

**RECEIVED**

**May 25 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Richland County

Walton J. McLeod, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

CLAYTON THOMAS JONES,

APPELLANT

APPELLATE CASE NO. 2022-001775

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MOTION TO HOLD APPEAL IN ABEYANCE

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Undersigned counsel respectfully moves this Court to hold the timelines for filing the initial brief of appellant and designation of matter in abeyance pending receipt of additional transcripts essential to this appeal, specifically, the transcript of the January 19, 2022 hearing on Appellant's motion to relieve counsel and proceed *pro se*, and the transcript of the July 7, 2022 hearing in which standby counsel was appointed to assist Appellant at trial. In support of this motion, undersigned counsel shows:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed with this Court on June 12, 2023. No extensions have been requested.
2. A Richland County grand jury indicted Appellant on January 22, 2020 for third degree criminal sexual conduct with a minor. Appellant's case was called to trial on July 11, 2022 before

the Honorable Walton J. McLeod, and a jury. Assistant Solicitors Theresa Johns and Susan Chafflin represented the state. Appellant represented himself. Tivis Sutherland was standby counsel. On July 14, 2022, the jury found Appellant guilty as indicted and he was sentenced to fifteen years' imprisonment.

3. Tivis Sutherland, standby counsel, filed a notice of appeal on Appellant's behalf. The Division of Appellate Defense undertook representation of Appellant on appeal and ordered the trial transcript. Standby counsel informed the legal services coordinator at Appellate Defense that there were no pretrial hearings and that the entire trial and sentencing occurred from July 11-14, 2022.

4. Upon receipt of the July 11-14, 2022 trial transcript, undersigned counsel was assigned to represent Appellant on appeal. Upon review of the file, undersigned counsel discovered Appellant represented himself at trial. However, the trial transcript received does not include any record of Appellant's motion to relieve counsel and proceed *pro se* nor any colloquy pursuant to Faretta v. California, 422 U.S. 806 (1975). It is apparent from the transcript that Appellant had been representing himself for some time.

5. Upon this discovery, undersigned counsel contacted Tivis Sutherland, Appellant's standby counsel, and learned there was a pretrial hearing on July 7, 2022 before the Honorable Clifton Newman in which Mr. Sutherland was appointed as standby counsel. Counsel has requested, but not yet received, the transcript of the July 7, 2022 hearing. See Exhibit B (Transcript Request).

6. Undersigned counsel also requested the Order Relieving Counsel signed by the Honorable L. Casey Manning and filed on February 3, 2022 from the Richland County Clerk of Court. This Order states that a hearing on Appellant's motion to relieve counsel was held on January 19, 2022 and that Appellant requested to represent himself at this hearing. See Exhibit A (Order Relieving

Counsel). Counsel has requested, but not yet received, the transcript of the January 19, 2022 hearing. See Exhibit C (Transcript Request).

7. Undersigned counsel spoke to counsel for Respondent, Senior Assistant Deputy Attorney General William M. Blich, Jr., and is authorized to state that Respondent does not oppose this request.

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

WHEREFORE, undersigned counsel respectfully requests this Court hold the timelines for filing the initial brief of appellant and designation of matter in abeyance pending receipt of the January 19, 2022 and July 7, 2022 hearing transcripts, which are essential to this appeal. Counsel will immediately inform the Court when the additional transcripts are received.

Respectfully submitted,

  
Lara M. Caudy  
Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of May 2023

# **EXHIBIT A**

STATE OF SOUTH CAROLINA

Case No: 2019A4021602389

STATE OF SOUTH CAROLINA,  
County of Richland

*Plaintiff,*

v.

CLAYTON T. JONES,

*Defendant.*

ORDER RELIEVING COUNSEL

2022 FEB -3 AM 8:10  
JENNIFER W. McPHERSON  
C.P., G.S., & P.C.

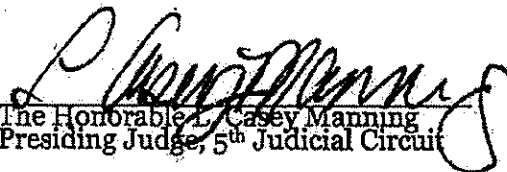
RICHLAND COUNTY  
FILED

On motion of the Defendant and his Counsel, this Court heard a motion to relieve counsel on January 19, of this year. The Defendant requested to represent himself from this point forward.

