

RECEIVED

Sep 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DALLAN TIMOTHY THORSTENSON

APPELLANT

APPELLATE CASE NO. 2024-000049

MOTION TO HOLD APPEAL IN ABEYANCE PENDING RECEIPT OF TRANSCRIPTS

Undersigned counsel respectfully moves to hold the above-captioned case in abeyance pending receipt of transcripts from November 8, 2023, and November 20, 2023 pretrial hearings conducted via WebEx.

1. Appellant was indicted at the May 2023 term of the Aiken County Grand Jury for the offenses of murder and possession of a weapon during the commission of a violent crime.

2. Appellant's case was called to trial on November 27-30, 2023, before the Honorable Michael G. Nettles and a jury. Dayne Phillips represented appellant. Jacqueline Charbonneau was the assistant solicitor.

3. The jury found appellant guilty of both offenses. Judge Gibbons sentenced appellant to life imprisonment for murder, and he imposed a five-year, concurrent sentence for the weapons

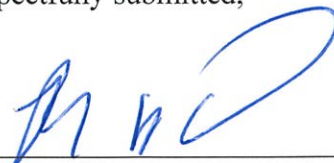
charge. This case is now on appeal before this case, and undersigned counsel is appellate counsel for appellant.

4. This office now understands that the trial judge conducted two pretrial hearings, on November 8, 2023 and November 20, 2023 by WebEx, without a court reporter being assigned or present. Therefore, to have a complete record in this case this office has ordered those two pretrial hearings as evidenced by Exhibit A attached to this motion.

5. In addition, the publishing of the verdict and sentencing in this case was not transcribed, and undersigned counsel will attempt to see if the verdict and sentencing can be substituted with the verdict form and sentencing sheet if they cannot be transcribed. The letter to Court Administration pertaining to the verdict form and sentencing being transcribed is attached as Exhibit B.

WHEREFORE, undersigned counsel respectfully requests that this Court hold the above-captioned case in abeyance pending receipt of the above-referenced November 8, 2023 and November 20, 2023 pretrial hearings transcripts, and the transcription of the verdict and sentencing or a suitable stipulation with opposing counsel in the absence of a transcript. Counsel also requests that the time limits for filing the initial brief and designation of mater be held in abeyance pending disposition of this motion.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender
Attorney for Appellant

This 13th day of September, 2024.

EXHIBIT A



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 10, 2024

DCRP
Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201

Dear DCRP:

Please provide us with the following transcript:

The State v. Dallan T. Thorstenson
Appellate Case No. 2024-000049

County: Aiken

Presiding Judge: Courtney Clyburn-Pope

Case #: 2023GS0201034, 2023GS0201036

Date of Trial: November 8, 2023

Pursuant to the SC Court Reporter's Manual, please number the lines on the paper from 1-25 and include any and all recorded motions (pretrial and post-trial). Consecutive numbering of pages must be used throughout all volumes regardless of the number of volumes involved. Additionally, please transcribe the **jury selection** and the State and defense counsel's **opening and closing arguments** and include the **jury strike sheet**. Please be sure to include **headers** and a **complete index** including a **listing of exhibits**. **Please, do not include keyword indexing.**

If you are aware of any co-defendants, additional transcripts, or if the Attorney General's Office has already requested a transcript, please let us know.

Please send transcripts electronically, you must use the SC Department of Technology's file transfer service at <https://scfiledrop.sc.gov>. New users click the register button to sign up for the service. For assistance with registration or passwords, contact the SC Department of Technology Service Center at 803-896-0001, option 2.

To ensure prompt payment, please sign and complete the enclosed form and include the original criminal case number (indictment number) where the space is provided.

Sincerely,

s/Della White
Administrative Coordinator

cc: S. C. Court of Appeals
Attorney General's Office
S. C. Court Administration



South Carolina Judicial Branch

TRANSCRIPT REQUEST FORM

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter/Transcriptionist and to South Carolina Court Administration at transcripts@sccourts.org. If WebEx or DCRP were used to capture the record, please indicate below and send the form to transcripts@sccourts.org.

