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Apr 15 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL D. WILLIAMS,

APPELLANT.

APPELLATE CASE NO. 2022-000686

MOTION TO REMAND FOR RECORD RECONSTRUCTION

Pursuant to Rule 240 of the South Carolina Appellate Court rules, undersigned counsel requests an order requiring the parties to reconstruct the missing portions of Appellant's trial—specifically, pretrial motions and rulings—originally held before the Honorable Courtney Clyburn-Pope on April 11, 2022, and from April 13-14, 2022. While this motion is pending, Appellant asks this Court to continue holding his appeal in abeyance for filing his initial brief of appellant and designation of matter.

In support of his motion, Appellant would present the following:

1. On April 5, 2023, Appellant moved for his case to be placed in abeyance due to critical portions of his trial missing from his transcript. The missing

portions included jury qualification, voir dire, jury selection, as well as pretrial motions and rulings including but not limited to a motion for continuance, and a motion to relieve counsel. See Attachment A (Motion).

2. On April 11, 2023, this Honorable Court granted Appellant's motion. See Attachment B (Order).
3. Despite diligent efforts to find and transcribe the missing portions of Appellant's trial, the only portion recovered was general jury qualification from April 11, 2022, which was received on March 14, 2024. See Attachment C (Emails); and Attachment D (Supplemental transcript).
4. Appellate Counsel spoke with trial counsel for both Appellant and the State in March 2024, and confirmed with both attorneys that pretrial motions were presented to and ruled upon by the trial court, which are not present in the transcripts provided.
5. In order to allow for meaningful appellate review, the record regarding these missing pretrial matters must be reconstructed.

ARGUMENT

When a trial transcript has been lost or destroyed, the Court may remand a case for record reconstruction, or vacate the conviction and sentence and remand for a new trial if meaningful appellate review is not possible. See Koon v. State, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004); overruled on other grounds by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002); Deaton v. Leath, 279 S.C. 82, 84, 302 S.E.2d 335, 336 (1983); China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968); Dolive v. J.E.E. Developers, Inc., 308 S.C. 380, 383, 418 S.E.2d 319,

321 (Ct. App. 1992); State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 273-274 (Ct. App. 2007). Remand for record reconstruction is appropriate in instances where “a reconstructed record on appeal would allow for meaningful appellate review.” State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 274 (Ct. App. 2007) (internal quotations omitted)

In Deaton, *supra*, the defendant’s convictions were set aside and a new trial granted where the court reporter’s equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal. Citing Deaton, this Court denied a request for reconstruction in State v. Serrette, 375 S.C. 650, 652-653, 654 S.E.2d 554, 555 (Ct. App. 2007) where the reason for the lack of transcript was due to the defendant’s absence for a ten-year period. As the Serrette Court explained, the matter there was “not a situation where the court reporter’s equipment malfunctioned at trial leading to a loss of the trial transcript.”

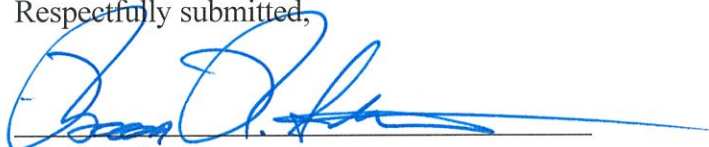
However, the case at bar presents a different scenario. Here, Appellant was not at fault for any of the difficulties in obtaining the transcript; rather, the missing transcript is not available from the court reporter due to matters outside Appellant’s control. After Appellant was convicted on April 14, 2023, and sentenced on May 13, 2022, trial counsel timely filed the Notice of Appeal on May 17, 2023. Thus, the lack of a transcript is not due to Appellant’s dilatory conduct.

Yet, a critical portion of Appellant’s trial transcript cannot be produced. Therefore, a reconstructed transcript limited to the missing portions is necessary for appellate counsel to represent him effectively, and for this Court to give meaningful appellate review of his

conviction. Accordingly, Appellant respectfully requests for an Order remanding the matter to the trial court to reconstruct the missing portions of the trial record.

Finally, Appellant asks this Court to continue holding the time for filing his Initial Brief of Appellant in abeyance while this motion is pending. The undersigned discovered this predicament early and endeavored to prepare this motion before taking any extensions in Appellant's case.

Respectfully submitted,



Breen R. Stevens
Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1235

April 15, 2024

Attachment A

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL D. WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2022-000686

MOTION TO HOLD APPEAL IN ABEYANCE

Undersigned counsel respectfully moves this Court to hold the timelines for filing the initial brief and designation of matter in abeyance pending receipt of additional transcripts from the week of Appellant's trial.

1. Appellant was indicted in April 2022 for three offenses: possession of a weapon during the commission of a violent crime, possession of a weapon by a person convicted of a violent felony, and trafficking methamphetamine.

