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Apr 15 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Honorable Robert J. Bonds, Circuit Court Judge
Appellate Case No. 2024-000432

THE STATE,

Respondent,

vs.

ANTWAN DEMETRIC McMILLAN,

Appellant.

**MOTION TO ALLOW FILING OF
AMENDED DESIGNATION OF MATTER
AND
SUPPLEMENTAL RECORD ON APPEAL**

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

I.

In September of 2011, Appellant Antwan Demetric McMillan was convicted of three counts of attempted armed robbery, three counts of first-degree assault and battery, and one count of possession of a weapon during the commission of a violent crime and sentenced an aggregate thirty-year term of imprisonment for his crimes. Following his convictions, McMillan made multiple attempts over the years to obtain relief through a variety of different means. Most recently, McMillan filed a motion seeking a new trial based on after-discovered evidence, and,

after conducting hearings on the matter, a circuit court judge denied that motion through an order filed on March 5, 2024. Following that ruling, McMillan timely initiated an appeal.

II.

At present, McMillan's most-recent appeal is currently pending before this Court. So far on appeal, initial briefing has been completed, the parties have filed their designations of matter, and the Record on Appeal has been filed along with the Final Brief of Appellant and Final Reply Brief of Appellant.

III.

In its designation of matter, the State properly designated numerous items, including portions of the trial transcript, for inclusion in the Record on Appeal. Amongst the portions of the trial transcript designated, the State specifically identified pages 1 and 9 in its designation of matter. However, in the Record on Appeal as presently filed, McMillan appears to have inadvertently failed to include pages 1 and 9 from the trial transcript and, instead, included pages 1 and 9 from a pre-trial hearing transcript in their place. (R. pp. 333-334).

Furthermore, in addition to that, the State included numerous citations to the trial transcript in its brief, including to portions of the transcript related to the jury's deliberations, the verdict, and sentencing. However, in preparing its designation of matter, the State inadvertently failed to designate several pages from the trial record for inclusion in the Record on Appeal that it either cited to in its brief or intended to designate for inclusion. As a result, those pages were not included in the Record on Appeal as presently filed.

IV.

Pursuant to our state's appellate court rules, the Record on Appeal shall contain all matter designated by the parties and can include any matter presented to the lower court or tribunal.

Rule 210(c), SCACR. Relatedly, those rules permit both the parties and the appellate court itself to supplement the Record on Appeal with additional matter that was not previously included in it. Rule 212, SCACR.

V.

Because properly-designated matter was omitted from the Record on Appeal in the case at bar, the State believes it is necessary to file a Supplemental Record on Appeal containing that omitted matter. See Rule 210(c), SCACR (“The Record on Appeal shall include all matter designated to be included by any party under Rule 209[.]”). Accordingly, the State asks this Court to permit and accept the filing of a Supplemental Record on Appeal containing the properly-designated matter that has inadvertently not been included in the Record on Appeal as currently filed.

Meanwhile, the transcript from McMillan’s trial—including several limited portions the State mistakenly failed to identify in its designation of matter—unquestionably could appropriately be designated for inclusion and included in the Record on Appeal since that transcript was a part of the trial court record in McMillan’s case. Rule 209(b), SCACR; Rule 210(c), SCACR. Accordingly, since certain portions of the trial record that could properly be included in the Record on Appeal were only not included due to a mistake on the part of undersigned counsel, the State asks this Court to: (1) permit the State to now file an Amended Designation of Matter properly reflecting all the matter it originally intended to designate for inclusion in the Record on Appeal; and (2) allow the State to file a Supplemental Record on Appeal containing the mistakenly-omitted matter that has now been identified in its Amended Designation of Matter.

VI.

Along with this motion, the State has contemporaneously submitted its Amended Designation of Matter and the Supplemental Record on Appeal, which contains—in total—eleven pages of supplemental matter. Furthermore, undersigned counsel for the State sincerely apologizes for any inconvenience the State’s error with its original designation of matter has caused for the appellant, opposing counsel, or the Court.

WHEREFORE, Respondent prays that this Court will allow the State to file an Amended Designation of Matter and Supplemental Record on Appeal; accept the filing of the State’s Amended Designation of Matter and Supplemental Record on Appeal; hold the time limits for the filing of the Final Brief of Respondent in abeyance pending a ruling on this motion; 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

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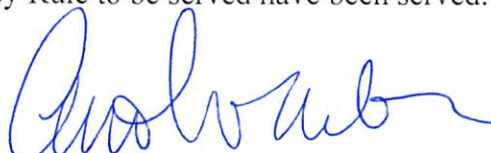
Appellant.

PROOF OF SERVICE

I, Caroline Collins, certify I have served the within Motion to Allow Filing of Amended Designation of Matter and Supplemental Record on Appeal, Amended Designation of Matter, and Supplemental Record on Appeal on Appellant by sending electronic copies via email to the address listed in AIS for the following individual:

James Arthur Brown, Jr., Esquire
Law Offices of Jim Brown, P.A.
PO Box 592
Beaufort, SC 29901
lawoffice@lojbpa.com

I further certify all parties required by Rule to be served have been served.
This 15th day of April, 2025.



CAROLINE COLLINS
Administrative Support Manager
Office of the Attorney General