Upon consideration of the facts presented at the hearing,

IT IS ORDERED that Tivis Sutherland be relieved from the case, and that a lawyer be appointed to advise the Defendant on the issue of self-representation.

IT IS SO ORDERED>

  
The Honorable L. Casey Manning  
Presiding Judge, 5<sup>th</sup> Judicial Circuit

Columbia, South Carolina  
February 2<sup>nd</sup>, 2022

# **EXHIBIT B**



# 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

Telephone: (803) 734-1330

Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

May 25, 2023

Ms. Elizabeth B. Harris  
Circuit Court Reporter  
414 Autumn Circle  
Columbia, SC 29206

Dear Ms. Harris:

Please provide us with the following transcript:

The State v. Clayton Thomas Jones

Appellate Case No. 2022-001775

County: Richland

Presiding Judge: Clifton Newman

Case #: 2020-GS-40-00393

Date of Trial: July 7, 2022

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,

s/ Della White  
Administrative Coordinator

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



# South Carolina Judicial Branch

## TRANSCRIPT REQUEST FORM

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter/Transcriptionist and to South Carolina Court Administration at [transcripts@sccourts.org](mailto:transcripts@sccourts.org). If WebEx or DCRP were used to capture the record, please indicate below and send the form to [transcripts@sccourts.org](mailto:transcripts@sccourts.org).

Requestor's Information			
Full Name <b>Della White</b>		Law Firm/Agency <b>South Carolina Commission on Indigent Defense</b>	Phone Number <b>803-734-1330</b>
Email Address <b>dwhite@sccid.sc.gov</b>		Mailing Address <b>PO Box 11589 Columbia, SC 29211</b>	
Is the requestor a party in the case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, does the requestor represent a party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party _____			
Transcript Information			
Docket Number <b>2020-GS-40-00393</b>	Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) <b>The State v. Clayton Thomas Jones</b>		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>
Date(s) of Proceeding <b>July 7, 2022</b>	County <b>Richland</b>	Appeal pending <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Death Penalty <input type="checkbox"/> Yes <input type="checkbox"/> No
Presiding Judge <b>Clifton Newman</b>		Special Circumstances Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
Opposing Counsel(s) (name and email address) <b>South Carolina Attorney General</b>		Delivery Timeframe (check Rule 607 for current page rates) <input type="checkbox"/> Quote <input type="checkbox"/> Rough Draft <input type="checkbox"/> Overnight delivery <input type="checkbox"/> Daily delivery <input type="checkbox"/> Expedited delivery (7 days) Due on/before: _____ <input type="checkbox"/> Regular delivery (60 days)	
Court Reporter(s) <b>Ms. Elizabeth B. Harris</b>	<input type="checkbox"/> Webex <input type="checkbox"/> DCRP		
Portion of proceeding to be transcribed <input checked="" type="checkbox"/> Entire hearing <input type="checkbox"/> Voir dire by juror <input type="checkbox"/> Jury selection <input type="checkbox"/> Plaintiff's opening statement <input type="checkbox"/> Defendant's opening statement <input type="checkbox"/> Plaintiff's closing arguments <input type="checkbox"/> Defendant's closing arguments <input type="checkbox"/> Entire direct examination <input type="checkbox"/> Entire cross examination <input type="checkbox"/> Entire redirect <input type="checkbox"/> Examination of witness (W) by attorney (A) W: _____ A: _____ <input type="checkbox"/> Ruling of the court		Delivery Method (additional fees may apply) <input type="checkbox"/> <a href="https://scfiledrop.sc.gov">https://scfiledrop.sc.gov</a> <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
		Responsible Payor <input type="checkbox"/> Private / Self <input checked="" type="checkbox"/> Court Appointed Counsel Appeals Attorney _____ Email _____ <input type="checkbox"/> Other	
Next Hearing Date			

Requestor's Signature: Della White

Date: 05/25/2023

(Typed name will serve as signature)

**NOTE:** Requests will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party, regardless of indigent status. Please promptly submit your payment in the method of payment requested, in order for the transcript to be produced. In some cases, a deposit may be required before the transcript can be placed in the production queue. You may also request a quote before deciding to order. *If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.*

If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter or transcriptionist.

