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August 12, 2013

RECEIVED

AUG 12 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. Ahmad Jamal Wilkins, Appellate Case No. 2012-212387

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 14, 2013. However, we have discovered that we need an additional transcript. While reading the transcript, I discovered that Judge Cooper presided over a hearing concerning testing of a CSC kit. Please find enclosed page 125 of the transcript where this hearing is referenced. I was unable to locate any additional information about the hearing within the transcript itself. On Friday, August 9, 2012, I contacted Mr. Wilkins' trial attorney, Brian Shealey, by email. Mr. Shealey responded promptly that he remembered the hearing, but was not aware of the date, which would have enabled me to order the transcript. Additionally, Mr. Shealey was no longer with the Richland County Public Defender Office, which was his employer at the time of Mr. Wilkins' trial. He stated that he would be out of town for the week of August 12, but would contact the Public Defender as soon as he returned. Due to the deadline in Mr. Wilkins' case, I contacted the Public Defender Office directly after obtaining some additional guidance from Mr. Shealey.

Jennifer Davis of the Public Defender Office assisted me thereafter. Ms. Davis reviewed the database, but was unable to find a date for the hearing. The notes in the database referred to the motion having been filed, but did not provide a date for the hearing. On that date, I also contacted the Clerk of Court, but I received no information regarding a date of the hearing. The Clerk referred me to the Solicitor's Office because the Solicitor set the dates for hearings and the Clerk maintained no records of hearing dates. I left a voicemail for the prosecuting attorney, Luck Campbell, but I have received no response as of the writing of this letter. In the meantime, Ms. Davis also reviewed the file in the Clerk of Court's office and found no information to help determine the date of the hearing as the ruling had not been reduced to a written order in the file. Finally, Ms. Davis requested the file from archives. She explained the file was approximately four boxes and would require someone go through the boxes to determine if the file contained

any information regarding the hearing date. However, Ms. Davis is out of the office for the week of August 12, 2013 as well.

Therefore, I am waiting to determine when the hearing took place. From the transcript I have, it appears this hearing may be important. The defense alleged destruction of evidence regarding the CSC kit and this was a theme of the entire trial.

Respectfully, I request that the time limits be held in abeyance pending my determination of when the hearing took place, ordering of the transcript and receipt of the transcript. I will keep the Court apprised of my progress in this matter.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



Susan B. Hackett
Appellate Defender

SBH/eab

Enclosure: page 125 of the transcript

cc: Donald J. Zelenka

1 MS. CAMPBELL: That motion went in front
2 of Judge Cooper. He made no such finding. They're
3 talking about precluding them from doing things.
4 They made the motion for us to do additional testing
5 on the CSC kit, and we had it done.

6 Your Honor, I'm going to hand up the DNA
7 report, the original DNA report, which goes to what
8 the tester has done originally, and then they
9 requested additional testing be done, and we
10 complied with them. I do not believe number one.

11 MR. SHEALEY: Your Honor, when you're done
12 reading that, we can also shed some light on the
13 particulars.

14 THE COURT: All right, I'm done reading.

15 MR. SHEALEY: Your Honor, it has always
16 been our assumption by just purely reading Rachel
17 Grant's report and her notes saying that the rape
18 kit could not be located per the Columbia Police
19 Department. At that point in time, I filed a motion
20 to test the CSC kit.

21 Before that motion was ever heard, the
22 State did the testing that they wanted to do. By
23 the time we got in front of Judge Cooper, the State
24 was presenting information that it had been done,
25 and we got stuck with the bill.