2. Represented by Barry Thompson, Appellant was tried in his absence before the Honorable Courtney Clyburn-Pope beginning on April 13, 2022. The trial lasted two days.

3. When reviewing the trial transcript, the undersigned came across a section wherein trial counsel renewed “all prior motions, objections, including motion for continuance, motion to relieve counsel, all of the prior motions and objections.” Trial transcript p. 70.

4. There are no prior motions for a continuance or a motion to relieve counsel in the two-day trial transcript already in the undersigned’s possession.

5. As such, the undersigned called trial counsel, who indicated additional arguments were made on the morning of April 11, 2022 and the morning of April 13, 2022. These transcripts were ordered yesterday, March 29, 2023. See Letter, Exhibit A.

6. Trial counsel averred that each of the transcripts will be short and recalled that no substantial testimony was taken.

7. Efforts were previously taken to ensure that all of the necessary transcripts had been ordered, however, this office has no previous notice of these hearings. See E-mail exchange with trial counsel, Exhibit B.

8. The undersigned believes these transcripts are necessary and relevant to issues that may be raised on appeal, particularly in light of South Carolina’s rules on issue preservation.

9. Counsel makes this request in good faith and not for the purpose of delay.

10. Counsel for the office of the Attorney General, William Blich, Esquire, graciously consented to this motion to hold this appeal in abeyance during a telephone call on March 30, 2023.

(signature page to follow)

WHEREFORE, undersigned counsel respectfully requests this Court grant his motion to hold this appeal in abeyance pending receipt of the transcripts from April 11, 2022 and April 13, 2022. Undersigned counsel will inform the Court immediately upon receipt of the transcripts.

Respectfully submitted,



Taylor D. Gilliam
Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of April, 2023

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL D. WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2022-000686

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 Appeal in Abeyance in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 5th day of April, 2023.



Taylor D Gilliam
Appellate Defender

ATTORNEY FOR APPELLANT

Attachment B

The South Carolina Court of Appeals

The State, Respondent,

v.

Michael Dwayne Williams, Sr., Appellant.

Appellate Case No. 2022-000686

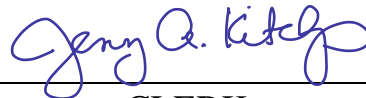
The Honorable Courtney Clyburn Pope
Aiken County
Trial Court Case No. 2022GS0200732, 2022GS0200733,
2022GS0200734

ORDER

The appellant filed the motion to hold in abeyance. The respondent consents to the motion. The motion is Granted. A status update must be provided every 30 days or the appeal will be dismissed.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire
Taylor Davis Gilliam, Esquire

FILED
Apr 11 2023

Attachment C

Stevens, Breen

From: White, Della
Sent: Thursday, March 14, 2024 10:14 AM
To: Stevens, Breen
Subject: Michael D. Williams

Good morning,

We have received the Jury Qualifications for Michael Williams. It has been saved in his file.

Thank you,

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

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Stevens, Breen

From: White, Della
Sent: Wednesday, February 7, 2024 12:16 PM
To: Stevens, Breen
Subject: FW: [External] State v. Michael Williams, Sr.

Please see below.

From: Holmes, Tammie [REDACTED]
Sent: Wednesday, February 7, 2024 10:57 AM
To: White, Della [REDACTED]
Subject: [External] State v. Michael Williams, Sr.

Subject: RE: 2022-000686 State v. Michael D. Williams, Sr.
Good morning Della.

Just a thought regarding the Michael Williams, Sr. matter.

I can have the general jury qualifications transcribed, but there is nothing specific to the Williams case.
Please let me know if you would like those transcribed.

Thank you.

Tammie M. Holmes
Court Reporter Manager
South Carolina Judicial Branch
1220 Senate Street, Ste. 200
Columbia, SC 29201
[REDACTED]
803-734-1825

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# **Attachment D**



JURY QUALIFICATION

1 THE COURT: Will you bring the jury pool in, please?

2 (WHEREUPON, the jury pool enters the courtroom at 12:17  
3 p.m.)

4 THE CLERK: Ladies and gentlemen, please, stand and  
5 raise your right hand.

6 (WHEREUPON, the jury pool was sworn.)

7 THE CLERK: If you were able to take the oath, please,  
8 have a seat.

9 (WHEREUPON, all jurors were seated.)

