

RECEIVED

Jul 13 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RAY L. KELLY,

APPELLANT

APPELLATE CASE NO. 2022-001449

MOTION TO HOLD APPEAL IN ABEYANCE PENDING RECEIPT
OF OUTSTANDING TRANSCRIPTS

Counsel for Ray L. Kelly respectfully moves to hold the above-captioned case in abeyance pending receipt of transcripts of the February 16, 2021, and March 16, 2021, pre-trial hearings. In support of this request, counsel shows:

1. The Initial Brief of Appellant and Designation of Matter in this case are due to be served and filed July 19, 2023. This Court has granted one previous extension in this case.
2. Appellant was indicted during the November 2020 term of the Greenville County grand jury for the offenses of murder, three counts of resisting arrest with assault, trafficking cocaine base, possession of a weapon during the commission of a violent crime, providing false information to police, and driving without a license.
3. Appellant appeared for a competency hearing before the Honorable Letitia H. Verdin on May 13, 2021.

4. During this May 13, 2021, competency hearing, Judge Verdin made mention of an earlier hearing at which appellant indicated that he wanted to proceed *pro se*. This prior hearing, of which the Office of Appellate Defense did not have prior knowledge, resulted in Judge Verdin ordering a competency evaluation for appellant.

5. Upon information of this pre-trial hearing at which appellant appeared *pro se*, the Office of Appellate Defense ordered a transcript of this March 16, 2021, hearing on May 3, 2023. A copy of this transcript request is attached as Exhibit A to this motion.

6. On July 11, 2023, undersigned counsel received notice that Court Reporter Amber Payne had been granted an extension until August 3, 2023, to prepare and deliver the requested March 16, 2021, transcript. A copy of this notice is attached as Exhibit B to this motion.

7. On July 12, 2023, in following up on the above matters, undersigned counsel learned that a transcript of an additional hearing, which was held on February 16, 2021, and at which the appellant again appeared *pro se*, needed to be obtained. Therefore, on July 12, 2023, the Office of Appellate Defense ordered an expedited transcript of this February 16, 2023, hearing from Court Reporter Pamela Green. A copy of this transcript request is attached as Exhibit C to this motion.

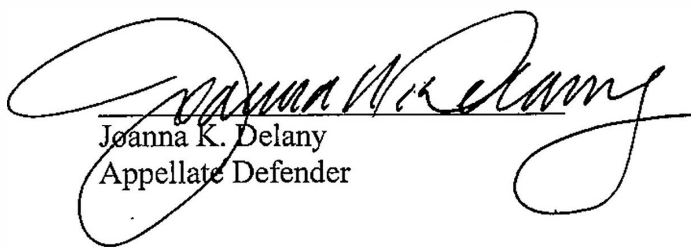
8. The Office of Appellate Defense has asked that the transcripts of both the February 16 and March 16, 2021, hearings be expedited. *See* Exhibit C and Exhibit D.

9. This request is made in good faith, and not for purposes of delay. Undersigned counsel will immediately contact this Court upon receipt of these transcripts.

WHEREFORE, the undersigned counsel would respectfully request that this Court hold the above-captioned case in abeyance pending receipt of the above-referenced February 16 and March 16, 2021, pre-trial transcripts. Counsel also requests that the time limits

for filing the initial brief and designation of matter be held in abeyance pending disposition of this motion.

Respectfully submitted,



Joanna K. Delany
Appellate Defender

This 13th day of July, 2023.

EXHIBIT A

Delany, Joanna

From: White, Della
Sent: Wednesday, May 3, 2023 11:03 AM
To: Payne, Amber
Cc: Transcripts; Delany, Joanna; Warren, Kaylynn
Subject: The State v. Ray Kelly
Attachments: Transcript request March 16, 2021.PDF

Good morning,

Attached is a letter requesting the transcript for the above case.

If you are not the court reporter or if another court reporter took a portion of the trial, please let me know.

As a reminder, please do not include keyword indexing and bond or preliminary hearings.

Finally, if there are any co-defendants, please let me know.

Thank you very much.

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

This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.



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 03, 2023

Amber Payne
Circuit Court Reporter
P.O. Box 728
Campobello, SC 29322

Dear Ms. Payne:

Please provide us with the following transcript:

The State v. Ray L. Kelly

Case #: 2020-GS-23-06536, -06541, 06548,
-06550, -06551, 06552,
2022-GS-23-05006A

Appellate Case No. 2022-001449

County: Greenville

Date of Trial: March 16, 2021

Presiding Judge: Letitia H. Verdin

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. If WebEx or DCRP were used to capture the record, please indicate below and send the form to transcripts@sccourts.org.

