

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JAMES BROWN,

APPELLANT.

APPELLATE CASE NO. 2023-001884

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MOTION FOR ABEYANCE

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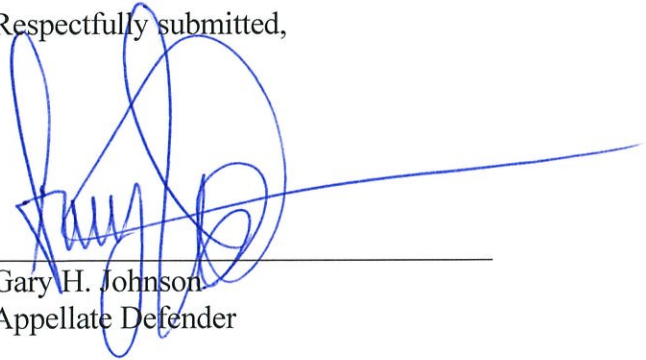
Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests an order holding this appeal in abeyance pending receipt of an additional transcript.

Originally, appellant ordered transcripts from a pre-trial hearing and trial in connection with the above referenced matter; a copy of the request is attached as Exhibit A.

Upon receipt of the transcripts from the court reporter, appellant provided notice to this Court and the matter was scheduled for briefing; a copy of the notice is attached as Exhibit B. However, in preparing the initial brief, it has been discovered that the pre-trial hearing transcript was not transcribed due to inadvertence and the court reporter is having technical issues retrieving the audio file. See Exhibit C.

Therefore, the appellant requests that the deadline for briefing be held in abeyance pending receipt of the pre-trial hearing transcript originally ordered on April 1, 2024.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Gary H. Johnson", is written over a horizontal line. The signature is highly stylized and cursive.

Gary H. Johnson  
Appellate Defender

Attorney for Appellant

This 20th day of November, 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

April 01, 2024

Ms. April P. Herron  
Circuit Court Reporter  
P. O. Box 17675  
Greenville, SC 29606

Dear Ms. Herron:

Please provide us with the following transcript:

The State v. James Brown

Case #: 2022-GS-23-01376, 06567, -06570,  
-06571, -06572, -06566, -06574,  
-06568, 06569, & -06573

Appellate Case No. 2024-000425

County: Greenville

Date of Trial: Jan. 29-Feb. 2, 2024 & Jan. 8, 2024

Presiding Judge: Perry H. Gravely

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](mailto:transcripts@sccourts.org). If WebEx or DCRP were used to capture the record, please indicate below and send the form to [transcripts@sccourts.org](mailto:transcripts@sccourts.org).

Requestor's Information			
<b>Full Name</b> Della White	<b>Law Firm/Agency</b> South Carolina Commission on Indigent Defense	<b>Phone Number</b> [REDACTED]	
<b>Email Address</b> [REDACTED]		<b>Mailing Address</b> 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			
<b>Docket Number</b> 2022-GS-23-01376, -06567, -06570, -06571, -06572, -06566, -06574, 06568, -06569, -06573	<b>Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith)</b> The State v. James Brown		<b>Circuit</b> <input checked="" type="checkbox"/> <b>Family</b> <input type="checkbox"/>
<b>Date(s) of Proceeding</b> Jan. 29-Feb. 2, 2024 & Jan. 8, 2024	<b>County</b> Greenville	<b>Appeal pending</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Death Penalty</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Presiding Judge</b> Perry H. Gravely	<b>Special Circumstances</b> 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.		
<b>Opposing Counsel(s) (name and email address)</b> South Carolina Attorney General		<b>Delivery Timeframe</b> (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)	
<b>Court Reporter(s)</b> Ms. April P. Herron	<input type="checkbox"/> Webex <input type="checkbox"/> DCRP		
<b>Portion of proceeding to be transcribed</b> <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		<b>Delivery Method (additional fees may apply)</b> <input type="checkbox"/> <a href="https://scfiledrop.sc.gov">https://scfiledrop.sc.gov</a> <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
		<b>Responsible Payor</b> <input type="checkbox"/> Private / Self <input checked="" type="checkbox"/> Court Appointed Counsel Appeals Attorney _____ Email _____ <input type="checkbox"/> Other	
<b>Next Hearing Date</b>			

Requestor's Signature: Della White

Date: 04/01/2024

(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

**EXHIBIT**

**B**



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401

Columbia, South Carolina 29201-3332  
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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

