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Feb 06 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLISTON L. OWENS,

APPELLANT

APPELLATE CASE NO. 2023-000593

SUPPLEMENTAL RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

1 these we've already worked out, I just want to put
2 it on the record.

3 THE COURT: Have you'all worked out number
4 one?

5 MS. GIBBES: Yeah, well --

6 THE COURT: Yeah?

7 MS. GIBBES: -- sequester of the witnesses,
8 I was just gonna ask for the lay witnesses to be
9 sequestered. Obviously -- I know after like Diamond
10 Riley, and there's some victims that we're okay with
11 them being in there after they testify, or during.

12 MR. EVANS: And so I appreciate her
13 limiting that to just the lay witnesses.

14 MS. GIBBES: Yeah.

15 MR. EVANS: I think that makes all the
16 sense in the world. The surviving victims, based on
17 our, you know, attempted mistrial in August, I think
18 we'll be fine, if the three survivors were Elias
19 Green, and when I say surviving, I don't mean to
20 imply that Mr. Owens fired upon all of them, but
21 Elias Green is the son of Mack Green, the decedent.
22 I don't believe he would -- he certainly would be
23 okay with being sequestered until his testimony, and
24 then, you know, it'll be up to him, whether to stay
25 around or not. The second living victim would be

1 the first witness that she named, Mr. Fisk, I don't
2 believe that I would be likely -- I'll just go ahead
3 and say I'm not going to ask him any questions about
4 Mr. Owens' habit of carrying a gun, because Mr. Fisk
5 observed Mr. Owens actually firing a gun two days
6 prior to the shooting in question. Judge, as I'm
7 sure you have picked up from the transcript of our
8 mistrial, this incident began with a shooting in
9 which Mr. Owens was the victim on January the 6th,
10 2019.

11 Mr. Fisk was a friend of his, next to him.
12 Also, if anybody had been arrested would also have
13 certainly been a victim of that shooting, whatever
14 charge they ended up charging.

15 Mr. Fisk would be testifying that he
16 observed Mr. Owens, you know, with a gun, firing a
17 gun just two days prior to this incident. So had
18 the -- halfway on him.

19 As far as Mr. Dobson and Mr. Williams go, I
20 think, Judge, it's -- I'm happy to abide by the
21 Court's ruling, if the Court finds -- and I think --
22 and I apologize we don't have them here today, but
23 perhaps when Mr. Williams or Mr. Dobson come up, we
24 can arrange their testimony around lunch tomorrow.
25 We can do a very quick in-camera on this issue

1 He said he will attend and testify if he
2 can get a ride. He is somewhere in Columbia. They
3 are presently getting their phones, so they can call
4 him again to get an address. We, of course, would
5 be happy to serve him in Columbia and transport him
6 here, but there would be, of course, some delay.

7 The other witness is Elias Green, and I
8 have -- we have also been unable to serve him.
9 However, he in the mistrial in August did testify,
10 he was an early witness on that occasion.

11 Ms. Gibbes cross-examined him, Ms. Williams
12 was the Court Reporter, so I know we have a
13 transcript of that.

14 Judge, I'm moving under 804 would be, one,
15 to enter that prior testimony. It should not be a
16 confrontation clause issue, since we have the same
17 counsel on both sides. There was certainly not just
18 an opportunity, but in fact there was meaningful
19 cross-examination under oath.

20 So I think it's not a constitutional issue,
21 it's only a rules of evidence issue. I'll prepare
22 to put up Mr. Davis in-camera right now to go over
23 our efforts to serve Mr. Green.

24 THE COURT: All right, let's do that.

25 MR. EVANS: Come on up, Mr. Davis.

1 Green is in Beaufort, and tried to get an address,
2 phone number, different ways of trying to contact
3 him. The family gave us two numbers.

4 One number, I think, was the mother's
5 number, then the other number was supposedly to be
6 Mr. Green's number, but neither number worked, as
7 far as getting in touch with him.

8 Q. All right. Were we able to serve Mr.
9 Green before the mistrial last summer?

10 A. Yes.

11 Q. Okay, where was that?

12 A. His mother said she would never let him
13 get close to him. She just would say, I would bring
14 him.

15 Q. I see, and has his mother been here in
16 the courtroom this week?

17 A. She's been in the courtroom every day,
18 and I've talked with her about the fact that we
19 texted back and forth, and the last text was at 8:40
20 this morning, when she said, "Elisa's not gonna come
21 and testify."

22 Q. All right.

23 A. But this was also a follow-up with all
24 day yesterday, and all day the day before, and
25 Sunday.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

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SC Court of Appeals



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ATTORNEY FOR APPELLANT

This 6th day of February, 2025.

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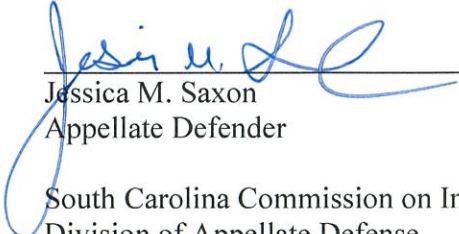
WILLISTON L. OWENS,

APPELLANT

APPELLATE CASE NO. 2023-000593

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Supplemental Record on Appeal in the above-referenced case has been served upon Joshua A. Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); on this 6th day of February, 2025.



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