# **EXHIBIT C**



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Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

May 25, 2023

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

Dear DCRP:

Please provide us with the following transcript:

The State v. Clayton Thomas Jones

Case #: 2020-GS-40-00393

Appellate Case No. 2022-001775

County: Richland

Date of Trial: January 19, 2022

Presiding Judge: L. Casey Manning

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cc: S. C. Court of Appeals  
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<b>Full Name</b> Della White	<b>Law Firm/Agency</b> South Carolina Commission on Indigent Defense	<b>Phone Number</b> 803-734-1330	
<b>Email Address</b> dwhite@sccid.sc.gov		<b>Mailing Address</b> PO Box 11589 Columbia, SC 29211	
Is the requestor a party in the case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, does the requestor represent a party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party _____			
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<b>Docket Number</b> 2020-GS-40-00393	<b>Full Case Caption</b> (i.e. State v. John Doe or John Smith v. Jane Smith) The State v. Clayton Thomas Jones	<b>Circuit</b> <input checked="" type="checkbox"/> <b>Family</b> <input type="checkbox"/>	
<b>Date(s) of Proceeding</b> January 19, 2022	<b>County</b> Richland	<b>Appeal pending</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Death Penalty</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Presiding Judge</b> L. Casey Manning		<b>Special Circumstances</b> Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
<b>Opposing Counsel(s)</b> (name and email address) South Carolina Attorney General			
<b>Court Reporter(s)</b> DCRP	<input type="checkbox"/> Webex <input type="checkbox"/> DCRP	<b>Delivery Timeframe</b> (check Rule 607 for current page rates) <input type="checkbox"/> Quote <input type="checkbox"/> Rough Draft <input type="checkbox"/> Overnight delivery <input type="checkbox"/> Daily delivery <input type="checkbox"/> Expedited delivery (7 days) Due on/before: _____ <input type="checkbox"/> Regular delivery (60 days)	
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		<b>Responsible Payor</b> <input type="checkbox"/> Private / Self <input checked="" type="checkbox"/> Court Appointed Counsel Appeals Attorney _____ Email _____ <input type="checkbox"/> Other	
<b>Next Hearing Date</b>			

Requestor's Signature: Della White

Date: 05/25/2023

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**RECEIVED**

**May 25 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
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Appeal from Richland County

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THE STATE,

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CLAYTON THOMAS JONES,

APPELLANT

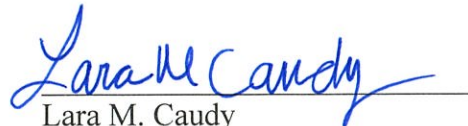
APPELLATE CASE NO. 2022-001775

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CERTIFICATE OF SERVICE

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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 25th day of May, 2023.



Lara M. Caudy  
Appellate Defender

ATTORNEY FOR APPELLANT

**From:** [Bryant, Hannah](#)  
**To:** [SC - BLITCH WILLIAM](#); [SC - COLLINS CAROLINE](#); [Caudy, Lara](#)  
**Subject:** Clayton Jones Appellate Case No. 2022-001775 Motion to Hold in Abeyance  
**Date:** Thursday, May 25, 2023 1:58:00 PM  
**Attachments:** [Motion to Hold in Abeyance Clayton Jones Appellate Case No. 2022-001775.pdf](#)

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Dear Mr. Blitch,

Please find attached for service a copy of the Motion to Hold in Abeyance in the above referenced case, which will be filed in the Court of Appeals today.

**Hannah Bryant**

Administrative Assistant  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
(803)-734-1330