August 01, 2024

The Honorable Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Dear Ms. Kitchings:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

The State v. James Brown  
Appellate Case No. 2024-000425

8/1/2024

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

s/Della White  
Administrative Coordinator

cc: Attorney General's Office

**EXHIBIT**

**C**

**Leverett, Scott**

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**From:** Johnson, Gary  
**Sent:** Wednesday, November 20, 2024 1:56 PM  
**To:** Leverett, Scott  
**Subject:** FW: [External] Re: The State v. James Brown

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**From:** White, Della [REDACTED]  
**Sent:** Wednesday, November 20, 2024 8:37 AM  
**To:** Johnson, Gary [REDACTED]  
**Subject:** FW: [External] Re: The State v. James Brown

Please see below. I will be on the lookout.

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**From:** Herron, April P. [REDACTED]  
**Sent:** Tuesday, November 19, 2024 10:18 PM  
**To:** White, Della [REDACTED]  
**Subject:** [External] Re: The State v. James Brown

Good evening,

I am sorry, I somehow missed seeing that January 8, 2024 date on the request. I went to pull it up tonight and something is wrong with my SD card and I cannot read the file. My computer guy remoted into my computer tonight and tried to fix it. He thinks he can retrieve what's on there. However, he cannot get to it until Thursday. I will keep you posted. Hopefully, it's not long and I can get it to you quickly.

*April P. Herron  
Thirteenth Circuit Court Reporter  
P.O. Box 17675  
Greenville, SC 29607*

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**From:** White, Della [REDACTED]  
**Sent:** Tuesday, November 19, 2024 8:19 AM  
**To:** Herron, April P. [REDACTED]  
**Subject:** RE: The State v. James Brown

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Good morning,

It was brought to my attention this morning that we never received the Jan. 8, 2024. This transcript was also requested on the same request as the Jan. 29-Feb.2, 2024 that we did receive.

Please let me know what I should do to get this transcript. The lawyer did say we may not have received it because it could have been in Pickens County.

Thank you so much always!

Della

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**From:** White, Della

**Sent:** Monday, April 1, 2024 11:13 AM

**To:** [REDACTED]

**Cc:** Transcripts [REDACTED] mfarthing@ [REDACTED] SC - COLLINS CAROLINE [REDACTED]

**Subject:** The State v. James Brown

Good morning,

Attached is a letter requesting the transcript for the above case.

If you are not the court reporter or if another court reporter took a portion of the trial, please let me know.

As a reminder, please do not include keyword indexing and bond or preliminary hearings. Also, please add the exhibits with descriptions to the index.

Finally, if there are any co-defendants, please let me know.

Thank you very much.

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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This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

RECEIVED

Nov 20 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JAMES BROWN,

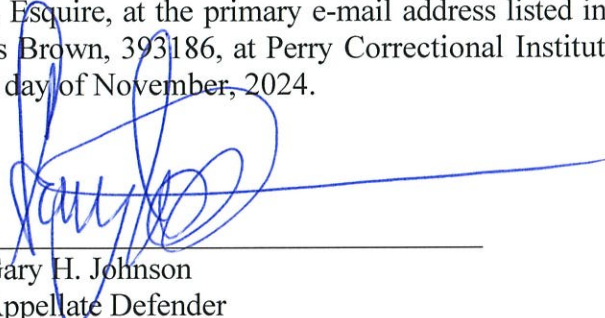
APPELLANT.

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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, along with Exhibits A, B and C, in the above-referenced case have been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and James Brown, 393186, at Perry Correctional Institution, 430 Oaklawn Rd., Pelzer, SC 29669, this 20th day of November, 2024.



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Gary H. Johnson  
Appellate Defender

Attorney for Appellant

**From:** [Leverett, Scott](#)  
**To:** [SC - FARTHING MARK](#)  
**Cc:** [SC - COLLINS CAROLINE](#); [Johnson, Gary](#)  
**Subject:** 2023-001884 - State v. James Brown - Motion to hold in Abeyance  
**Date:** Wednesday, November 20, 2024 2:38:25 PM  
**Attachments:** [2023-001884 - State v. James Brown - Motion to hold in Abeyance.pdf](#)

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Dear Mr. Farthing,

Attached please find a copy of the Motion for Abeyance in the above referenced case that is being filed today with the Court of Appeals.

-Scott Leverett  
Admin. Asst. for Gary Johnson  
Appellate Defense

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**This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.**