10 THE CLERK: [Indiscernible] jury assembly room.

11 Juror Number 4.

12 JUROR #4: Juror Number 4, Melanie Bafford. I'm a  
13 stay-at-home mom and my husband is [indiscernible].

14 THE CLERK: Thank you.

15 Juror Number 5.

16 JUROR #5: John Baker.

17 THE CLERK: The information that was on your summons  
18 form, sir.

19 JUROR #5: I'm disabled and unemployed.

20 THE CLERK: Thank you.

21 Juror Number 8.

22 JUROR #8: My name is Kathy Barr and I'm retired as is  
23 my husband.

24 THE CLERK: Thank you.

25

1 Juror Number 10.

2 JUROR #10: Lonnie Bectel, I'm a security analyst and  
3 my wife [indiscernible].

4 THE CLERK: Thank you.

5 Juror 11.

6 JUROR #11: Stay-at-home mom and my husband works for  
7 [indiscernible].

8 THE CLERK: Thank you.

9 Juror 17.

10 JUROR #17: Frank Blaszak [indiscernible], wife is  
11 retired from pharmaceuticals.

12 THE CLERK: Thank you.

13 Juror 19.

14 JUROR #19: Garret Boatwright, SRS.

15 THE CLERK: Thank you.

16 Juror 22.

17 JUROR #22: Juror 22, Ashley Boyleston, [indiscernible]  
18 and my husband is [indiscernible].

19 THE CLERK: Juror 23.

20 JUROR #23: Brian Bradley, Juror 23, [indiscernible]  
21 and divorced.

22 THE CLERK: Thank you, sir.

23 Juror 25.

24 JUROR #25: Ashlee Briatico, I'm an insurance person at  
25 the office and my husband works [indiscernible].

1 THE CLERK: Thank you.

2 Juror 26.

3 JUROR #26: Robert Broome, retired. Wife is a  
4 homemaker.

5 THE CLERK: Thank you.

6 Juror 27.

7 JUROR #27: Angela Brown, [indiscernible].

8 THE CLERK: Juror 30.

9 JUROR #30: Juror 30, Michele Bryce. I'm a senior  
10 manager at [indiscernible] department.

11 THE CLERK: Juror 32.

12 JUROR #32: Tim Burks, heavy equipment operator for  
13 Aiken County. My wife is a nurse practitioner at the  
14 Federal Bureau of Prisons in Edgefield.

15 THE CLERK: Thank you.

16 Juror 34.

17 JUROR #34: Juror 34, I'm a teacher [indiscernible].

18 THE CLERK: Thank you.

19 Juror 37.

20 JUROR #37: John Cantrell, [indiscernible].

21 THE CLERK: Juror 41.

22 JUROR #41: I am [indiscernible]. My husband is a  
23 supervisor electrician [indiscernible].

24 THE CLERK: Thank you.

25 Juror 44.

1 JUROR #44: Michael Conner, [indiscernible]. Wife is  
2 [indiscernible].

3 THE CLERK: Thank you.

4 Juror 47.

5 JUROR #47: [Indiscernible].

6 THE CLERK: I'm sorry, could you repeat that and speak  
7 up just a little bit for us?

8 JUROR #47: Katelin Creed [indiscernible].

9 THE CLERK: Thank you.

10 Juror 48.

11 MR. THOMPSON: Your Honor, I apologize. I --

12 THE COURT: Katelin Creed and unmarried.

13 THE CLERK: Juror 48.

14 JUROR #48: Michael Cross, inventor.

15 THE CLERK: Thank you.

16 Juror 49.

17 JUROR #49: Michael Crowley, sports marketing. My wife  
18 is stay-at-home property manager.

19 THE CLERK: Juror 50.

20 JUROR #50: Dawn Cuttill, school system. Husband  
21 retired [indiscernible].

22 THE CLERK: Thank you.

23 Juror 51.

24 JUROR #51: Juror 51, I'm a security analyst at Fort  
25 Gordon, Georgia and I'm unmarried.

1 THE CLERK: Thank you.

2 Juror 52.

3 JUROR #52: 52, Cathy Daniel, retired from Aiken County  
4 public school. And my husband [indiscernible].

5 THE CLERK: Thank you.

6 Juror 54.

7 JUROR #54: [Indiscernible].

8 THE CLERK: Juror 55.

9 Juror #55: Herman Dicks, retired Savannah River Site.  
10 Wife works [indiscernible].

11 THE CLERK: Thank you, sir.

12 Juror 57.

13 JUROR #57: William Doolittle, I'm a carpenter. My  
14 wife is a bail bondsman.

15 THE CLERK: Thank you.

16 Juror 58.

17 JUROR #58: Juror 58, [indiscernible] body shop,  
18 unmarried.

19 THE CLERK: Thank you.

20 Juror 60.

21 JUROR #60: Khalifa Ruby El, retired from  
22 [indiscernible].

23 THE CLERK: Thank you.

24 Juror 62.

25 JUROR #62: 62, Vance Fleming, I'm an over-the-road

1 truck driver and I'm not married.

