

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Dec 27 2024

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

Otis OwensPlaintiff/Appellant,

v.

Sheriff Michael Hunt, Matthew Gibson,
Certain Underwriters at Lloyd’s, London
subscribing to Policy No. PK 1022716,
Brit Global Specialty USA d/b/a Brit
Global, RiverStone Insurance Limited,
RiverStone International, and Robbie
Vaughn,

.....Defendants/Respondents.

Appellate Case No. 2024-001184

**APPELLANT’S REPLY TO THE RESPONDENTS’ RETURN IN OPPOSITION TO
THE MOTION TO REINSTATE THE APPEAL**

Appellant respectfully submits this Reply to the Respondents’ Return in Opposition to the Motion to Reinstate Appeal. Respondents argue that procedural deficiencies warrant denial of the motion, but that would result in flagrant unfairness and patent inequity. Appellant concedes that he originally ordered and mailed payment for the transcript on September 10, 2024. (Exhibit A). On November 14, 2024, Appellant received notice that the Court had not received the transcripts. Appellant emailed the court reporter to verify the transcript had been sent. The court reporter responded that she had not received payment, so the Appellant re-sent the payment immediately. (Exhibit B) The appellant apologizes and submits that as soon as the Court of Appeals informed

him on November 14, 2024, of the issue and instructed that the 2024-001184 transcripts must be filed within 10 days, he complied and filed the official transcripts on the eighth day, November 22, 2024. However, because of the similarity of the names, Appellant filed the 2024-001184 transcripts under the wrong case. The filing was erroneously made under Appellant's first appeal filed in 2023, appellate case number: 2023-000009. Again, Appellant apologizes.

Appellant respectfully submits that while rules are important and must be followed, sometimes mistakes are made. Counsel for Appellant acknowledges the error and the incorrect filing, and asks this Court for mercy. Respondents' Return is titled "APPEAL FROM LEXINGTON COUNTY," when it is actually an appeal from Greenville County. Appellant asserts that error should not bar Respondents' filing and asks the Court not to allow his appeal. Appellant humbly requests that the procedural errors on his counsel's part not bar his appeal because the issues related to the appeal are very important, and because all defects have been cured. Allowing Appellant to proceed on the merits of the appeal will not prejudice the Respondents. For the following reasons, the Appellant respectfully requests that the appeal be reinstated and that he be allowed to proceed on the merits.

I. Importance of the Appeal

The issues involved in this appeal are very important. There exists an inherent conflict in the same counsel representing the Aiken County Sheriff's Office in the underlying case and the Sheriff's Office's employee, Timothy Gibson, in the federal case, which has been stayed pending the appeal of the verdict against the Sheriff's Office. The Sheriff's Office, in its appeal, has blamed Gibson for the verdict, taking the position that Gibson committed an assault, and should have been sued personally. That same counsel filed a motion to stay the federal action – a case arising for a claim of an unconstitutional search, which has now been found to have occurred by

factfinders. That means Gibson's counsel has filed a motion to stop the federal action in an effort to establish something that will hurt Gibson in the state case. The declaratory judgment action that is the subject of this appeal is therefore incredibly important.

It is very important to determine the rights of the parties in this situation, and the issues related to this appeal affect coverage, duties, and resolution. Appellant respectfully submits that the resolution of issues related to this appeal could lessen protracted litigation in the future and lessen the Insurance Reserve Fund hiring lawyers to represent multiple clients with inherent conflicts with each other.

II. Timeliness and Equitable Considerations

While the transcript was ordered later than the prescribed deadline, this delay did not prejudice Respondents or hinder their ability to respond. In fact, this Court did not dismiss the appeal when proof or ordering the transcript was not timely ordered – instead, the Court instructed Appellants to file the proof. Appellants obeyed, but made another error, filing the proof in the wrong appeal. Substantial compliance with Rule 207(a)(1), SCACR, was achieved when the transcript was submitted.

Appellant apologizes for procedural missteps, which were inadvertent and were not the result of disregard for court rules. Equity supports reinstatement to avoid penalizing Appellant for these errors. Appellant acknowledges that the Court was not informed of the precise date the transcript was received. The oversight was unintentional and will be promptly rectified upon reinstatement of the appeal. The appellant has attached documentation to establish the transcript's receipt date and ensure compliance moving forward.

III. No Prejudice to Respondents:

Respondents have suffered no prejudice as a result of Appellant's mistakes. The appeal remains within a procedural framework that can be easily calibrated to ensure fairness. Courts favor resolving cases on their merits rather than dismissing appeals based on procedural technicalities. *Elam v. South Carolina Dept. of Transp.*, 602 S.E.2d 722 (2004) (“...[A]ppellate rules should not be written or interpreted to create a trap for the unwary lawyer or party...”). Determination on the merits will also serve the judicial economy. See *Slezak v. Dept. of Corrections*, 605 S.E.2d 506 (2004).

