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Jan 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
The Honorable Paul M. Burch, Circuit Court Judge

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

JAMES MONROE BROWN,

APPELLANT.

Appellate Case No. 2021-000469

**CONSENT MOTION TO FILE AMENDED FINAL BRIEF AND AMENDED
DESIGNATION OF MATTER**

Respondent hereby makes a Motion to file an Amended Final Brief of Respondent and Amended Designation of Matter with the consent of opposing counsel, Robert M. Dudek, Esquire. After filing its Initial Brief and Designation of Matter and Final Brief in this case, Respondent was notified by the Clerk of Court for the Court of Appeals that one (1) of the Exhibits designated by Respondent and cited or referenced in its brief, State's Ex. #31, could not be located by the Clerk of Court for Chesterfield County. After further reviewing the trial transcript, both Respondent's attorney and Appellant's attorney discovered that even though State's Ex. #31 is listed as evidence at the front of the trial transcript in the list of exhibits, it was only marked for identification on page 199 and was never admitted in evidence. The transcript is also confusing after it was marked for identification because it was mistakenly referenced by the Solicitor when he intended a different exhibit, and then he corrects himself. Then later, defense counsel moves to

admit another exhibit and states all other relevant exhibits have been introduced.

As a result of all of the above, Respondent, with the consent of opposing counsel, moves to be allowed to file an Amended Final Brief of Respondent removing any mention of State's Ex. #31 from its' Final Brief and to remove the same from its' Designation of Matter.¹ The granting of this motion will remove from the Final Brief any reference to an exhibit that was not admitted in evidence and allow the Clerk of this Court to remove this exhibit from the Order of Transport of Exhibits.

Wherefore, Respondent moves, with the consent of opposing counsel, Robert M. Dudek, that it be allowed to file an Amended Final Brief of Respondent and Amended Designation of Matter removing any mention of State's Ex. #31 from either document.

RESPONDENT SO MOVES.

Respectfully submitted,

s/ J. Anthony Mabry
J. ANTHONY MABRY
Senior Assistant Attorney General
ATTORNEY FOR RESPONDENT

January 23, 2024

¹ Respondent contends the information or facts for which State's Ex. #31 was cited are also contained in the trial transcript citations, State's Ex. #17 [in evidence], and/or other designated exhibits cited in the Final Brief of Respondent; therefore, State's Ex. 31 [for i.d.] is cumulative in any event and unnecessary in this appeal.

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PROOF OF SERVICE

I, **Donna D'Alessio**, am an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Consent Motion to File Amended Final Brief and Amended Designation of Matter, has been forwarded to Appellant's counsel, Robert M. Dudek, Esq., via email today, January 23, 2023 to RDudek@sccid.sc.gov, as well as to his assistant, spollard@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 23rd day of January, 2024.

s/ J. Anthony Mabry

J. ANTHONY MABRY
Senior Assistant Attorney General
Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT