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Oct 04 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

BRANDON LEE CORDER,

APPELLANT

APPELLATE CASE NO 2023-001543

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**MOTION TO HOLD IN ABEYANCE**

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Counsel for Brandon Lee Corder respectfully requests that this case be held in abeyance while the transcript is reconstructed from audio recordings. Senior Assistant Deputy Attorney General Melody Brown does not oppose the motion.

Appellant was charged with murder and first tried from February 27 to March 2, 2023, where the trial court granted appellant's motion for a mistrial due to comments made in the solicitor's closing. He was ultimately convicted following a new trial from September 25 to 27, 2023. Prior to the second trial appellant made a motion to dismiss based on double jeopardy, arguing the solicitor intentionally goaded him into requesting the mistrial. Due to substantial problems with the transcripts from the mistrial, counsel for appellant requests the Court hold his appeal in abeyance until the problems are resolved.

The first and most significant problem is that Court Administration has provided two transcripts for March 2, 2023, and they differ in substantial ways. One transcript, by court reporter Lisa Amick is 80 pages. The other transcript, produced by Legal Eagle from recordings, is approximately 100 pages. The Legal Eagle transcript contains multiple portions of the proceedings which do not appear in Amick's version.<sup>1</sup> Those portions contain critical discussions between counsel and the court about jury charges and the admissibility of evidence. While ordinarily the transcript of a mistrial would be unimportant, it matters here because for appellant to challenge the trial court's double jeopardy ruling, he must know the court's other rulings and the state's positions in order to demonstrate he was goaded into the mistrial. Further, having two transcripts creates a substantial practical difficulty: Which one should be designated for the record on appeal? What if, as it appears likely, different portions of both transcripts could be useful for the analysis? It is necessary to hold Mr. Corder's appeal in abeyance so Court Administration can reconstruct the transcript and develop a single, definitive version.

Second, the transcript is severely disjointed and incomplete, making it difficult to ensure the record is sufficient for review. Legal Eagle produced the transcript for February 27 and 28 and March 2, 2023. Those days appear together in a single document (Amick's version of March 2 is separate). March 1, however, had two different court reporters. Stacy Johnson produced the primary transcript of March 1, but on page 48—and without indication elsewhere—the transcript notes that from 11:28 a.m. to 2:37 p.m. the official court reporter was Bethanie Creppon. After

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<sup>1</sup> Counsel has confirmed Amick's version is missing at least those portions of the trial that Legal Eagle's transcript referred to as "Audio Segment A" and "Audio Segment C," together comprising nearly twenty pages of transcript. As explained below, Segment A is likely mislabeled and in fact occurred on March 1 rather than March 2. The source and time of Segment C has not yet been identified, and it is unknown why Amick's version does not have it.

discussing the case with Court Administration, we discovered an 18-minute audio recording from Creppon that is marked from March 1. However, Court Administration was able to confirm Legal Eagle incorrectly (or at least inconsistently) transcribed it in the March 2 transcription. An abeyance is necessary in order for Court Administration to reconstruct that portion of the record, ensure no other portions have been mislabeled or mislocated, and confirm if any recordings have yet to be transcribed. Counsel is concerned the 18-minute recording does not reflect the entire three-hour gap and that there may be other portions of the trial that were never transcribed.

Attached to this motion is Exhibit A, an email from Tammie Holmes, the Court Reporter Manager, stating that it is necessary to reconstruct the transcript from the audio recordings available and that Court Administration is willing to do so.

WHEREFORE, Counsel respectfully requests:

1. The Court hold Appellant Corder's appeal in abeyance while the transcript problems are addressed.
2. The Court order Court Administration to perform a complete reconstruction of the mistrial transcript based on the audio recordings it possesses and can obtain.

Respectfully submitted,



Jordan M. Wayburn  
Appellate Defender

ATTORNEY FOR APPELLANT

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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 Hold in Abeyance in the above-referenced case have been served upon Melody J. Brown, Esquire at the primary e-mail address listed in the Attorney Information System (AIS), this 4th day of October, 2024.



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Jordan M. Wayburn  
Appellate Defender

ATTORNEY FOR APPELLANT

**From:** Holmes, Tammie  
**To:** Wayburn, Jordan; White, Della  
**Cc:** Allen, Cheryl  
**Subject:** [External] Brandon Corder transcript  
**Date:** Friday, October 4, 2024 3:37:37 PM

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Good afternoon.

Jordan, it was really nice meeting with you and discussing the Corder transcript issues. Our discussion helped me figure out some questions that I had about the transcripts, and I hope that I helped you answer some questions that you had about the transcript situation.

I do believe that reconstructing this transcript is a good idea so that we can get everything organized properly. I will start on Monday listening to the multiple audio files while going over the transcripts to try and piece everything together and put it in order.

Thank you,

Tammie M. Holmes  
Court Reporter Manager  
South Carolina Judicial Branch  
1220 Senate Street, Ste. 200  
Columbia, SC 29201  
[tholmes@sccourts.org](mailto:tholmes@sccourts.org)  
803-734-1825

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**From:** [Stock, Chris](#)  
**To:** [SC - BROWN MELODY; Angela Brown](#)  
**Cc:** [Wayburn, Jordan](#)  
**Subject:** 2023-001543 - Brandon Lee Corder - Motion to hold in abeyance  
**Date:** Friday, October 4, 2024 4:44:00 PM  
**Attachments:** [2023-001543 - Brandon Lee Corder - Motion to hold in abeyance.pdf](#)

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Ms. Brown,

Please find attached for service the Motion to hold in abeyance for Brandon Lee Corder's appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

**Chris Stock**  
Administrative Assistant  
Commission on Indigent Defense  
Appellate Division  
(803) 734-1330