Requestor's Information			
Full Name Della White	Law Firm/Agency South Carolina Commission on Indigent Defense	Phone Number 803-734-1330	
Email Address dwhite@sccid.sc.gov		Mailing Address 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 _____			
Transcript Information			
Docket Number 2020-GS-23-06536, 06541, 06548,-06550, -06551, 06552, 2022	Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) The State v. Ray L. Kelly		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>
Date(s) of Proceeding March 16, 2021	County Greenville	Appeal pending <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Death Penalty <input type="checkbox"/> Yes <input type="checkbox"/> No
Presiding Judge Letitia H. Verdin		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) South Carolina Attorney General			
Court Reporter(s) Amber Payne	<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 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)	
		Delivery Method (additional fees may apply) <input type="checkbox"/> https://scfiledrop.sc.gov <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: 05/03/2023

(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 B

EXHIBIT C

Delany, Joanna

From: White, Della
Sent: Wednesday, July 12, 2023 4:22 PM
To: SC - GREEN PAMELA
Cc: Transcripts; Delany, Joanna; Warren, Kaylynn
Subject: The State v. Ray L. Kelly
Attachments: Feb. 16, 2021 transcript request.PDF

Good afternoon,

Our office would like to expedite the attached request.

Attached is a letter requesting the transcript for the above case.

If you are not the court reporter or if another court reporter took a portion of the hearing, please let me know.

As a reminder, please do not include keyword indexing and bond or preliminary hearings.

Finally, if there are any co-defendants, please let me know.

Thank you very much.

Della White
SC Commission on Indigent Defense
1330 Lady Street, Suite 401
P.O. Box 11589
Columbia, SC 29201
Office: 803-734-1330

This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.



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) 734-1346

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

July 12, 2023

Ms. Pamela E. Green
Circuit Court Reporter
PO Box 819
Reidville, SC 29375

Dear Ms. Green:

Please provide us with the following transcript:

The State v. Ray L. Kelly

Case #: 2020-GS-23-06536,
2020-GS-23-06541,
2020-GS-23-06548,
2020-GS-23-06550,
2020-GS-23-06551,
2020-GS-23-06552,
2022-GS-23-05006A

Appellate Case No. 2022-001449

County: Greenville

Date of Trial: February 16, 2021

Presiding Judge: Letitia H. Verdin

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. If WebEx or DCRP were used to capture the record, please indicate below and send the form to transcripts@sccourts.org.

Requestor's Information			
Full Name Della White	Law Firm/Agency South Carolina Commission on Indigent Defense	Phone Number 803-734-1330	
Email Address dwhite@sccd.sc.gov		Mailing Address 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 _____			
Transcript Information			
Docket Number 2020-GS-23-06536, 2020-GS-23-06541, 2020-GS-23-06548, 2020-GS-23-06550, 2020-GS-23-06551, 2020-GS-23-06552, 2022-GS-23-05006A	Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) The State v. Ray L. Kelly		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>
Date(s) of Proceeding February 16, 2021	County Greenville	Appeal pending <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Death Penalty <input type="checkbox"/> Yes <input type="checkbox"/> No
Presiding Judge Letitia H. Verdin		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) South Carolina Attorney General		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) Ms. Pamela E. Green	<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"/> https://scfiledrop.sc.gov <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
Next Hearing Date		Responsible Payor <input type="checkbox"/> Private / Self <input checked="" type="checkbox"/> Court Appointed Counsel Appeals Attorney _____ Email _____ <input type="checkbox"/> Other	

Requestor's Signature: Della White

Date: 07/12/2023

(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.

Revised 03/2023

EXHIBIT D

Delany, Joanna

From: White, Della
Sent: Wednesday, July 12, 2023 4:28 PM
To: Payne, Amber
Cc: Delany, Joanna; Warren, Kaylynn
Subject: The State Ray Kelly
Attachments: Transcript request March 16, 2021.PDF

Good afternoon,

Thank you for speaking with me about the attached transcript request.

Our office would now like for this request to be expedited.

Thank you so much for your time in this matter.

Della White
SC Commission on Indigent Defense
1330 Lady Street, Suite 401
P.O. Box 11589
Columbia, SC 29201
Office: 803-734-1330

This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.

RECEIVED

Jul 13 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

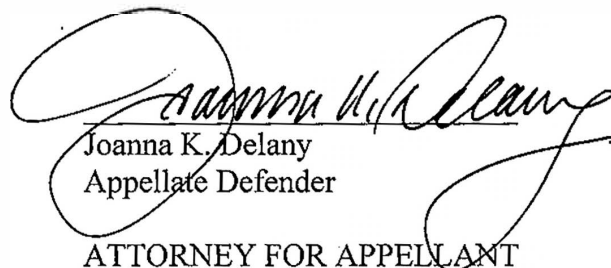
RAY L. KELLY,

APPELLANT

APPELLATE CASE NO. 2022-001449

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 in Abeyance in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 13th day of July, 2023.


Joanna K. Delany
Appellate Defender
ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [SC - BROWN MELODY](#)
Cc: [Delany, Joanna](#); [Angela Brown](#)
Subject: 2022-001449 The State v. Ray L. Kelly
Date: Thursday, July 13, 2023 10:08:00 AM
Attachments: [2022-001449 The State v. Ray L. Kelly Motion to Hold Appeal in Abeyance.pdf](#)

Good Morning,

Attached for service in the above-referenced case is the Motion to Hold Appeal in Abeyance Pending Receipt of Outstanding Transcripts which will be filed today, July 13, 2023, with the Court of Appeals via email filing.

Respectfully,
Kaylynn

Kaylynn Warren

Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
(803) 734-1330