2 THE CLERK: Thank you.

3 Juror 68.

4 JUROR #68: Juror 68, Shirley Glover. I'm a clerk at  
5 Augusta University. My husband is disabled.

6 THE CLERK: Thank you.

7 Juror 69.

8 JUROR #69: George Godbee, I install air conditioners,  
9 unmarried.

10 THE CLERK: Thank you.

11 Juror 73.

12 JUROR #73: I'm Juror 73, Kristen Greer. I'm a  
13 stay-at-home mom. My husband is the CEO of [indiscernible].

14 THE CLERK: Juror 74.

15 JUROR #74: Juror 74, Larry Gregory. I'm an auto  
16 mechanic and unmarried.

17 THE CLERK: Juror 79.

18 JUROR #79: Juror 79, I'm a [indiscernible] and my  
19 husband does maintenance.

20 THE CLERK: Juror 80.

21 JUROR #80: Juror 80, Christina Heath, unmarried. I  
22 [indiscernible].

23 THE CLERK: Thank you.

24 Juror 81.

25 JUROR #81: Juror 81, Dewey Henagan, IT specialist. My

1 wife is retired.

2 THE CLERK: Juror 83.

3 JUROR #83: Lycia Hiebert, [indiscernible].

4 THE CLERK: Juror 84.

5 JUROR #84: Juror 84, Brittany Hixon [indiscernible].

6 THE CLERK: Thank you.

7 Juror 90.

8 JUROR #90: Juror 90, Vernie Huffstetler. I'm a  
9 mechanical engineer with Bridgestone. My wife works for  
10 Aiken Regional Hospital.

11 THE CLERK: Thank you.

12 Juror 95.

13 JUROR #95: Juror 95, my name is Laura James. I'm a  
14 registered nurse and unmarried.

15 THE CLERK: Thank you.

16 Juror 97.

17 JUROR #97: Juror 97, Jeremy Junnies. I work for parks  
18 and recreation. My wife is an officer manager at Burns  
19 Dance Studio.

20 THE CLERK: Thank you.

21 Juror 99.

22 JUROR #99: Juror 99, Mary Johnson. I work for  
23 [indiscernible].

24 THE CLERK: Thank you.

25 Juror 101.

1 JUROR #101: Juror 101, Barbara Key, control inspector  
2 at the Savannah River Site, unmarried.

3 THE CLERK: Juror 103.

4 JUROR #103: Juror 103, I'm a homemaker and my husband  
5 [indiscernible].

6 THE CLERK: Juror 104.

7 JUROR #104: Juror 104, my name is Jody Kitchings. I  
8 work at Bridgestone, unmarried.

9 THE CLERK: Thank you.

10 Juror 107.

11 JUROR #107: 107, my name is Darilyn Lanham. I'm a  
12 clinical manager at home health agency and I'm a widow.

13 THE CLERK: Juror 111.

14 JUROR #111: Juror 111, [indiscernible] unmarried.

15 THE CLERK: Thank you.

16 Juror 117.

17 JUROR #117: Christopher McCormick, [indiscernible].

18 THE CLERK: Juror 125.

19 JUROR #125: Juror 125, [indiscernible], unmarried.

20 THE CLERK: Thank you.

21 Juror 128.

22 JUROR #128: 128, Robin Morris, office manager at  
23 [indiscernible], unmarried.

24 THE CLERK: Thank you.

25 Juror 129.

1 JUROR #129: My name is Sallie Morrison.

2 [Indiscernible] and I'm divorced.