Requestor's Information			
Full Name Della White	Law Firm/Agency South Carolina Commission on Indigent Defense	Phone Number 803-734-1330	
Email Address dwhite@sccid.sc.gov		Mailing Address PO Box 11589 Columbia, SC 29211	
Is the requestor a party in the case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, does the requestor represent a party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party _____			
Transcript Information			
Docket Number 2023GS0201034, 2023GS0201036	Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) The State v. Dallan T. Thorstenson		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>
Date(s) of Proceeding November 8, 2023	County Aiken	Appeal pending <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Death Penalty <input type="checkbox"/> Yes <input type="checkbox"/> No
Presiding Judge Courtney Clyburn-Pope		Special Circumstances Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
Opposing Counsel(s) (name and email address) South Carolina Attorney General			
Court Reporter(s) DCRP	<input type="checkbox"/> Webex <input type="checkbox"/> DCRP		
Portion of proceeding to be transcribed <input checked="" type="checkbox"/> Entire hearing <input type="checkbox"/> Voir dire by juror <input type="checkbox"/> Jury selection <input type="checkbox"/> Plaintiff's opening statement <input type="checkbox"/> Defendant's opening statement <input type="checkbox"/> Plaintiff's closing arguments <input type="checkbox"/> Defendant's closing arguments <input type="checkbox"/> Entire direct examination <input type="checkbox"/> Entire cross examination <input type="checkbox"/> Entire redirect <input type="checkbox"/> Examination of witness (W) by attorney (A) W: _ A: <input type="checkbox"/> Ruling of the court		Delivery Timeframe (check Rule 607 for current page rates) <input type="checkbox"/> Quote <input type="checkbox"/> Rough Draft <input type="checkbox"/> Overnight delivery <input type="checkbox"/> Daily delivery <input type="checkbox"/> Expedited delivery (7 days) Due on/before: ____ <input type="checkbox"/> Regular delivery (60 days)	
		Delivery Method (additional fees may apply) <input type="checkbox"/> https://scfiledrop.sc.gov <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
		Responsible Payor <input type="checkbox"/> Private / Self <input checked="" type="checkbox"/> Court Appointed Counsel Appeals Attorney _____ Email _____ <input type="checkbox"/> Other	
Next Hearing Date			

Requestor's Signature: Della White

Date: 09/10/2024

(Typed name will serve as signature)

NOTE: Requests will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party, regardless of indigent status. Please promptly submit your payment in the method of payment requested, in order for the transcript to be produced. In some cases, a deposit may be required before the transcript can be placed in the production queue. You may also request a quote before deciding to order. *If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.*

If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter or transcriptionist.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 10, 2024

DCRP
Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201

Dear DCRP:

Please provide us with the following transcript:

The State v. Dallan T. Thorstenson
Appellate Case No. 2024-000049

County: Aiken

Presiding Judge: Courtney Clyburn-Pope

Case #: 2023GS0201034, 2023GS0201036

Date of Trial: November 20, 2023

Pursuant to the SC Court Reporter's Manual, please number the lines on the paper from 1-25 and include any and all recorded motions (pretrial and post-trial). Consecutive numbering of pages must be used throughout all volumes regardless of the number of volumes involved. Additionally, please transcribe the **jury selection** and the State and defense counsel's **opening and closing arguments** and include the **jury strike sheet**. Please be sure to include **headers** and a **complete index** including a **listing of exhibits**. **Please, do not include keyword indexing.**

If you are aware of any co-defendants, additional transcripts, or if the Attorney General's Office has already requested a transcript, please let us know.

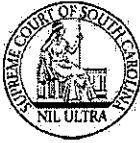
Please send transcripts electronically, you must use the SC Department of Technology's file transfer service at <https://scfiledrop.sc.gov>. New users click the register button to sign up for the service. For assistance with registration or passwords, contact the SC Department of Technology Service Center at 803-896-0001, option 2.

To ensure prompt payment, please sign and complete the enclosed form and include the original criminal case number (indictment number) where the space is provided.

Sincerely,

s/Della White
Administrative Coordinator

cc: S. C. Court of Appeals
Attorney General's Office
S. C. Court Administration



South Carolina Judicial Branch

TRANSCRIPT REQUEST FORM

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter/Transcriptionist and to South Carolina Court Administration at transcripts@sccourts.org. If WebEx or DCRP were used to capture the record, please indicate below and send the form to transcripts@sccourts.org.

