

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Orangeburg County

L. Casey Manning, Circuit Court Judge

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DEC - 5 2013

S.C. Supreme Court

SAMMIE LOUIS STOKES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000635

REPLY TO THE RETURN TO MOTION FOR A TRANSPORTATION ORDER
FOR MISSING DOCUMENTS OR, IN THE ALTERNATIVE,
TO REMAND FOR A RECONSTRUCTION HEARING

Undersigned counsel makes the following reply to the state's return:

1. Jared Lampley of this office requested the necessary documents in this PCR appeal from the Attorney General's Office and was informed they were not available. There was no indication that the email went to the wrong division. This office made repeated attempts (as outlined in the motion for a transportation order or, in the alternative, to remand for a reconstruction order) to obtain these documents from the Orangeburg Clerk of Court's Office. It was only later in a telephone conversation with opposing counsel, Donald Zelenka, that undersigned counsel was informed -- and learned -- the person who answered Mr. Lamprey was

not in the capital division, and therefore did not have access to the requested documents or file. Undersigned counsel continues to submit that a transportation order from the Clerk of this Court for the Orangeburg Clerk's Office to produce **all of the missing documents, including Applicant's exhibits 2 and 3** is the best course of action. Although the Attorney General's Office may have many of the missing pleadings, undersigned counsel thinks filed copies of the documents are always preferable, and that the Clerk of Court's Office should locate them.

2. Opposing counsel also wrote that because of undersigned counsel's busy schedule that the undersigned could not meet with opposing counsel until Tuesday, December 3, 2013 to review his file. The return is accurate to that point. Counsel further noted --"Mr. Dudek did not come to the Attorney General's Office on that date." Return to Motion at 3. Counsel did not but only because of other urgently pressing legal matters and surely meant no impoliteness to opposing counsel. Undersigned counsel was very busy with the court reporter providing the main transcript in the expedited case of Curtis Simms v. State before this Court, and the Appellate Project before the Court of Appeals. Counsel's inability to meet with opposing counsel on December 3, 2013 to review his file was caused by circumstances beyond his control. Further, counsel spoke this morning with opposing counsel and again expressed his desire to review the Attorney General's file regarding the additional documents the respondent proposes should be included in the Appendix in this case. Opposing counsel agreed to have this meeting.

WHEREFORE, counsel for Petitioner Sammie Louis Stokes reiterates that because Plaintiff's exhibits #2 and #3 are indispensable to petitioner's appeal, and because filed copies of the remainder of the missing documents are preferable, and should be located, counsel continues to move this Court to issue a transportation order for the Orangeburg County of Court to deliver the above-mentioned documents to this Court for copying for the Appendix:

Exhibits from PCR hearing: Plaintiff's #2 and #3 (Volumes 1 and 2, respectively, of Thomas Sims' pre-trial research documents)

Memorandum Clarifying Ground 9(d) and Motion to Supplement the Record with Affidavit of Sammie Stokes (filed in August, 2009)

Post Hearing Memorandum (filed in March, 2010)

Reply to Post Hearing Memorandum (filed in March, 2010)

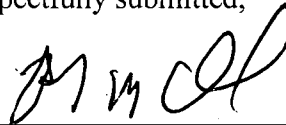
Respondent's proposed order

Letter from Keir Weyble dated December 6, 2010 requesting oral argument

Applicant's Post Rule 59 Brief/Memorandum

In the alternative counsel for Petitioner moves that this Court remand this case to the Orangeburg County Court of Common Pleas for a reconstruction rehearing.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

Attorney for Petitioner

December 5, 2013

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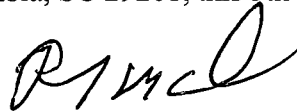
STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000635

CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of the reply to the return to motion for a transportation order, or, in the alternative to remand for a reconstruction hearing in the above-referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 5th day of December, 2013.



Robert M. Dudek
Chief Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 5th day of December, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 21, 2023.