

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Appeal from York County
Honorable H. Steven DeBerry, IV, Circuit Court Judge
Appellate Case No. 2023-000032

FEB 27 2025

SC Court of Appeals

THE STATE,

Respondent,

vs.

HENRY WAYNE PARKER,

Appellant.

**MOTION TO PERMIT THE INCLUSION
OF A COPY OF AN EXHIBIT
IN THE RECORD ON APPEAL**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

In January of 2024, Appellant Henry Wayne Parker was convicted of trafficking in methamphetamine, and he subsequently initiated an appeal after his sentence was imposed. At present, his appeal is currently pending before this Court.

II.

On appeal, Parker’s appellate counsel submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967), along with a petition to be relieved as counsel. In addition to that, Parker’s appellate counsel filed the Record of Appeal along with a designation of matter designating

State's Exhibit # 2—which was a body camera recording that was admitted into evidence and played for the jury during Parker's trial—for inclusion in the Record on Appeal.

III.

On the same date those documents were filed, this Court issued an order directing the York County Clerk of Court to release State's Exhibit # 2 to the South Carolina Attorney General's Office for transport to the Court. Subsequent to the issuance of the transportation order, the State attempted to obtain the original version of State's Exhibit # 2 from the York County Clerk of Court's Office. However, the York County Clerk of Court's Office was unable to locate State's Exhibit # 2 during a search for that particular exhibit and has indicated the exhibit cannot currently be located as it appears to have been misplaced. Accordingly, the York County Clerk of Court's Office has been unable to comply with this Court's order, and the State has been unable to transport the original copy of State's Exhibit # 2 to this Court for consideration on appeal.

IV.

Despite those unfortunate circumstances, a copy of State's Exhibit # 2 was created before the original version of that exhibit was misplaced, and, due to that, the State has been able to obtain possession of a complete and accurate copy of the exhibit. In addition to that, the State has been able to obtain a sworn and notarized affidavit from Assistant Deputy Solicitor Misti Horton Shelton, who was one of the prosecutors involved in Parker's trial. Through that affidavit, Assistant Deputy Solicitor Shelton has confirmed the State's copy of State's Exhibit # 2 truly and accurately reflects the exhibit introduced during Parker's trial as State's Exhibit # 2 to the best of her knowledge and recollection.

V.

Because the designated exhibit—a copy of which has been included with the State’s motion as an attachment to the solicitor’s affidavit—has properly been designated for inclusion in the Record on Appeal and has been deemed relevant to the resolution of Parker’s appeal, the Record on Appeal cannot be properly completed without its inclusion. See Rule 210(c), SCACR (“The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267.”). Therefore, in order to enable the proper completion of the appellate record, the State asks this Court to allow the inclusion of the attached copy of the designated exhibit in the Record on Appeal based on the solicitor’s sworn certification this item—to the best of her knowledge and experience—truly and accurately reflects the exhibit that was before the jury in Parker’s case.

VI.

Before filing this motion, the undersigned counsel for the State has consulted with Parker’s appellate counsel about this matter, and Parker’s appellate counsel has confirmed she has no objections to the request being made in the State’s motion.

WHEREFORE, Respondent prays that the Court will allow the inclusion of what is believed to be a complete and accurate copy of State’s Exhibit # 2 in the Record on Appeal in place of the missing original version of State’s Exhibit # 2; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General



By: _____

Mark R. Farthing
S.C. Bar Number 76901

February 27, 2025

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

FEB 27 2025

SC Court of Appeals

Appeal from York County
Honorable H. Steven DeBerry, IV, Circuit Court Judge
Appellate Case No. 2023-000032

THE STATE,

Respondent,

vs.

HENRY WAYNE PARKER,

Appellant.

AFFIDAVIT

Personally appeared before me, Misti Horton Shelton, who being duly sworn, attests to the following:

I.

I am an Assistant Deputy Solicitor in the Sixteenth Judicial Circuit Solicitor's Office.

II.

I served as one of the prosecutors for the State of South Carolina in Appellant Henry Wayne Parker's trial that took place January 4, 2023, in York County.

III.

I have been informed by the South Carolina Attorney General's Office that State's Exhibit No. 2 (Inv. Hawkins Body Cam Video) is presently unavailable for transportation to the Court of Appeals.

IV.

A copy of State's Exhibit No. 2 (Inv. Hawkins Body Cam Video) from Appellant's case has been included with this affidavit as Attachment "A".

V.

To the best of my knowledge and recollection, the included exhibit identified as Attachment "A" truly and accurately reflects the exhibit that was before the jury during the circuit court proceedings in Appellant's case.

WHEREFORE, the undersigned hereby certifies that the above is true to the best of her knowledge and recollection. I have this day been provided a copy of this Affidavit and hereby acknowledge receipt thereof.



MISTI HORTON SHELTON
Assistant Deputy Solicitor, Sixteenth Judicial Circuit

SWORN to before me this 12 day of February, 2025.

Rosemary Nessel
Notary Public for South Carolina
My Commission Expires: 5/16/32

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

FEB 27 2025

Appeal from York County
Honorable H. Steven DeBerry, IV, Circuit Court Judge SC Court of Appeals
Appellate Case No. 2023-000032

THE STATE,

Respondent,

vs.

HENRY WAYNE PARKER,

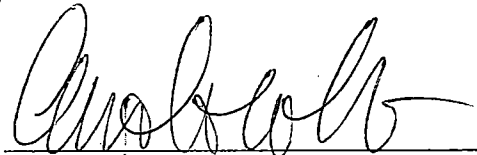
Appellant.

PROOF OF SERVICE

I, Caroline Collins, certify I have served the within Motion to Permit the Inclusion of a Copy of an Exhibit in the Record on Appeal by delivering a copy to the office of the following individual:

Sarah E. Shipe, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 27th day of February, 2025.



CAROLINE COLLINS
Administrative Support Manager
Office of the Attorney General