

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY  
Court of General Sessions

Edgar W. Dickson, Circuit Court Judge

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Case No. 2012-GS-38-0114; 0124

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The State,

Respondent,

v.

Darius Ransom-Williams,

Appellant.

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OCT 31 2013

SC Court of Appeals

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**MOTION TO REMAND AND  
RECONSTRUCT THE RECORD**

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This motion is filed pursuant to Rule 240 (motions and petitions generally) of the South Carolina Appellate Court Rules.

This is an appeal from a criminal conviction for assault and battery of a high and aggravated nature and burglary – first degree. Darius Ransom-Williams is the appellant and was the defendant at trial. The trial began on July 16, 2012, and concluded on July 18, 2012. The jury found Mr. Ransom-Williams guilty of assault and battery of a high and aggravated nature and burglary – first degree. He was sentenced to imprisonment at the South Carolina Department of Corrections for a period of twenty years for the assault and battery of a high and aggravated nature conviction, and thirty years imprisonment for the burglary – first degree

conviction.

This motion arises out of the fact that an incomplete trial transcript was delivered to appellant's counsel. Appellant's counsel has conferred with South Carolina Court Administration to determine whether there was a way to obtain the missing selections of the trial transcript without filing this motion. Court Administration stated that they have already attempted to find the missing selections and have been unable to do so and, therefore, had to place the transcription notes indicated below in the trial transcript.

The first missing part of the trial transcript begins on page 74, following general jury qualification, where the transcription note reads "Tape 3 from July 17, 2012, was not in the record of this case which was packaged by the Court Reporter and sent to Court Administration. The transcription will pick up from this point to the beginning of tape four." The transcript then picks up with the following exchange between the court and counsel:

THE COURT: I think the issue is I have to have a race neutral reason.

MR WISE: All right, so if I'm not striking someone because they're a white male or because they're a black male, and none of them are young or old, . .

THE COURT: Okay, I just have to have a race neutral reason. We're going to re-strike the jury, and I don't need to hear any more.

You're fine, and we're going to re-strike the jury.

(Tr. p. 75, lines 1-9) (enclosed). Other than the excerpt above, there is nothing to indicate the reasoning for the trial court's decision to re-strike the jury and whether it was a prejudicial error to re-strike the jury. It appears that a motion pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) may have been made leading up to this decision. As such, it is necessary to obtain this missing

part of jury selection in order to review whether a Batson motion was made and whether any error was made by the trial court in re-striking the jury.

The second missing part of the trial transcript is found on p. 291, where the transcription note states, “[c]losing arguments by both counsel not audible or clear enough on cassette tape to be transcribed.” (see enclosed) Appellant has stated that several objections were made by his attorney to the solicitor’s closing argument, and that such were prejudicial to this case. Without the closing arguments, there is no way to completely review the record for any error made by the trial court in ruling on counsel’s objections.

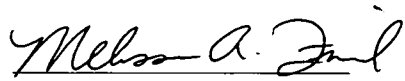
This Court has authority to remand a case to the trial court to reconstruct the record according to the following case law: Koon v. State, 358 S.C. 359, 366, 595 S.E.2d 456, 460 (2004) (“Where a transcript has been lost or destroyed, a court may remand to have the record reconstructed.”); Whitehead v. State, 352 S.C. 215, 221, 574 S.E.2d 200, 203 (2002) (granting motion to remand case for a hearing to reconstruct first PCR record); China v. Parrott, 251 S.C. 329, 334, 162 S.E.2d 276, 279 (1968) (finding where the court reporter’s notes were lost, trial judge’s conclusions as to what occurred at trial were binding on the appellate court). This Court has held that if the reconstructed record on appeal is insufficient for meaningful review of direct appeal issues, a new trial is appropriate. See State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007).

The missing selections of the transcript do not appear to include witness testimony and seem to consist entirely of arguments of counsel and rulings by the trial court.

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Respectfully submitted,

October 29, 2013



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Attorney for Appellant

1 the matter was continued with the jury panel present)

2 THE COURT: Do you swear or affirm that you will pro-  
3 vide truthful and complete responses and answers in this  
4 jury qualification process?

5 If you accept this oath, please indicated by saying I  
6 do.

7 (Answers heard of I do)

8 If you said I do, then you can sit down. Everybody  
9 is sitting down. All right.

10 (Whereupon, the general qualification of jurors was  
11 conducted by the Court)

12

13 (TRANSCRIPTION NOTE: Tape 3 from July 17, 2012, was  
14 not in the record of this case which was packaged by the  
15 Court Reporter and sent to Court Administration)

16 (The transcription will pick up from this point to  
17 the beginning of tape four)

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1 THE COURT: I think the issue is I have to have a  
2 race neutral reason.

3 MR. WISE: All right, so if I'm not striking someone  
4 because they're a white male or because they're a black  
5 male, and none of them are young or old, . . .

6 THE COURT: Okay, I just have to have a race neutral  
7 reason. We're going to re-strike the jury, and I don't  
8 need to hear any more.

9 You're fine, and we're going to re-strike the jury.

10 All right. We'll resume in twenty minutes.

11 SOLICITOR: Your Honor, I've got one other issue too  
12 that I'd like to call to your attention.

13 THE COURT: Okay.

14 SOLICITOR: One of the jurors -- I can't tell you  
15 exactly which one it was, but one of the jurors tried to  
16 contact -- I'd like Ms. Ravenel to address it. I'd just  
17 ask her to relate what she related to us.

18 THE COURT: Lieutenant Ravenel.

19 LT. RAVENEL: Your Honor, I observed one of the jurors  
20 try to make contact with the mother back here.

21 THE COURT: Do you know which juror?

22 LT. RAVENEL: Not by name but I can pick her out.

23 THE COURT: Thank you. I need to talk to her, so if  
24 you would do that. Okay.

25 (The Court speaking with juror)

1 are the facts that have come from this witness stand from  
2 the witnesses who have been presented.

3 Following these arguments by the attorneys, the  
4 Judge will charge you on the law that would apply to the  
5 case.

6 So this is the opportunity of the attorneys to talk  
7 about the case, and that is kind of where we are, but  
8 first I would like to talk to you briefly about the two  
9 charges that have been made against the Defendant.

10 (Portion not audible)

11 So I'll start off by talking to you about burglary  
12 in the first degree and what I believe the State has  
13 proven to you.

14 Burglary in the first degree is the unlawful en-  
15 tering into a person's home without their consent, with  
16 intent to commit a crime therein, accompanied by circum-  
17 stances of aggravation.

18 (TRANSCRIPTION NOTE: Closing arguments by both  
19 counsel not audible or clear enough on cassette tape to  
20 be transcribed.)

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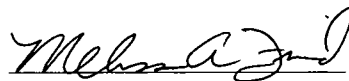
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CERTIFICATE OF SERVICE

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I certify that I have served the Motion to Remand and Reconstruct the Record, by depositing a copy of it in the United States Mail, postage prepaid, on October 29, 2013, addressed to Respondent's attorney of record, Salley W. Elliott, Assistant Attorney General, S.C. Attorney General's Office, P.O. Box 11549, Columbia, SC 29211.

October 29, 2013



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