3 THE CLERK: Juror 131.

4 JUROR #131: Cheryl Mott, [indiscernible], not married.

5 THE CLERK: Juror 136.

6 JUROR #136: 136, Mary Oakman, associate vice-president  
7 [indiscernible], divorced.

8 THE CLERK: Thank you.

9 Juror 139.

10 JUROR #139: Juror 139, Keonnie Oliphant  
11 [indiscernible], unmarried.

12 THE CLERK: Thank you.

13 Juror 141.

14 JUROR #141: Juror 141, Matthew Osborne,  
15 [indiscernible].

16 THE CLERK: Thank you.

17 Juror 145.

18 JUROR #145: 145, Stephen Perry. I work with  
19 [indiscernible]. My wife [indiscernible].

20 THE CLERK: Thank you.

21 Juror 148.

22 JUROR #148: Alacia Caughman Quinton, co-owner of  
23 Caughman's Meat Plant. Husband is a retired carpenter.

24 THE CLERK: Thank you.

25 Juror 150.

1 JUROR #150: Juror 150, process engineer at  
2 [indiscernible]. Wife is a registered nurse at Aiken  
3 Regional.

4 THE CLERK: Thank you.

5 Juror 151.

6 JUROR #151: 151, Stephane Raulerson. I'm the director  
7 [indiscernible]. My husband [indiscernible].

8 THE CLERK: Thank you.

9 Juror 153.

10 JUROR #153: Juror 153, John Reddish, [indiscernible],  
11 unmarried.

12 THE CLERK: Juror 157.

13 JUROR #157: Sonya Robinson, I'm the district  
14 supervisor for [indiscernible]. My husband [indiscernible].

15 THE CLERK: Juror 161.

16 JUROR #161: Juror 161, Gerald Sandlin. I'm married  
17 [indiscernible].

18 THE CLERK: Juror 162.

19 JUROR #162: Kayla Scott, I'm an officer manager at  
20 [indiscernible] and my husband is a [indiscernible].

21 THE CLERK: Thank you.

22 Juror 168.

23 JUROR #168: Juror 168, Lisa Skinner. I'm employed at  
24 Savannah River Site. My husband [indiscernible].

25 THE CLERK: Juror 172.

1 JUROR #172: 172, Donna Spengler, [indiscernible]. My  
2 husband [indiscernible].

3 THE CLERK: Thank you.

4 Juror 174.

5 JUROR #174: Glenn Springfield, I'm an operator at  
6 [indiscernible].

7 THE CLERK: Juror 176.

8 JUROR #176: Juror 176, Stuart Taylor, [indiscernible],  
9 unmarried.

10 THE CLERK: Thank you.

11 Juror 177.

12 JUROR #177: Julie Teague, [indiscernible]. My husband  
13 is a fireman.

14 THE CLERK: Thank you.

15 Juror 181.

16 JUROR #181: 181, my name is Darlene Vail. I'm a  
17 homemaker and my husband works at [indiscernible].

18 THE CLERK: Juror 185.

19 JUROR #185: Juror 185, Karen Walton. I'm a program  
20 director at Midlands Technical College, divorced.

21 THE CLERK: Thank you.

22 Juror 188.

23 JUROR #188: Juror 188, Mildred Watkins  
24 [indiscernible].

25 THE CLERK: Thank you.

1 Juror 193.

2 JUROR #193: Juror 193, Nora Williams

3 [indiscernible].

4 THE CLERK: Thank you.

5 Juror 195.

6 JUROR #195: Juror 195, William Williams, maintenance  
7 at Cold Creek Nursery, divorced.

8 THE CLERK: We have 74 jurors.

9 THE COURT: Thank you.

10 Good afternoon, ladies and gentlemen, my name is Judge  
11 Clyburn-Pope and I'm a circuit court judge here in South  
12 Carolina. I do apologize for the wait that you've had,  
13 however, we were taking care of some business.

14 Your presence as a jury panel has already had an impact  
15 and we have had several people to take pleas as opposed to  
16 going to trial, so that's what we were taking care of  
17 earlier this morning.

18 It's truly my pleasure and my privilege to serve with  
19 you for this term of court in Aiken County. This term of  
20 court is only for one week, therefore, your service as  
21 jurors will end on this Friday. We absolutely understand  
22 the inconvenience that jury service causes to your personal  
23 lives and we thank you for being here today. We will do our  
24 best to minimize your inconvenience and, hopefully, make  
25 this an enjoyable and educational week for you. Our purpose

1 today is to determine your qualification and eligibility to  
2 serve as jurors. The roll has been called and the oath has  
3 been administered to you.

4 At this point, I have certain questions that I am  
5 required to ask you to determine your qualification as  
6 jurors in this court. These questions determine your  
7 general eligibility to serve. State law requires that I ask  
8 you these questions.

9 Some of the questions are very personal in nature and  
10 you may not wish to stand openly in front of everyone here.  
11 After each question, if any juror needs to respond, I'll ask  
12 you to stand. If you do not wish to stand at that time,  
13 that is okay. At the end of the process, I will give you a  
14 chance to come forward and speak privately with me and the  
15 clerk and the attorneys. If you do not want to stand,  
16 please, make a mental note and remember to come forward at  
17 the end when I ask you to do so. It is absolutely essential  
18 that we have accurate information.

19 Here are the questions regarding qualifications to  
20 serve as jurors. Number one, is there any member of the  
21 jury panel who is not a citizen of the United States? If  
22 so, please stand.

23 (There was no response.)

24 THE COURT: Is there any member of the jury panel who  
25 is not a resident and citizen of Aiken County, South

1 Carolina? If so, please, stand.

2 (There was no response.)

3 THE COURT: Is there any member of the jury panel who  
4 is unable to read, write, speak or understand the English  
5 language? If so, please, stand.

6 (There was no response.)

7 THE COURT: Is there any member of the jury panel who  
8 has less than a sixth grade education or its equivalent? If  
9 so, please stand.

10 (There was no response.)

11 THE COURT: Is there any member of the jury panel  
12 because of mental or physical ailments who is unable to  
13 render efficient jury service?

14 PROSPECTIVE JUROR: Your Honor, I'm scheduled to have  
15 surgery on Thursday. I'm waiting to hear from Aiken  
16 Regional Medical. My disability would not prevent me from  
17 serving on the jury, but, like I said, I have that surgery  
18 scheduled.

