

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

ORIGINAL

Certiorari to Greenville County

RECEIVED

R. Markley Dennis, Jr., Circuit Court Judge

NOV 22 2013

S.C. Supreme Court

HORACE ABNEY, JR.,

RESPONDENT,

V.

STATE OF SOUTH CAROLINA,

PETITIONER

Appellate Case No. 2013-000136

MOTION TO SUPPLEMENT APPENDIX

The undersigned respectfully seeks to supplement the Appendix on the following grounds:


1. Horace Abney, Jr., was convicted of trafficking cocaine on December 11, 2002 following a jury trial. He received a sentence of thirty years.
2. He appealed his conviction and sentence, which were affirmed by the Court of Appeals on September 20, 2010. State v. Abney, Op. No. 2010-UP-414 (S.C. Ct. App. filed Sept. 20, 2010).
3. Abney filed an application for post-conviction relief (PCR) on January 19, 2011.
4. The hearing was held on October 30, 2012, before the Honorable R. Markley Dennis, Jr. Judge Dennis granted Abney relief from his conviction and sentence based upon ineffective assistance of appellate counsel.
5. The state appealed the decision of Judge Dennis by filing a petition for writ of certiorari on August 8, 2013. In accordance with the Rules of South Carolina Appellate Courts, the state filed an

accompanying appendix. The appendix did not include the videotape of the traffic stop, which occurred on January 10, 2000, culminating in Abney's arrest. The videotape of the traffic stop was introduced during the pretrial hearing and used by the trial judge in deciding whether the drugs seized during the warrantless search were admissible. The videotape was introduced at the trial and played for the jury multiple times. Finally, Abney testified regarding the contents of the videotape during the PCR hearing.

6. In light of the fact that the proposed item to be supplemented is not a paper exhibit, no paper copy of a supplemental appendix is necessary, and if provided, may lead to confusion. Therefore, Abney proposes using labels, which accompany this motion, to be placed on the existing copies of the appendices. Abney has included two labels for the Court's appendices and served a label on the Attorney General's Office. Abney has included a letter requesting transportation of the exhibit if this Court grants his motion to supplement. If this Court grants the motion to supplement, but prefers Abney proceed in a different manner, Abney will abide by the Court's directive.

7. Undersigned counsel respectfully requests that the Appendix for Horace Abney be supplemented with the videotape of the traffic stop.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

Attorney for Respondent

This 22nd day of November, 2013

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

R. Markley Dennis, Jr., Circuit Court Judge

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V.

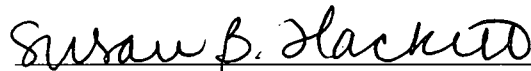
STATE OF SOUTH CAROLINA,

PETITIONER

Appellate Case No. 2013-000136

CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of the Motion To Supplement Appendix in the above referenced case has been served upon opposing counsel, Karen Ratigan, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Horace Abney #316024, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 22nd day of November 2013.



Susan B. Hackett
Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 22nd day of November, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 22, 2013

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NOV 22 2013

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
PO Box 11330
Columbia, SC 29211

Re: Horace Abney, Jr. v. State of South Carolina

Dear Mr. Shearouse:

Enclosed are an original and six copies of the Motion to Supplement Appendix in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/smf

Enclosure

cc: Karen Ratigan, Esquire
Mr. Horace Abney, Jr.

ORIGINAL



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Robert M. Dudek, Acting Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

November 22, 2013

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The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
PO Box 11330
Columbia, SC 29211

S.C. Supreme Court

Re: Horace Abney, Jr. v. State of South Carolina
Appellate Case No. 2013-000136

Dear Mr. Shearouse:

This letter is to request that a transportation order be issued for the following exhibit in the above-referenced case:

From the December 11, 2002 trial: State's Exhibit #1 (Videotape)
Indictment number 2000-GS-23-4624 (Greenville County)

Please contact me if you have any questions or require additional information.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/smf

cc: Karen Ratigan, Esquire