

STATE OF SOUTH CAROLINA
In The Court Of Appeals

Appeal from Greenwood County
Frank R. Addy, Jr., Circuit Court Judge
2012-CP-24-1485

Appellate Case No. 2013-000696

RECEIVED

OCT 25 2013

SC Court of Appeals

THE STATE,RESPONDENT

v.

REGAN BERKLEY CHRISLEY,APPELLANT.

**MOTION TO REQUIRE FILING OF
AMENDED INITIAL BRIEF OF APPELLANT**

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

Procedural History

Appellant was charged with simple possession of marijuana by the Greenwood County Sheriff's Office and subsequently pled guilty as charged before Greenwood County Magistrate C. Ryan Johnson. Pursuant to Section 44-53-450 of the South Carolina Code (conditional discharge), the court deferred further proceedings and placed him on probation upon terms and conditions set by the court. On December 21, 2012, Appellant appeared before Magistrate Johnson for a violation hearing. Appellant was present and was represented by Carson M. Henderson, Esquire. At the conclusion of the hearing Magistrate Johnson found Appellant had

violated his conditions of probation by testing positive for cocaine and, pursuant to Section 44-53-450, entered an adjudication of guilt and imposed a sentence of thirty (30) days imprisonment or a fine of six hundred and twenty dollars (\$620).

Appellant timely appealed his conviction to the Greenwood County Court of Common Pleas. (Case No. 2012-CP-24-1485). On February 19, 2013, a hearing was convened at the Greenwood County Courthouse before the Honorable Frank R. Addy, Jr. Appellant was again represented by Mr. Henderson and the State was represented by Assistant Solicitor Demetri Andrews of the Eighth Circuit Solicitor's Office. On February 19, 2013, Judge Addy issued an order affirming Appellant's conviction and sentence. Appellant timely filed a notice of intent to appeal the Circuit Court's order and submitted an Initial Brief in support of his appeal. This Motion follows.

Discussion

The South Carolina Appellate Court Rules govern the form and content of appellate briefs. See Rule 208, SCACR (establishing the required format for initial briefs); Rule 211, SCACR (establishing the required format for final briefs). Pursuant to Rule 208(b)(4), SCACR, appellate briefs must contain references to transcripts or other matter supporting the facts alleged. "In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced[.]" Rule 208(b)(4), SCACR.

In the Initial Brief of Appellant, Appellant repeatedly cities to facts, arguments, and other documents allegedly presented during the lower court proceedings in his summary of the facts and in support of his appellate arguments. However, Appellant did not include any identifying references to the transcripts or other materials supporting those factual allegations. Instead,

Appellant simply included a citation to the Record on Appeal with a blank space inserted to allow for the inclusion of a page number once a Record on Appeal is eventually prepared. However, Appellant's method of reference renders it unclear as to which of the orders, petitions, transcripts, and other documents designated by Appellant for inclusion in the Record on Appeal Appellant is referencing in support of the various allegations included in his brief. Furthermore, such a method does not comport with the requirements of our appellate court rules. See Rule 208(b)(4), SCACR (outlining the required format for references to the record in appellate briefs); see, e.g., Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) (“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.”). Accordingly, the State asks this Court to require the filing of an Amended Initial Brief of Appellant containing identifiable references to the transcripts or materials being referred to in support of Appellant's factual allegations in a manner consistent with the requirements of our appellate court rules.

For the reasons described above, the State asks that this Court require the filing of an Amended Initial Brief of Appellant complying with the requirements of Rule 208, SCACR; hold this appeal in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General

By:



J. Benjamin Aplin
S.C. Bar No. 8729

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

October 25, 2013

STATE OF SOUTH CAROLINA
In The Court Of Appeals

Appeal from Greenwood County
Frank R. Addy, Jr., Circuit Court Judge
2012-CP-24-1485

Appellate Case No. 2013-000696

THE STATE,.....RESPONDENT

v.

REGAN BERKLEY CHRISLEY,APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Motion to Require Filing of Amended Initial Brief of Appellant on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Desa Ballard and Harvey M. Watson, III, Esquires
Ballard Watson Weissenstein
Post Office Box 6338
West Columbia, South Carolina 29171

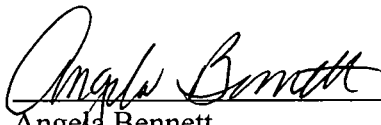
Carson Henderson, Esquire
The Henderson Law Firm, PC
109-B Oak Avenue
Greenwood, South Carolina 29646

RECEIVED

OCT 25 2013

SC Court of Appeals

I further certify that all parties required by Rule to be served have been served.
This 25th day of October, 2013.



Angela Bennett
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

October 25, 2013

RECEIVED

OCT 25 2013

SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

RE: State v. Regan Berkley Chrisley – Appellate Case No. 2013-000696

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to Require Filing of Amended Initial Brief of Appellant, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

J. Benjamin Aplin
Assistant Attorney General
S.C. Bar No. 8729

JBA
Enclosures

cc: Desa Ballard, Esquire
Harvey Watson, III, Esquire
Carson Henderson, Esquire
Victim Services