS,

APPELLANT.

DESIGNATION OF MATTER
TO BE INCLUDED IN RECORD ON APPEAL

The Appellant proposes the following be included in the Record on Appeal:

1. Trial Transcript pages 789-800
2. Indictments 2018-GS-08-00528- 00532
3. Transcript January 6, 2020, hearing on Motion to Reconsider Sentence, pgs 1- 71
4. Court's Exhibit 1; packet of letters submitted by Appellant at January, 2020 hearing
5. Transcript of February 16, 2021 Hearing; pages 1-12.
6. Copy of Motion to Reconsider Sentence
7. Copy of Evaluation Report issued by Dr. Donna Maddox.

I certify that this designation contains no matter which is irrelevant to this appeal.

Tara D. Shurling

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May 16, 2022

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC 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
Petition For An Extension Of Time
In Which To File Record On Appeal,
Request to File Appellant's Evaluation under Seal
And
Request to Submit a Replacement Copy of
Court's Exhibit No. 1 in ROA
Along with an Affidavit Verifying the Copy
to be a True and Accurate Copy of the Original Exhibit.**

Undersigned Counsel for Appellant in the above captioned direct appeal hereby certifies that she has on today's date, March 10, 2023, served opposing counsel, Mark Reynolds Farthing, Assistant Attorney General, with a copy of the document referenced in the caption above. This petition was served upon opposing counsel, by way of an email sent to the address listed below. Attorney Blitch 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 10th day of March, 2023