Conclusion

For the reasons stated, Appellant respectfully requests that this Court grant the Motion to Reinstate Appeal, allowing the case to proceed on its merits.

Respectfully submitted,

HAWKINS & JEDZINIAK, LLC

s/ Joshua T. Hawkins

Joshua T. Hawkins, Federal Bar # 11418

Helena L. Jedziniak, Federal Bar # 12809

1225 South Church Street

Greenville, South Carolina 29605

(864) 275-8142 (telephone)

(864) 752-0911 (facsimile)

josh@hjlsc.com

helena@hjlsc.com

Attorneys for Appellants

Greenville, South Carolina
December 24, 2024

CC via Electronic Mail:

William Walton Silverman
Wood Smith Henning & Berman, LLP
421 Fayetteville Street, Suite 1100

Raleigh, NC 27601

Andrew Lindemann
5 Calendar Court, Suite 202
Columbia, SC 29260

William H. Davidson, II
Davidson & Wren, P.A.
1611 Devonshire Drive (2nd Floor)
Columbia, SC 29202

EXHIBIT

A

Sep 10 2024

SC Court of Appeals

Paralegal

From: Transcripts <transcripts@sccourts.org>
Sent: Tuesday, September 10, 2024 9:05 AM
To: Paralegal
Cc: Transcripts
Subject: RE: Transcript Request - 2023CP2302900

Good morning,
Your transcript request has been received by our office. You should receive communication from a transcriptionist within 5 days with an estimated cost for production.
Thank you.
Court Reporter Section

From: Paralegal <Paralegal@hjlsc.com>
Sent: Monday, September 9, 2024 5:49 PM
To: Transcripts <transcripts@sccourts.org>
Subject: Transcript Request - 2023CP2302900

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

Good afternoon. Please see the attached transcript request form for the above matter.

If you have any questions, feel free to contact our office.

Thanks!



