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Apr 05 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL D. WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2022-000686

MOTION TO HOLD APPEAL IN ABEYANCE

Undersigned counsel respectfully moves this Court to hold the timelines for filing the initial brief and designation of matter in abeyance pending receipt of additional transcripts from the week of Appellant's trial.

1. Appellant was indicted in April 2022 for three offenses: possession of a weapon during the commission of a violent crime, possession of a weapon by a person convicted of a violent felony, and trafficking methamphetamine.

2. Represented by Barry Thompson, Appellant was tried in his absence before the Honorable Courtney Clyburn-Pope beginning on April 13, 2022. The trial lasted two days.

3. When reviewing the trial transcript, the undersigned came across a section wherein trial counsel renewed “all prior motions, objections, including motion for continuance, motion to relieve counsel, all of the prior motions and objections.” Trial transcript p. 70.

4. There are no prior motions for a continuance or a motion to relieve counsel in the two-day trial transcript already in the undersigned’s possession.

5. As such, the undersigned called trial counsel, who indicated additional arguments were made on the morning of April 11, 2022 and the morning of April 13, 2022. These transcripts were ordered yesterday, March 29, 2023. See Letter, Exhibit A.

6. Trial counsel averred that each of the transcripts will be short and recalled that no substantial testimony was taken.

7. Efforts were previously taken to ensure that all of the necessary transcripts had been ordered, however, this office has no previous notice of these hearings. See E-mail exchange with trial counsel, Exhibit B.

8. The undersigned believes these transcripts are necessary and relevant to issues that may be raised on appeal, particularly in light of South Carolina’s rules on issue preservation.

9. Counsel makes this request in good faith and not for the purpose of delay.

10. Counsel for the office of the Attorney General, William Blich, Esquire, graciously consented to this motion to hold this appeal in abeyance during a telephone call on March 30, 2023.

(signature page to follow)

WHEREFORE, undersigned counsel respectfully requests this Court grant his motion to hold this appeal in abeyance pending receipt of the transcripts from April 11, 2022 and April 13, 2022. Undersigned counsel will inform the Court immediately upon receipt of the transcripts.

Respectfully submitted,



Taylor D. Gilliam
Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of April, 2023

1 grounds that there is no evidence before the jury that Mr.
2 Williams exhibited any action or intent to control the drugs
3 that was found.

4 THE COURT: Any response, Mr. McMillian?

5 MR. MCMILLIAN: Your Honor, viewing the evidence in the
6 light most favorable to the State, there is testimony that
7 this was Mr. Williams' residence, that he rented other
8 rooms, that he exhibited dominion and control over the
9 property, that this was his bedroom. And by way of that,
10 there's competent evidence that the jury could find that he
11 possessed the drugs constructively and had the dominion and
12 control over them necessarily.

13 THE COURT: Thank you, Mr. McMillian.

14 Mr. Thompson, I'm denying your motion for directed
15 verdict.

16 Any other motions.

17 MR. THOMPSON: Your Honor, at this time, we would renew
18 all prior motions, objections, including motion for
19 continuance, motion to relieve counsel, all of the prior
20 motions and objections.

21 THE COURT: Any reply?

22 MR. MCMILLIAN: No, Your Honor.

23 MR. THOMPSON: And we would renew our objections to
24 noninclusion of lesser charges on the verdict form.

25 THE COURT: Mr. Thompson, my rulings will remain the

EXHIBIT

A



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 29, 2023

DCRP
Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201

Dear Sir or Madam:

Please provide us with the following transcript:

The State v. Michael D. Williams

Case #: 2022-GS-02-00732, -00734 &
-00733

Appellate Case No. 2022-000686

County: Aiken

Date of Trial: April 11, 2022 & April 13, 2022

Presiding Judge: Courtney Clyburn-Pope

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.

Please 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,

Della White
Administrative Coordinator

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

EXHIBIT

B

Gilliam, Taylor

From: Barry Thompson <bthompson@aikenpd.com>
Sent: Tuesday, May 24, 2022 1:29 PM
To: White, Della
Cc: Rebecca Halupa
Subject: [External] RE: The State v. Michael Williams

Yes. Trial was on April 13th and 14th. Mr. Williams was tried in his absence. His sentence was placed under seal. He was picked up on a bench warrant and his sentence was unsealed on May 13th. That same day, right after sentencing, his motion to reconsider was heard along with a motion for new trial. All post-trial motions were denied.

From: White, Della <dwhite@sccid.sc.gov>
Sent: Tuesday, May 24, 2022 10:17 AM
To: Barry Thompson <bthompson@aikenpd.com>
Subject: The State v. Michael Williams

Good morning,

Thank you for the documents you sent us in Mr. William's case. Mr. Williams is approved for us to represent him on appeal, but I wanted to confirm the dates of the trial.

Sentencing occurred on April 13-14, 2022 and May 13, 2022.

Did the trial and sentencing take place on this one day, or were there any other trial dates? Also, can you please let me know if there were any pre-trial or post-trial hearings (e.g. **Jackson v. Denno hearing, Immunity hearing – either Castle Doctrine or Stand Your Ground -- identification hearing, or any other motion hearing**) that occurred outside of the main trial dates? We do not need to be informed of any bond hearings or about any preliminary hearing).

Please let me know. This information is critical to ensuring we order all necessary transcripts for this appeal.

Thank you,

Della White
South Carolina Commission on Indigent Defense
1330 Lady Street
Columbia, South Carolina 29201

From: [Leverett, Scott](#)
To: [SC - BLITCH WILLIAM](#)
Cc: [SC - COLLINS CAROLINE](#); [Gilliam, Taylor](#)
Subject: Michael D. Williams - Motion to Hold Appeal in Abeyance - Appellate Case No. 2022-000686
Date: Wednesday, April 5, 2023 2:46:00 PM
Attachments: [Michael D. Williams - Motion to Hold Appeal in Abeyance - Appellate Case No. 2022-000686.pdf](#)

Dear Mr. Blitch,

Attached please find a copy of the Motion to Hold the above reference case in abeyance that is being filed today, April 5, 2023, with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Taylor Gilliam
Appellate Defense

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STATE OF SOUTH CAROLINA

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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 the Motion to Hold Appeal in Abeyance in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 5th day of April, 2023.



Taylor D Gilliam
Appellate Defender

ATTORNEY FOR APPELLANT