

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARVIN DONTE BRYAN,

APPELLANT

APPELLATE CASE NO. 2017-001468

MOTION TO HOLD APPEAL IN ABEYANCE

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel moves for an order placing Appellant's appeal in abeyance for thirty days. In support of this motion, Appellant alleges the following:

- 1) On June 28, 2017, Appellant served notice of intent to appeal his convictions and sentences, from his June 19 – 24, 2017, trial.
- 2) On August 22, 2018, prior appellate counsel moved to hold this appeal in abeyance and requested a remand to the circuit court for reconstruction of the record, specifically, of the bench conferences from his trial.
- 3) On August 29, 2018, the State filed a letter requesting the Court to defer ruling for thirty days to allow for a determination of whether the conferences were recorded.

4) On August 31, 2018, this Court issued an order holding the matter in abeyance for thirty days so that the Court Reporter Manager at South Carolina Court Administration could respond to the State's inquiry into the availability of a transcript of the missing bench conferences.

5) On October 3, 2018, prior appellate counsel filed a letter with the Court asking to proceed with reconstruction based on the incomplete nature of the transcript of the bench conferences that was received.

6) On November 8, 2018, this Court issued an order granting the motion to remand for reconstruction and remanding the case to the Charleston County Court of General Sessions. The order also stated that prior appellate counsel was to contact counsel for Respondent and the circuit court judge within ten days to schedule such hearings as the circuit judge deemed appropriate. The order further stated that prior appellate counsel was to provide an update to the Clerk of this Court no later than fifteen days from the date of this order, and every thirty days until the circuit judge resolved the matter.

7) In April of 2023, this case was reassigned to undersigned counsel. Undersigned counsel contacted the circuit court on April 24, 2023, regarding scheduling the reconstruction hearing.

8) A reconstruction hearing was held via WebEx in this matter on August 8, 2023, and the circuit court found trial record was reconstructed.

9) On August 11, 2023, Appellant served notice of intent to appeal the circuit court's decision the record of his trial was adequately reconstructed for purposes of meaningful appellate review.

10) Undersigned counsel has reviewed the reconstruction hearing transcript in conjunction with the trial transcripts and has decided not to challenge the circuit court's ruling the

record was reconstructed. Undersigned counsel is in the process of obtaining an affidavit from Appellant stating that he wishes to dismiss the August 11, 2023, appeal challenging the decision the record was adequately reconstructed. Undersigned counsel believes she will be able to obtain the affidavit and file it with this Court within a week.

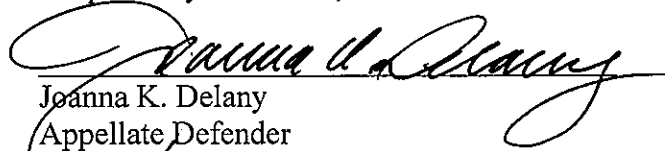
11) To be clear, Appellant intends to go forward with the June 28, 2017, appeal of his convictions and sentences. The affidavit would only regard dismissing the appeal of the decision that the record was adequately reconstructed.

12) Undersigned counsel has fully read the transcripts and has identified the issues she intends to brief in the direct appeal from Appellant's convictions and sentences.

13) The undersigned spoke with opposing counsel and received consent for this motion.

WHEREFORE, Appellant respectfully requests that this Court hold the timelines in abeyance for his appeal for thirty days, so that undersigned counsel may obtain an affidavit from Appellant stating his desire to dismiss the August 11, 2023, appeal of the circuit court's decision the record was adequately reconstructed, and so that undersigned counsel may file the Initial Brief of Appellant and Designation of Matter in the June 28, 2017, appeal of his convictions and sentences.

Respectfully submitted,



Joanna K. Delany
Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of March, 2024.

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

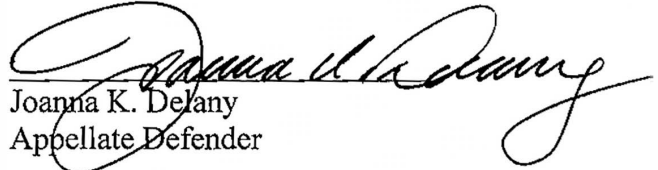
MARVIN DONTE BRYAN,

APPELLANT

APPELLATE CASE NO. 2017-001468

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 Tommy Evans, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Marvin Donte Bryan, #348063, at Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067-8069, this 1st day of March, 2024.


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: tommyevansjr@scag.gov
Cc: [Delany, Joanna](#); [Brandy Rankin](#); [SC - BROWN MELODY](#)
Subject: 2017-001468 The State v. Marvin Donte Bryan
Date: Friday, March 1, 2024 9:22:00 AM
Attachments: [2017-001468 The State v. Marvin Donte Bryan Motion to Hold Appeal in Abeyance and COS.pdf](#)

Good Morning,

Attached for service in the above-referenced case is the Motion to Hold in Abeyance which will be filed today, March 1, 2024, with the Court of Appeals via email filing.

Respectfully,

Kaylynn

Kaylynn Warren

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

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