Candie Edwards
Hawkins & Jedziniak, LLC
Paralegal
Office: 864-275-8142 | Fax: 864-752-0911
Email: candie@hjlsc.com
1225 South Church Street | Greenville, SC 29605
www.hawkinsandjedziniak.com

~~~ 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.



# South Carolina Judicial Branch

TRANSCRIPT REQUEST FORM

RECEIVED

Sep 10 2024

SC Court of Appeals

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><br>Candie Edwards                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Hawkins &amp; Jedziniak, LLC</b>                                                                                                                                                                                                                                                                                                                                        | <b>Phone Number</b><br>864-419-9241                                                                                                                                                                                                                                                                                                                                                            |                                                                                              |
| <b>Email Address</b><br>candie@hjllesc.com                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                            | <b>Mailing Address</b><br>1225 South Church Street, Greenville, SC 29605                                                                                                                                                                                                                                                                                                                       |                                                                                              |
| Is the requestor a party in the case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                              |
| If no, does the requestor represent a party? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party Otis Owens                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                              |
| Transcript Information                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                              |
| <b>Docket Number</b><br>2023CP2302900                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Full Case Caption</b> (i.e. State v. John Doe or John Smith v. Jane Smith)<br>Otis Owens v. Sheriff Michael Hunt, in his official capacity, Deputy Matthew Gibson, Certain Underwriters at Lloyd's, London subscribing to Policy No. PK1022716, Brit Global Specialty USA d/b/a Brit Global, RiverStone Insurance Limited, RiverStone International, and Robbie Vaughn. |                                                                                                                                                                                                                                                                                                                                                                                                | <b>Circuit</b> <input checked="" type="checkbox"/><br><b>Family</b> <input type="checkbox"/> |
| <b>Date(s) of Proceeding</b><br>May 15, 2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>County</b> Greenville                                                                                                                                                                                                                                                                                                                                                   | <b>Appeal pending</b><br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                   | <b>Death Penalty</b><br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  |
| <b>Presiding Judge</b><br>Perry H. Gravely                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                            | <b>Special Circumstances</b><br>Is the hearing to be transcribed one of the following:<br><input type="checkbox"/> Termination of parental rights<br><input type="checkbox"/> Adoption<br><input type="checkbox"/> Any actions involving child custody/visitation.                                                                                                                             |                                                                                              |
| <b>Opposing Counsel(s)</b> (name and email address)<br>William Walton Silverman, Esq.<br>WSilverman@wshblaw.com<br>Andrew F. Lindeman, Esq.<br>Andrew@ldlawsc.com<br>William H. Davidson, II, Esq.<br>wdavidson@dml-law.com                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                              |
| <b>Court Reporter(s)</b><br>WebEx                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <input checked="" type="checkbox"/> WebEx<br><input type="checkbox"/> DCRP                                                                                                                                                                                                                                                                                                 | <b>Delivery Timeframe</b><br>(check Rule 607 for current page rates)<br><input type="checkbox"/> Quote<br><input type="checkbox"/> Rough Draft<br><input type="checkbox"/> Overnight delivery<br><input type="checkbox"/> Daily delivery<br><input type="checkbox"/> Expedited delivery (7 days) <b>Due on/before:</b> _____<br><input checked="" type="checkbox"/> Regular delivery (60 days) |                                                                                              |
| <b>Portion of proceeding to be transcribed</b><br><input checked="" type="checkbox"/> Entire hearing<br><input type="checkbox"/> Voir dire by juror<br><input type="checkbox"/> Jury selection<br><input type="checkbox"/> Plaintiff's opening statement<br><input type="checkbox"/> Defendant's opening statement<br><input type="checkbox"/> Plaintiff's closing arguments<br><input type="checkbox"/> Defendant's closing arguments<br><input type="checkbox"/> Entire direct examination<br><input type="checkbox"/> Entire cross examination |                                                                                                                                                                                                                                                                                                                                                                            | <b>Delivery Method</b> (additional fees may apply)<br><input checked="" type="checkbox"/> PDF / Email<br><input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping)<br><input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)                                                                                                                                        |                                                                                              |



# South Carolina Judicial Branch

## TRANSCRIPT REQUEST FORM

---

|                                                                                                                     |                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Entire redirect                                                                            | <b>Responsible Payor</b><br><input checked="" type="checkbox"/> Private / Self<br><input type="checkbox"/> Court Appointed Counsel<br><i>Appeals Attorney</i> [redacted]<br><i>Email</i> [redacted]<br><input type="checkbox"/> Other [redacted] |
| <input type="checkbox"/> Examination of witness (W) by attorney (A)<br><b>W:</b> [redacted]<br><b>A:</b> [redacted] |                                                                                                                                                                                                                                                  |
| <input type="checkbox"/> Ruling of the court                                                                        |                                                                                                                                                                                                                                                  |
| <b>Next Hearing Date</b> [redacted]                                                                                 |                                                                                                                                                                                                                                                  |

**Requestor's Signature:** Candie Edwards      **Date:** 09/09/2024  
*(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**

HAWKINS & JEDZINIAK LLC  
OPERATING ACCOUNT  
1225 S CHURCH ST  
GREENVILLE, SC 29605

2249  
63-1403/631

Sept. 10, 2024  
Date

CHECK IMAGE  
DEPOSIT ONLY

Pay to the  
Order of

Natalie Dahl

One hundred ninety one & 25/100 Dollars

\$ 191.25

Photo  
Safe  
Deposit  
Details on back



SouthState

SouthStateBank.com 800.277.2175

2024-  
60164

For Owens transcripts

⑆063114030⑆8010000363253⑆02249

Harland Clarke

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

Dec 27 2024

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2024-001184

Otis Owens,

.....Appellant,

v.

Sheriff Michael Hunt, Matthew Gibson,  
Certain Underwriters at Lloyd’s, London  
subscribing to Policy No. PK 1022716,  
Brit Global Specialty USA d/b/a Brit  
Global, RiverStone Insurance Limited,  
RiverStone International, and Robbie  
Vaughn, .....

Respondents.

**PROOF OF SERVICE**

I certify that on this date, December 24, 2024, I filed the foregoing **Appellant’s Reply to the Respondents’ Return in Opposition to The Motion to Reinstate the Appeal** in the above matter, as requested by the Court, via electronic filing, to ctappfilings@sccourts.org. A copy was also served on Respondents via electronic service, addressed to the attorney of record below by email:

**William Walton Silverman**  
**Wood Smith Henning & Berman, LLP**  
**421 Fayetteville Street, Suite 1100**  
**Raleigh, NC 27601**

**Andrew Lindemann**  
**5 Calendar Court, Suite 202**  
**Columbia, SC 29260**

**William H. Davidson, II**  
**Davidson & Wren, P.A.**  
**1611 Devonshire Drive (2<sup>nd</sup> Floor)**  
**Columbia, SC 29202**

Hawkins & Jedziniak, LLC



---

Joshua T. Hawkins, S.C. Bar #78470  
Helena L. Jedziniak, SC Bar #100825  
1225 South Church Street  
Greenville, South Carolina 29605  
(864) 275-8142 (telephone)  
josh@hjlsc.com  
helena@hjlsc.com  
Attorneys for Appellants

Greenville, South Carolina  
December 24, 2024