19 THE COURT: What's your juror number, sir?

20 PROSPECTIVE JUROR: Number 5.

21 THE COURT: Have a seat for me and we'll handle that as  
22 it becomes necessary.

23 So is there any other member of the jury panel because  
24 of mental or physical ailments who is unable to render  
25 efficient jury service? For example, does anyone have any

1 medical conditions that you believe would prevent you from  
2 serving on the jury this week? Court usually runs for about  
3 an hour, an hour and a half in between breaks. You, also,  
4 have the ability to stand up and stretch for those of you  
5 who have back or neck issues. However, if you believe you  
6 have a mental ailment or a physical ailment that would  
7 prevent you from serving, please, stand at this time.

8 Yes, sir, what's your juror number?

9 PROSPECTIVE JUROR: 55.

10 THE COURT: Yes, sir, what's your ailment?

11 PROSPECTIVE JUROR: I'm a diabetic and I have to take  
12 my medicine. I haven't taken it this morning because the  
13 issues I have with it.

14 THE COURT: You have not taken your medication this  
15 morning?

16 PROSPECTIVE JUROR: No, ma'am.

17 THE COURT: What time do you normally take that  
18 medication?

19 PROSPECTIVE JUROR: Mornings.

20 THE COURT: So you didn't take it before you came?

21 PROSPECTIVE JUROR: I don't take it before I go to  
22 church or in here.

23 THE COURT: Is it a water pill?

24 PROSPECTIVE JUROR: Uh-huh.

25 THE COURT: All right. Have a seat for me.

1           Is there any member of the jury panel who has been  
2 convicted by guilty plea or trial in a state or federal  
3 court of a crime that is punishable by imprisonment for more  
4 than one year? Punishable by more than one year means that  
5 you could have received a sentence for more than one year  
6 regardless of the sentence that you, actually, may have  
7 received. If that applies to you, please, stand at this  
8 time.

9           What's your juror number, sir?

10          PROSPECTIVE JUROR: 48.

11          THE COURT: And what were you charged with?

12          PROSPECTIVE JUROR: Arson.

13          THE COURT: When was that?

14          PROSPECTIVE JUROR: Last year.

15          THE COURT: And you've already pled to it?

16          PROSPECTIVE JUROR: Yeah, PTI.

17          THE COURT: All right, sir, what's your juror number?

18          PROSPECTIVE JUROR: 161.

19          THE COURT: What were you charged with?

20          PROSPECTIVE JUROR: Assault.

21          THE COURT: What degree, first, second or third degree?

22          What courthouse were you in? Were you in this courthouse?

23          PROSPECTIVE JUROR: No, this was in South Florida.

24          THE COURT: Have you checked on 48 for me?

25          MS. HAMMACK: Your Honor, I have. It appears that he

1 did complete PTI, so he would not qualify.

2 THE COURT: Yes, sir, what's your juror number?

3 PROSPECTIVE JUROR: 62.

4 THE COURT: Yes, sir.

5 PROSPECTIVE JUROR: Criminal domestic violence. It was  
6 over 20 years ago.

7 THE COURT: What degree, do you remember?

8 PROSPECTIVE JUROR: [Indiscernible].

9 THE COURT: Yes, sir, so that's not -- that would not  
10 qualify you for over one year.

11 At this time, Juror Number 161 will be excused.

12 Juror Number 161, you're excused, sir. Thank you.

13 Is there any member of the jury panel that is a clerk,  
14 a deputy clerk of court, constable, sheriff or any other  
15 commissioned law enforcement officer, probate judge, county  
16 commissioner, magistrate or any other county officer or who  
17 is employed within the walls of a courthouse? If that  
18 applies to you, please, stand at this time.

19 (There was no response.)

20 THE COURT: Is there any member of the jury panel who  
21 has previously served on jury duty in circuit court, not  
22 city court, magistrate's court or federal court? If you  
23 have served on jury duty for this courthouse within the last  
24 calendar year, please, stand.

25 What's your juror number?

1 PROSPECTIVE JUROR: 153.

2 THE COURT: And you served where?

3 PROSPECTIVE JUROR: This courthouse.

4 THE COURT: Tell me when.

5 PROSPECTIVE JUROR: Sometime last year, sometime around  
6 March, I think.

7 THE COURT: All right. Have a seat for me, sir.

8 That's Juror 153.

9 Is there any member of the jury panel who has served as  
10 a member of the Aiken County Grand Jury over the past  
11 several years? If you have served as a member of the Grand  
12 Jury, please, stand.

13 (There was no response.)

14 THE COURT: We will now move to jury exemptions. State  
15 law provides for several exemptions to jury service. An  
16 exemption does not mean that you're not qualified to serve,  
17 it simply means that you have the right to say I choose not  
18 to serve.

