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**Jul 24 2026**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Pickens County

Honorable R. Lawton McIntosh, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

RENEE LAVONNE SIMON,

APPELLANT

APPELLATE CASE NO. 2026-000664

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MOTION FOR A NEW TRIAL

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Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests this Court grant the extraordinary relief of remanding this matter to the circuit court for a new trial because of the great number of transcript deficiencies impacting every single potential appellate issue and every important witnesses' testimonies.

Appellant was indicted on May 28, 2024, by a Pickens County grand jury for the offenses of attempted murder and possession of a weapon during the commission of a violent crime. Appellant's case was called to trial on February 23-26, 2026, before the Honorable R. Lawton McIntosh and a jury. Caroline Newton and Catherine Huey represented appellant. Jacob Lampke and Hunter Dunn prosecuted for the state. Appellant asserted self-defense and Judge McIntosh

charged self-defense to the jury. The jury convicted appellant. Judge McIntosh sentenced appellant to concurrent terms of twenty years' imprisonment for attempted murder and five years' imprisonment for possession of a weapon during the commission of a violent crime. Appellant's case is now on appeal before this Court.

Counsel for appellant has been unable to obtain a true and complete transcript of this trial, as will be discussed below.

Although the transcript does not reflect this, the case was assigned to a live court reporter, April Herron. It was sent to be transcribed by subcontractor Legal Eagle. The first transcript delivered on or about May 27, 2026, by Legal Eagle and transcribed by Jeanne Meldrim contained numerous deficiencies. After review undersigned counsel found the 573-page transcript contained more than 350 instances of "unintelligible," 61 instances of "inaudible," 21 instances of "background noise," 122 instances of "simultaneous speaking," and one instance of "technical difficulty."

On June 10, 2026, counsel for appellant requested Legal Eagle review the audio and determine whether any of the deficiencies could be fixed and a complete and true transcript could be delivered. On June 19, 2026, a revised transcript was received by this office. Although the instances listed above reflecting missing word or phrases were reduced, after careful review by undersigned counsel the transcript is still glaringly deficient. In the 573-page transcript there are now 194 instances of "unintelligible," 122 instances of "simultaneous speaking," 24 instances of "background noise," 50 instances of "inaudible" and one instance of "technical difficulty" throughout the transcript that could not be transcribed. A complete list of the total transcript deficiencies and their page number are attached to this motion as Exhibit A. The transcript is attached as Exhibit B.

Counsel has read the entire revised, but still deficient transcript. Counsel has identified five issues which may have merit but because of the deficiencies described below cannot fully assess their viability for briefing. It is difficult, if not impossible, to discern, in many places, whether the instances of unintelligible, inaudible, simultaneous speaking, and background noise reflects the transcriber missing one single word, several words, or the entire comment by the speaking party or parties. Some of the deficiencies do not impact understanding. However, several make critical portions of the trial murky at best. To demonstrate the complete and total deficiency of this transcript undersigned counsel will show where the deficiencies occur at trial, how the deficiencies impact the overall understanding of what happened at trial, and how the deficiencies impact the ability to conduct meaningful appellate review.

During pretrial motions the transcript reflects ten instances of “simultaneous speaking,” two instances of “inaudible,” six instances of “unintelligible,” and two instances of “background noise.” The pretrial motions were earlier submitted as written motions and were made court’s exhibits at trial. The written motions assist in understanding the arguments of counsel. However, because there are no written orders, the trial court’s rulings, and more specifically the court’s reasoning for its rulings, are unclear.

Additionally, several witnesses’ testimonies are difficult to follow. State’s witness Officer Brandon Pirie’s testimony spanning 12 pages contained five instances of “unintelligible” and three instances of “inaudible” making his short testimony impossible to follow without guessing using context clues.

State’s witness Chet Anthony’s proffer concerning defense motion to exclude certain testimony and spanning seven pages contained two instances of “unintelligible,” six instances of “simultaneous speaking,” and 1 instance of “background noise” making his testimony difficult to

follow. Arguments of counsel and the trial court's ruling regarding defense motion to exclude certain testimony contained two instances of "unintelligible," two instances of "inaudible," and seven instances of "simultaneous speaking" making the court's ruling unclear.

State's witness Deputy Bryan Lang's testimony spanning 31 pages contained nine instances of "unintelligible," three instances of "inaudible," and three instances of "simultaneous speaking" making his testimony unclear. State's witness Detective Joshua Genthner's testimony spanning 53 pages contains 36 instances of "unintelligible," two instances of "background noise," three instances of "inaudible," two instances of "simultaneous speaking," and one instance of "technical difficulty." In this portion the great number of deficiencies make the testimony incredibly difficult to discern. State's witness (formerly known as Detective) Chet Anthony's testimony spanning 87 pages contains 35 instances of "unintelligible," 36 instances of "simultaneous speaking," four instances of "inaudible," and four instances of "background noise." There are portions of his testimony that are clear but other portions are made unclear by the deficiencies.

