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SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

July 29, 2013

RECEIVED

JUL 29 2013

The Honorable Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

SC Court of Appeals

Re: State v. Kenneth Andrew Lynch, Appellate Case No. 2012-212547

Dear Ms. Kitchings:

The initial brief of appellant and designation of matter in the above case is due to be served and filed on August 19, 2013. However, we have discovered that we need an additional transcript. While reading the transcript, the parties and the judge made reference to a prior hearing concerning the taking of a DNA sample from Appellant. This hearing occurred on January 6, 2012. The hearing was the subject of a pre-trial hearing concerning the admissibility of DNA evidence. We have requested this transcript today and would request that the time limits be held in abeyance pending receipt of it. A copy of our transcript request is attached. I am also attaching page 73 of the transcript where the reference to the prior hearing occurred. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SBH/eab

Enclosures: Transcript request
Page 73 of transcript

cc: Donald J. Zelenka (with enclosures)

1 been undercut by this delay.

2 THE COURT: All right. Solicitor.

3 MR. GRAHAM: Your Honor, I know that West
4 Columbia was going to obtain it with a search warrant. I
5 do know that we did call them off. We said that we wanted
6 to have a hearing. I know that a hearing was held before
7 Judge McMahon in January of 2011.

8 I don't remember him taking it under advisement.
9 I remember him issuing an order. I don't know how long
10 after that he did the order granting the collection of the
11 evidence. A sample was taken from the defendant.

12 I know that prior to that, the defense made a
13 motion, had Judge McMahon recused from the case, that
14 Judge Barber was appointed, that the defense filed a
15 motion to rehear the Schmerber hearing which Your Honor
16 granted, that we've had on January 6th of 2012, where you
17 granted the Schmerber hearing.

18 At that time we directed law enforcement to take
19 the sample that had been obtained from Mr. Lynch out to
20 SLED, that it did go out there. I had contact with Robin
21 Taylor. Lieutenant Taylor was at the hearing Your Honor
22 conducted in Newberry in January. She got to it as soon
23 as she possibly could. I believe that what she'll say --
24 she is in the courtroom and is available for testifying --
25 is that if you run that in a vacuum, that it will take



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July 29, 2013

Ms. Joy Holston
Circuit Court Reporter
118 Sandy Beach Drive
Prosperity, SC 29127

Dear Ms. Holston:

Please provide us with the following transcript:

The State v. Kenneth Andrew Lynch Case #: 08-GS-32-2652 & 2653

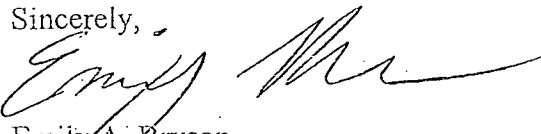
County: Newberry Date of Trial: January 6, 2012

Presiding Judge: Eugene C. Griffith, Jr.

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. 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 listing of exhibits.**

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,

Emily A. Bryson
Legal Assistant

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