19 Those of you who are 65 years of age or older may be  
20 exempted from jury service. Is there any member of the jury  
21 panel who is 65 years of age or older and wishes to be  
22 exempt from jury service? If that applies to you, please,  
23 stand.

24 Yes, ma'am, what's your juror number?

25 PERSPECTIVE JUROR: 54. I'm 71.

1 THE COURT: No, you aren't.

2 PROSPECTIVE JUROR: I was 71 in July.

3 THE COURT: You look wonderful.

4 Yes, sir, you're Juror Number 55?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: How old are you, sir?

7 PROSPECTIVE JUROR: 75.

8 THE COURT: Juror Number 55 and Juror Number 54, you  
9 are exempt, so we will excuse you from the term this week.  
10 Thank you very much.

11 This exemption concerns prior jury service. No person  
12 is required to serve as a juror more than once every three  
13 calendar years. This only applies to circuit court jury  
14 duty. Therefore, if you have served jury duty in the last  
15 two years, you may be exempt from this week if you so  
16 choose. If that applies to anyone and you wish to use that  
17 exemption, please, stand now.

18 (There was no response.)

19 THE COURT: Any person who has served as grand jurors  
20 in the last five calendar years may, also, be exempt from  
21 jury service. If that applies to you, please, stand at this  
22 time.

23 (There was no response.)

24 THE COURT: This next exemption deals with those of you  
25 who have small children. Please listen very carefully to

1 this exemption. It has several parts. All of the parts  
2 must apply in order for you to be exempted on this basis.  
3 You may be exempted from jury service if one, you have a  
4 small child or children under the age of seven years old.  
5 Two, you must, also, have legal custody of your children,  
6 meaning that you have the principle care, custody and  
7 control of the children. And three, that you are unable to  
8 make arrangements for the adequate care of your child or  
9 children while you are performing jury service this week.  
10 If all of those requirements would apply to you, then you  
11 may be exempted on this basis. If you wish to be exempted  
12 on this basis, please, stand at this time.

13 What's your juror number?

14 PROSPECTIVE JUROR: 49.

15 THE COURT: How many children do you have?

16 PROSPECTIVE JUROR: One child.

17 THE COURT: And how old is the child?

18 PROSPECTIVE JUROR: Three and a half months.

19 THE COURT: Where is the child now?

20 PROSPECTIVE JUROR: At home with her grandmother.

21 THE COURT: So you are unable to provide adequate care  
22 if you were here any time Monday through Thursday 10:00 to  
23 5:00?

24 PROSPECTIVE JUROR: My wife is, also, working. We'd  
25 just have to figure out to do it.

1 THE COURT: Have a seat for me, sir.

2 This next exemption involves those of you who may be  
3 attending school at this time or working in some capacity  
4 with a school. If this exemption applies to you and you  
5 wish to be exempted, we will transfer your service to  
6 another term of court at which time will not conflict with  
7 your school responsibilities.

8 Is there any member of the jury panel who is a full  
9 time student, school teacher, school bus driver or who  
10 serves in any other school-related function who is unable to  
11 serve on jury duty this week as a result of that school  
12 involvement? If that applies to you and you wish to be  
13 exempted, please, stand.

14 (There was no response.)

15 THE COURT: Is there any member of the jury panel who  
16 is employed with the Department of Corrections at a  
17 penitentiary? If you wish to be exempted on that basis,  
18 please, stand.

19 (There was no response.)

20 THE COURT: Is there any juror who performs services  
21 for a business that are so essential to the operation of  
22 that business that if you were required to perform jury duty  
23 this week, the business would have to close and stop  
24 functioning all together? If so, and you wish to be  
25 exempted on this basis, please, stand.

1           What's your juror number?

2           PROSPECTIVE JUROR: 83.

3           THE COURT: You've got some appointments this week?

4           PROSPECTIVE JUROR: I do, 35.

5           THE COURT: Then you would have to stop functioning  
6 that salon?

7           PROSPECTIVE JUROR: I would.

8           THE COURT: Have a seat for me, please.

9           Is there any member of the jury who is the primary  
10 caretaker for someone who is disabled or someone over the  
11 age of 65? If so, please, stand.

12          What's your juror number?

13          PROSPECTIVE JUROR: 68. My husband.

14          THE COURT: It's your husband?

15          PROSPECTIVE JUROR: He's disabled. He's wheelchair  
16 bound.

17          THE COURT: Who cares for him while you're at work?

18          PROSPECTIVE JUROR: [Indiscernible].

19          THE COURT: So if you were to serve jury duty for the  
20 next three days, it won't be all three days, but any time  
21 here in the next three days, you would not be able to find  
22 adequate care for him?