Requestor's Information			
Full Name Della White	Law Firm/Agency South Carolina Commission on Indigent Defense	Phone Number 803-734-1330	
Email Address dwhite@sccid.sc.gov		Mailing Address PO Box 11589 Columbia, SC 29211	
Is the requestor a party in the case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, does the requestor represent a party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party _____			
Transcript Information			
Docket Number 2023GS0201034, 2023GS0201036	Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) The State v. Dallan T. Thorstenson		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>
Date(s) of Proceeding November 20, 2023	County Aiken	Appeal pending <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Death Penalty <input type="checkbox"/> Yes <input type="checkbox"/> No
Presiding Judge Courtney Clyburn-Pope		Special Circumstances Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
Opposing Counsel(s) (name and email address) South Carolina Attorney General			
Court Reporter(s) DCRP	<input type="checkbox"/> Webex <input type="checkbox"/> DCRP		
Portion of proceeding to be transcribed <input checked="" type="checkbox"/> Entire hearing <input type="checkbox"/> Voir dire by juror <input type="checkbox"/> Jury selection <input type="checkbox"/> Plaintiff's opening statement <input type="checkbox"/> Defendant's opening statement <input type="checkbox"/> Plaintiff's closing arguments <input type="checkbox"/> Defendant's closing arguments <input type="checkbox"/> Entire direct examination <input type="checkbox"/> Entire cross examination <input type="checkbox"/> Entire redirect <input type="checkbox"/> Examination of witness (W) by attorney (A) W: _ A: _ <input type="checkbox"/> Ruling of the court		Delivery Timeframe (check Rule 607 for current page rates) <input type="checkbox"/> Quote <input type="checkbox"/> Rough Draft <input type="checkbox"/> Overnight delivery <input type="checkbox"/> Daily delivery <input type="checkbox"/> Expedited delivery (7 days) Due on/before: ____ <input type="checkbox"/> Regular delivery (60 days)	
		Delivery Method (additional fees may apply) <input type="checkbox"/> https://scfiledrop.sc.gov <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
		Responsible Payor <input type="checkbox"/> Private / Self <input checked="" type="checkbox"/> Court Appointed Counsel Appeals Attorney _____ Email _____ <input type="checkbox"/> Other	
Next Hearing Date			

Requestor's Signature: Della White

Date: 09/10/2024

(Typed name will serve as signature)

NOTE: Requests will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party, regardless of indigent status. Please promptly submit your payment in the method of payment requested, in order for the transcript to be produced. In some cases, a deposit may be required before the transcript can be placed in the production queue. You may also request a quote before deciding to order. *If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.*

If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter or transcriptionist.

EXHIBIT B

From: [White, Della](#)
To: [Warren, Kaylynn](#)
Subject: FW: Thorstenson
Date: Thursday, September 12, 2024 2:24:35 PM
Attachments: [Transcript Nov. 27-30 2023.pdf](#)

For your file.

From: White, Della
Sent: Thursday, September 12, 2024 2:24 PM
To: Transcripts <transcripts@sccourts.org>
Cc: SC - HOLMES TAMMIE <tholmes@sccourts.org>; SC - JOHNSON PENNY <pjohnson@sccourts.org>
Subject: FW: Thorstenson

Good afternoon,

Our office has received the trial transcript in the above case. However, the verdict and sentencing are not included. I spoke to Ms. Johnson, and she was not provided that portion of the audio from court administration. Can you please check your audio files and see if you have this portion of the trial? If not, we will need a letter signed by your office stating that there is no audio.

Thank you and if you have any questions, please do not hesitate to call me.

Della

From: White, Della <dwhite@sccid.sc.gov>
Sent: Thursday, September 12, 2024 1:08 PM
To: SC - JOHNSON PENNY <pjohnson@sccourts.org>
Subject: FW: Thorstenson

Were you by chance the court reporter for the verdict and sentencing of this trial? Please let me know. Thank you!

From: Warren, Kaylynn <kwarren@sccid.sc.gov>
Sent: Thursday, September 12, 2024 12:18 PM
To: White, Della <dwhite@sccid.sc.gov>
Subject: Thorstenson

This transcript lacks the verdict and sentencing, did we recall this one already?

Kaylynn Warren
Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
(803) 734-1330

RECEIVED

Sep 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

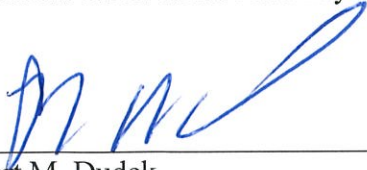
DALLAN TIMOTHY THORSTENSON

APPELLANT

APPELLATE CASE NO. 2024-000049

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 on Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 13th day of September, 2024.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [SC - BROWN MELODY](#)
Cc: [Dudek, Robert](#); [Angela Brown](#)
Subject: 2024-000049 The State v. Dallan Timothy Thorstenson
Date: Friday, September 13, 2024 12:16:00 PM
Attachments: [2024-000049 The State v. Dallan Timothy Thorstenson Motion to Hold Appeal in Abeyance.pdf](#)

Good Afternoon,

Attached for service in the above-referenced case is the Motion to Hold the Appeal in Abeyance Pending Receipt of Transcripts which will be filed today, September 13, 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
(803) 734-1330