One portion of the trial which appears to have something to do with a juror spanning three pages contains two instances of "simultaneous speaking" and one instance of "unintelligible." Undersigned counsel could not ascertain without speculation what happened during this short discussion. On page 566, it is obvious the beginning of the conversation is missing but it is not denoted in the transcript.

Alleged victim Sedric Holland's testimony spanning 38 pages contained 17 instances of "unintelligible," nine instances of "inaudible," and six instances of "simultaneous speaking" making this critical witness' testimony unclear and inordinately susceptible to guessing from

context clues. At trial appellant asserted self-defense. Appellant and Holland were the only two present for the altercation making Holland's testimony essential to examine on appeal.

The state's motion to exclude Holland's prior criminal record contained three instances of "inaudible," two instances of "background noise," two instances of "unintelligible," and six instances of "simultaneous speaking" making one of the major legal issues on appellate review unclear. Another legal issue for appellate review, defense objection to state's exhibits numbers 56 and 57, contains two instances of "inaudible," seven instances of "unintelligible," four instances of "simultaneous speaking," and one instance of "background noise" which, makes the arguments and ruling imprecise guesswork .

Defense objection and potential motion for mistrial spanning five pages contains two instances of "unintelligible," four instances of "simultaneous speaking," and one instance of "inaudible" makes this defense objection and potential appellate issue unclear. The charge conference spanning 26 pages contains 11 instances of "inaudible," eight instances of "simultaneous speaking," and seven instances of "unintelligible."

There are a handful of areas at trial where the deficiencies are less troublesome and what occurred is more readily discernable including: jury selection (seven instances of "unintelligible" and four instances of "inaudible"); testimony of minor witnesses (17 instances of "unintelligible," two instances of "inaudible," 12 instances of "simultaneous speaking," and five instances of "background noise"); discussions between attorneys and the court (13 instances of "unintelligible," three instances of "inaudible," and three instances of "simultaneous speaking"); opening (one instance of "unintelligible" and one instance of "inaudible"); closing (four instances of "unintelligible"); and jury instructions (three instances of unintelligible). Nevertheless, there are still deficiencies littered throughout even these less crucial portions of trial, and undersigned

counsel contends the cumulative effect of the number of areas that have deficiencies, which are at best unclear, makes this transcript wholly deficient.

The transcript requires counsel, the state, and this Court to guess at numerous questions asked by attorneys. This transcript requires counsel, the state, and this Court to guess what nearly every witness said and cobble together what their testimony means. The transcript requires counsel, the state, and this Court to fill in the blanks for the attorneys and the trial court in nearly every appellate issue that could potentially be raised on direct appeal not to mention potential allegations on post-conviction relief.

Based on the volume of deficiencies touching every single potential appellate issue and every important witnesses' testimonies undersigned counsel is asking for the extraordinary relief of remanding for a new trial. Undersigned counsel knows of no cases where this Court has granted a new trial without first attempting to reconstruct the record.

In *United States v. Workcuff*, the Court of Appeals, District of Columbia Circuit reversed and remanded defendant's case where the trial judge failed to have a court reporter present when he gave a supplementary jury instruction. *United States v. Workcuff*, 422 F.2d 700 (D.C. Cir. 1970). The court pointed to two obstacles that result from the unavailability of a transcript on appeal. First, "the absence of a complete and accurate transcript impairs the ability of appellate counsel to protect his client's basic rights." *Id.* "Recollections and notes of trial counsel and of others are apt to be faulty and incomplete. Frequently, issues simply cannot even be seen—let alone assessed—without reading an accurate transcript." *Id.* "Second, the task of an appellate court becomes much more difficult—and may become impossible—when review is based on the *post hoc* reports of counsel, rather than on a transcript that reflects a contemporaneous account of the trial proceedings. *Cole v. United States*, 478 A.2d 277, 282 (D.C. 1984) (discussing *United*

*States v. Workcuff*, 422 F.2d 700 (D.C. Cir. 1970)). “It is difficult enough in normal circumstances to appraise the propriety of the trial court’s various actions on the basis of a cold printed record; when that record is replaced by the incomplete hearsay of one of the parties, our review is turned into an exercise in creative imagination.” *United States v. Workcuff*, 422 F.2d 700 (D.C. Cir. 1970).

In *State v. Hobbs*, the Court of Appeals of North Carolina held that missing transcripts prevented the appellate court from conducting meaningful appellate review and ordered a new trial. *State v. Hobbs*, 190 N.C. App. 183, 660 S.E.2d 168 (2008). In that case transcripts of three of the four days of Hobbs’ trial were unavailable for his appeal due to the court reporter’s notes and audiotapes being lost. *Id.* The court ordered a new trial after determining that appellate counsel satisfied his burden of demonstrating the absence of available alternatives to the missing transcripts. *Id.*

In *Johnson v. State*, the Court of Appeals of Texas concluded that Johnson was entitled to a new trial because a significant portion of the court reporter’s record had been lost or destroyed, without any fault by appellant, and that portion of the record was necessary to the appeal’s resolution. *Johnson v. State*, 524 S.W.3d 338, 339 (Tex. App. 2017).

