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**Aug 01 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Horry County  
Honorable William Seals, Circuit Court Judge  
Appellate Case No. 2023-000285

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In the Matter of the Care and Treatment  
of Joseph Curtis, Jr.,

Appellant.

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**MOTION TO ALLOW FILING OF  
AMENDED DESIGNATION OF MATTER  
AND  
SUPPLEMENTAL RECORD ON APPEAL**

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Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

In July of 2014, Appellant Joseph Curtis, Jr., pled guilty to criminal sexual conduct, third degree, kidnapping and incest, arising from the forcible rape of a family member, and was sentenced to twelve years’ incarceration. Following his release from incarceration, the State initiated a civil action pursuant to the South Carolina Sexually Violent Predator Act (SVPA), seeking Appellant’s civil commitment for long term control, care and treatment as a sexually violent predator.

## II.

At present, Curtis's appeal is currently pending before this Court. Initial briefing has been completed, the parties have filed their designations of matter, and the Record on Appeal has been filed.

## III.

In its brief, the State included numerous citations to the transcripts from trial, including to a portion of the transcript from the pre-trial hearings that contained testimony and argument about the admission of evidence regarding a penile plethysmograph conducted by the State's expert, and the ruling from the trial judge concerning that testimony found on Trial Transcript pages 70-148. (Resp. Br. p. 3, n. 2). However, in preparing its designation of matter, the State inadvertently failed to designate the above-referenced portion of the trial record for inclusion in the Record on Appeal, and, as a result, it was not included in the Record on Appeal as presently filed.

## IV.

Pursuant to our state's appellate court rules, the Record on Appeal shall contain all matter designated by the parties and can include any matter presented to the lower court or tribunal. Rule 210(c), SCACR. Those rules permit both the parties and the appellate court itself to supplement the Record on Appeal with additional matter that was not previously included in it. Rule 212, SCACR.

## V.

In the case at bar, the transcripts from Curtis's trial—including the limited portion of the transcript from the pre-trial hearing the State referenced in its brief but mistakenly failed to identify in its designation of matter—could appropriately be designated for inclusion and

included in the Record on Appeal since those transcripts were a part of the trial court record. Rule 209(b), SCACR; Rule 210(c), SCACR. Accordingly, since a certain portion of the trial record that could properly be included in the Record on Appeal was only not included due solely to a mistake on the part of undersigned counsel, the State moves to file an Amended Designation of Matter properly reflecting all the matter outlined above and allow the State to file a Supplemental Record on Appeal containing the mistakenly-omitted matter that has now been identified in its Amended Designation of Matter.

## VI.

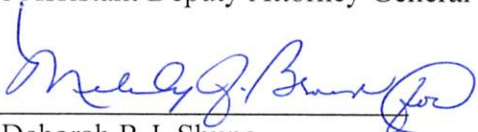
Along with this motion, the State is contemporaneously submitting its Amended Designation of Matter, Supplemental Record on Appeal, and the Final Brief of Respondent (with citations to the Supplemental Record on Appeal). Furthermore, the undersigned counsel apologizes for any inconvenience her error has caused the Appellant, opposing counsel, or the Court.

**WHEREFORE**, Respondent prays that this Court will grant this motion, the Amended Designation of Matter, Supplemental Record on Appeal, and Final Brief of Respondent; accept the filing of the State's Amended Designation of Matter, Supplemental Record on Appeal, and Final Brief of Respondent; hold the time limits for filing the Final Brief of Respondent in abeyance pending a ruling on this motion; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

DEBORAH R.J. SHUPE  
Senior Assistant Deputy Attorney General

By:   
Deborah R.J. Shupe  
S.C. Bar Number 5098

August 1, 2024

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**PROOF OF SERVICE**

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I, Grace Sommer, certify I have served the within Motion to Allow Filing of Amended Designation of Matter and Supplemental Record on Appeal, Amended Designation of Matter, and Supplemental Record on Appeal on Appellant by sending electronic copies via email to the address listed in AIS for Appellant's Counsel of Record:

David Alexander, Esquire  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.  
This 1<sup>st</sup> day of August, 2024.



GRACE SOMMER  
Legal Assistant  
Office of the Attorney General