23          PROSPECTIVE JUROR: [Indiscernible].

24          THE COURT: So not at night, but just during the day?

25          PROSPECTIVE JUROR: During the day, yes.

1 THE COURT: All right. Have a seat for me, please.

2 Ladies and gentlemen, that concludes the statutory list  
3 of qualifications and exemptions for jury service. It may  
4 be that you are qualified and no exemption applies to you,  
5 but jury service this week would constitute an extreme  
6 hardship on you for a particular reason. I cannot  
7 permanently excuse a qualified juror from jury service, but  
8 under extreme and compelling circumstances, I may excuse a  
9 juror from this term of court and transfer you to another  
10 term of court, particularly, those jurors who have not been  
11 previously transferred. General inconvenience is not a  
12 sufficient reason to transfer you to another term of court.  
13 To justify a transfer to another term of court, service this  
14 week must constitute an extreme hardship to you.

15 Ladies and gentlemen, now is the time for those of you  
16 who did not respond earlier to any questions that I asked  
17 and for those of you who believe that you have a compelling  
18 reason to request a transfer of your jury service to another  
19 week. If you believe that you are disqualified or exempt  
20 from jury service or if you have any questions about whether  
21 or not you are disqualified or exempt or you wish to be  
22 transferred for a compelling reason to another term of  
23 court, please, come forward at this time.

24 PROSPECTIVE JUROR: Juror 177, I travel for a living.  
25 [Indiscernible], so I can serve another term, I just can't

1 do it this week.

2 (Court held a discussion with attorneys and juror.)

3 THE BAILIFF: 95.

4 PROSPECTIVE JUROR: I have an appointment  
5 [indiscernible].

6 (Court held a discussion with attorneys and juror.)

7 THE BAILIFF: 22.

8 PROSPECTIVE JUROR: [Indiscernible].

9 (WHEREUPON, a bench conference was held.)

10 THE COURT: Juror Numbers 49, 83, 68 and Juror Number  
11 5, the four of you are excused. Thank you very much for  
12 your service.

13 MR. MCMILLIAN: Judge, can I have those juror numbers  
14 one more time?

15 THE COURT: Yes, sir. Juror Number 5, Juror Number 49,  
16 Juror Number 83, Juror Number 68 is excused.

17 MR. MCCMILLIAN: Thank you, Your Honor.

18 THE COURT: Thank you, ladies and gentlemen.

19 Madam Clerk, at this time, the jury panel is now  
20 qualified.

21 Is Mr. Harte present?

22 MS. HAMMACK: He's not, Judge.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: Ladies and gentlemen of the jury panel,  
25 we're going to give you a ten-minute bathroom break. Please

1 be back in the courtroom at 1:10. Thank you.

2 (WHEREUPON, the jury pool exits the courtroom at 1:01  
3 p.m.)

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CERTIFICATE OF TRANSCRIBER

1  
2  
3 I, PENNY M. JOHNSON, do hereby certify that the  
4 foregoing transcript is a true and correct record of the  
5 recorded proceedings; that said proceedings were transcribed  
6 to the best of my ability from the audio recording and  
7 supporting information; and that I am neither counsel for,  
8 related to, nor employed by any of the parties to this case,  
9 and I have no interest, financial or otherwise, in its  
10 outcome.

11  
12 September 27, 2022

13  
14  
15 Penny M. Johnson  
16 Penny M. Johnson  
17 Court Reporter III  
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**RECEIVED**

**Apr 15 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Aiken County

Courtney Clyburn-Pope, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MICHAEL D. WILLIAMS,

APPELLANT.

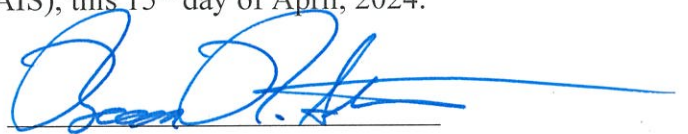
APPELLATE CASE NO. 2022-000686

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Remand for Record Reconstruction in the above-referenced case has been served upon Mark R. Farthing., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 15<sup>th</sup> day of April, 2024.



Breen R. Stevens  
Appellate Defender  
S.C. Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

**From:** [Leverett, Scott](#)  
**To:** [SC - FARTHING MARK](#)  
**Cc:** [SC - COLLINS CAROLINE](#); [Stevens, Breen](#)  
**Subject:** Michael D. Williams - Update letter and Motion to Remand for Record Reconstruction - Appellate Case No. 2022-000686  
**Date:** Monday, April 15, 2024 3:43:00 PM  
**Attachments:** [Michael D. Williams - Update letter 4.15.24 - Appellat Case No. 2022-000686.pdf](#)  
[Michael D. Williams - Motion to Remand for Record Reconstruction - Appellate Case No. 2022-000686.pdf](#)

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Dear Mr. Farthing,

Attached please find a copy of the Update letter and Motion to Remand for Record Reconstruction in the above referenced case that is being filed today with the Court of Appeals.

-Scott Leverett  
Admin. Asst. for Breen Stevens  
Appellate Defense