

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL LINDSAY FAILE,

APPELLANT

APPELLATE CASE NO. 2023-001055

**APPELLANT'S CONSENT MOTION FOR LEAVE TO
SUPPLEMENT RECORD ON APPEAL**

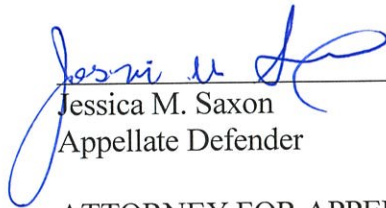
Counsel for Appellant respectfully requests leave to supplement the Record on Appeal with two trial exhibits that are relevant to the Court's consideration of this matter. Pursuant to Rule 212(b), SCACR, counsel shows:

1. An Anders Brief, Record on Appeal, and motion to be relieved pursuant to Anders v. California, 386 U.S. 738 (1967), was filed on March 12, 2024.
2. On March 24, 2025, this Court denied the motion pursuant to Anders and ordered re-briefing on the issue of whether the police department's use of photographs from the Flock Safety database without a warrant violated Appellant's federal and state constitutional rights. On April 23, 2025, undersigned counsel file an Initial Brief of Appellate and Designation of Matter on the issue contained in the order.

3. By letter dated April 30, 2025, this Court informed counsel that the brief was to be filed in final brief format and that a motion to supplement the record was required for any new items that needed to be included in the Record on Appeal.
4. The photographs from the Flock Safety database – State’s Exhibit Nos. 12 and 14 at trial – were not included in the original Record on Appeal as they did not pertain to the issue in the Anders brief. However, the photographs are relevant and necessary to the issue this Court ordered briefing on.
5. Therefore, counsel requests that this Court grant the motion to supplement the Record on Appeal with State’s Exhibit Nos. 12 and 14 – Flock camera photos – and accept the enclosed proposed order for transportation of the exhibits to the Court for review.
6. This request is made in good faith and not for the purposes of delay.
7. Opposing counsel, Joshua A. Edwards, has graciously consented to the filing of this motion.

WHEREFORE, undersigned counsel respectfully requests that this Court grant this motion and accept the proposed transportation order for State’s Exhibit Nos. 12 and 14.

Respectfully submitted,



Jessica M. Saxon
Appellate Defender
ATTORNEY FOR APPELLANT

May 5, 2025

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ORDER

On motion of Jessica M. Saxon, attorney for appellant, it is hereby ORDERED that **STATE'S EXHIBIT NOS. 12 and 14 (FLOCK CAMERA PHOTOS)** be released to the Office of the Attorney General, or its designee, for transporting to the Court of Appeals of South Carolina for purposes of review by the Court for the above-captioned case.

H. BRUCE WILLIAMS, CHIEF JUDGE

By _____
CLERK

Columbia, South Carolina

_____, 2025

Copies to: The Honorable Angie M. Bryant
Jessica M. Saxon, Esquire
Joshua A. Edwards, Esquire

RECEIVED

May 05 2025

SC Court of Appeals

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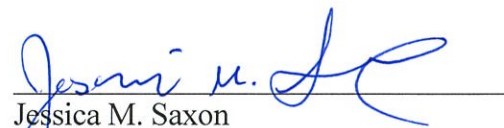
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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Supplement the 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), this 5th day of May, 2025.



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT