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May 07 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LATOYA FLUDD,

APPELLANT.

APPELLATE CASE NO. 2025-002175

MOTION FOR ACCESS TO TRIAL RECORDINGS

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests an order allowing appellant's counsel to listen to the trial recordings concerning an outburst that resulted in a motion for a mistrial. Under XIII (B) of the South Carolina Court Reporter Manual, court administration and or reporters shall not grant any request to listen to audio recordings or to read steno notes unless the requestor has received written authorization from a court.

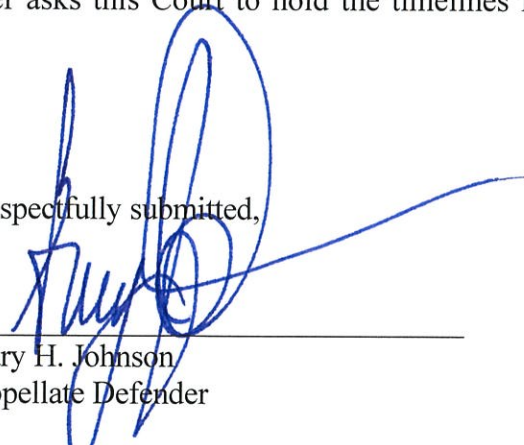
During appellant's trial, there was a disturbance during the state's presentation of evidence that depicted the aftermath of the motor vehicle accident that resulted in charges against appellant for reckless vehicular homicide. (Ex. 1 Trial Transcript pp. 179-180). The transcript currently

lacks any description of this incident, though the trial court describes it later during trial as family members of the deceased driver exiting the courtroom during testimony. (Ex. 2 Trial Transcript pp. 243). A review of the audio surrounding the testimony of witness David Thomas on the designated pages of the transcript is required to verify whether the disturbance was limited to persons physically departing trial or included audible elements. As the trial court's denial of the mistrial motion may be an issue argued on appeal, counsel for both appellant and respondent would require access to the audio recordings to verify any audible disturbance during this portion of the Record.

WHEREFORE, appellant requests an order allowing access to the audio recording of David Thomas' testimony by counsel for all parties to the present appeal to determine if there is an audible disturbance that accompanied the victim's family members leaving the courtroom during Thomas' testimony. Counsel for appellant has consulted with counsel for Respondent who consents to the motion.

While this motion is pending, petitioner asks this Court to hold the timelines for filing appellant's initial brief in abeyance.

Respectfully submitted,



Gary H. Johnson
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of May, 2026.

EXHIBIT

1

1 southbound?

2 A. Correct.

3 Q. So opposite. Okay. Next picture? And just
4 generally, describe what some of this stuff we're
5 seeing on the side of the road here.

6 A. In this -- in the photo?

7 Q. Yes. Yes, sir.

8 A. We're looking at the debris field from the point
9 of contact from the vehicles, car parts on the
10 northbound shoulder, as well as fluids on the roadway.
11 Should I continue, Judge?

12 THE JUDGE: You can go ahead.

13 BY MR. ALLEN:

14 Q. Talk to me about the spray paint on the side of
15 the road here?

16 A. Spray point on the side of road was used to
17 identify the point of contact as well as referencing
18 where the vehicle went off the roadway into the ditch.

19 MR. ADAMS: Your Honor, I apologize. May we
20 approach?

21 THE JUDGE: Yes, sir.

22 MR. ADAMS: Thank you.

23 THE JUDGE: Ladies and gentlemen of the gallery, I
24 must warn you that I understand that this is an
25 emotional case for both sides, but if you're unable to

1 control your emotions, you must leave the courtroom.
2 So no further emotions will be tolerated. I know it's
3 difficult for both sides, but if you don't feel that
4 you are able to do so, I'm going to go ahead and ask
5 that you leave the courtroom now.

6 Thank you. You may proceed, Solicitor.

7 MR. ADAMS: I apologize, your Honor. I feel like
8 we might need to take up a matter of law so I can
9 discuss something outside of the jury's presence?

10 THE JUDGE: Ladies and gentlemen of the jury, if
11 you would please go to your jury room momentarily,
12 we'll be right back with you. Again, please remember
13 to not discuss this matter.

14 (The jury exits at 10:18 A.M.)

15 THE JUDGE: Yes, sir?

16 MR. ADAMS: Your Honor, at this point, I believe I
17 need to make a motion for a mistrial, as I'm very
18 worried that the -- the jury prej--- the jury's been
19 prejudiced -- or my client's been prejudiced by this.
20 And I'm worried that the -- the -- you know, emotions
21 of the jury are now heightened based off the
22 inflammatory situation in the gallery. Based off also
23 403. I believe that's absolutely prejudicial and --
24 and beyond prohibitive any value there, and I would say
25 -- yes.

EXHIBIT

2

1 THE JUDGE: Yes, sir.

2 MR. ADAMS: And I would like that noted. Thank
3 you, your Honor.

4 THE JUDGE: Yes, sir. Anything else before we
5 bring the jury out?

6 MR. ALLEN: No, ma'am.

7 MR. ADAMS: No, your Honor.

8 THE JUDGE: And just also as far as the -- you
9 called it an outburst. I would just call it more of an
10 expression of emotion upon seeing a picture of the car
11 from where the decedent was located, and just so the
12 record is clear, there was no body or anything of that
13 nature. It was basically a picture of a car on the
14 side of the road. So I would not classify quite as
15 much as an outburst, though the person stood up,
16 obviously upset at seeing the victim's car in the
17 water, but she didn't say anything or point or do
18 anything of that nature. It was -- it was noticeable,
19 obviously, that she was upset, but she left the
20 courtroom immediately upon being upset.

21 So I did not think that that warranted a mistrial.
22 And I think the curative instruction certainly fixed
23 that, and no further curative instruction has been
24 requested. Let's have our jury please.

25 (The jury enters at 1:32 P.M.)

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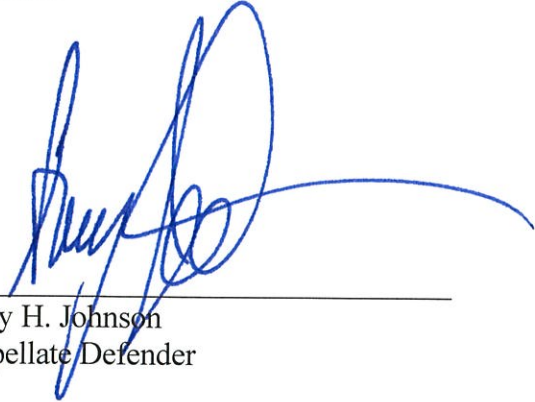
LATOYA FLUDD,

APPELLANT.

APPELLATE CASE NO. 2025-002175

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 Reconstruct the Record of Petitioner's Trial in the above-referenced case have been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 7th day of May, 2026.



Gary H. Johnson
Appellate Defender

ATTORNEY FOR APPELLANT

Leverett, Scott

RECEIVED

May 07 2026

From: Leverett, Scott
Sent: Thursday, May 7, 2026 2:49 PM
To: Mark Farthing
Cc: Caroline Collins; Johnson, Gary
Subject: 2025-002175 - State v. Latoya Fludd - Motion for Access to Trial Recordings
Attachments: 2025-002175 - State v. Latoya Fludd - Motion for Access to Trial Recordings.pdf

SC Court of Appeals

Dear Mr. Farthing,

Attached please find a copy of the Motion for Access to Trial Recordings in the above referenced case.

-Scott Leverett
Admin. Asst. for Gary Johnson
Appellate Defense