In *Hardy v. United States*, the Supreme Court held that under the circumstances, court-appointed counsel for the indigent defendant was entitled to the transcript of the entire testimony and evidence as well as court’s charge to the jury in order that counsel, who was not counsel at trial, could discharge his duty of being an advocate for the indigent defendant. 375 U.S. 277 (1964). *Hardy* does not involve missing, destroyed, or flawed transcript. However, the principle and the reasoning are instructive. Justice Goldberg explained in his concurring opinion, joined by Chief Justice Warren and Justices Brennan and Stewart, that

[a]s any effective appellate advocate will attest, the most basic and fundamental tool of his profession is the complete trial transcript, through which his trained fingers may leaf and his trained eyes may roam in search of an error, a lead to an error, or even a basis upon which to urge a change in an established and hitherto accepted principle of law. Anything short of a complete transcript is incompatible with effective appellate advocacy.

*Id.* at 288 (Goldberg, J., concurring).

In this case there is a transcript. Nonetheless, the transcript is so deficient it is equivalent to having none at all. If the trial transcript is considered in parts, it may appear that some portions of the trial could be assumed or even successfully reconstructed. However, considering the trial transcript as a whole, understanding that each of the critical witnesses' testimonies, and all the appellate issues are deficient, it is clear that reconstruction of this four-day trial for attempted murder would be impracticable. Reconstruction would be futile in part due to the sheer number of deficiencies touching every portion of trial that conducting meaningful appellate review would require. Additionally, five months have passed at the time of this filing and more will pass before a reconstruction of the four-day trial could be had. Nearly every witness would need to be recalled in order to even attempt to reconstruct this multi-day trial.

However, if this Court denies appellant's request for a new trial appellant requests in the alternative that this Court remand this matter to the trial court with an order requiring the parties to attempt to reconstruct appellant's trial.

The trial court has the authority to set the record for appeal. *State v. Ladson*, 373 S.C. 320, 324, 644 S.E.2d 271, 273 (Ct. App. 2007). "[T]he inability to prepare a complete verbatim transcript, in and of itself, does not necessarily present a sufficient ground for reversal." *Id.* (internal citations omitted). "Where a trial transcript has been lost or destroyed, a court may remand to have the record reconstructed." *Koon v. State*, 358 S.C. 359, 367, 595 S.E.2d 456, 460

(2004); *see also Whitehead v. State*, 352 S.C. 215, 221, 574 S.E.2d 200, 203 (2002) (holding that when a transcript has been lost or destroyed, an appellate court may remand to have the record reconstructed).

In order for the record to be reconstructed, it must be done in a manner that provides for meaningful appellate review and complies with the constitutional guarantees of procedural due process. *Ladson*, 373 S.C. at 325, 644 S.E.2d at 273-274; *see also Adams v. H.R. Allen, Inc.*, 397 S.C. 652, 726 S.E.2d 9 (Ct. App. 2012). Moreover, a “new trial is therefore appropriate if the appellant establishes that the incomplete nature of the transcript prevents the appellate court from conducting a meaningful appellate review.” *Ladson*, 373 S.C. at 325, 644 S.E.2d at 274 (internal quotations omitted).

In *Ladson*, after the reconstruction hearing, the Court was “left with a bare bones summary of the evidence (with more remaining unknown than known) from a lengthy multi-day and fact-intensive trial that resulted in a non-parolable, twenty-five-year prison term.” *Id.* at 327, 644 S.E.2d at 274. The record before the *Ladson* Court contained only “a few gratuitous references to generic motions and objections” without any information concerning “the context of the motions, the specific nature of the motions, and whether the challenged evidence was cumulative to other unchallenged evidence.” *Id.* In concluding the record was insufficient for meaningful appellate review, this Court also noted the record “would effectively foreclose any collateral challenge through post-conviction relief or otherwise.” *Id.* at 327, 644 S.E.2d at 275. Thus, this Court concluded, *Ladson* had demonstrated “clear prejudice.” *Id.*

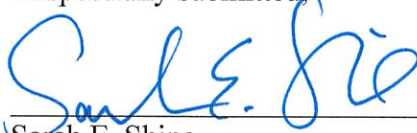
In *Deaton v. Leath*, 279 S.C. 82, 84, 302 S.E.2d 335, 336 (1983), the defendant’s convictions were set aside, and a new trial had where the court reporter’s equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal.

Citing *Deaton*, the Court of Appeals denied a request for reconstruction in *State v. Serrette*, 375 S.C. 650, 652-653, 654 S.E.2d 554, 555 (Ct. App. 2007) where the reason for the lack of transcript was due to the defendant's absence for a ten-year period, which this Court explained was "not a situation where the court reporter's equipment malfunctioned at trial leading to a loss of the trial transcript."

The uncertainty of critical portions of the trial transcript and the lack of clarity throughout in the present matter, including crucial witnesses' testimonies, pre-trial motions and rulings, trial motions, objections, and rulings that would be presented on direct appeal prevents meaningful appellate review. Attempting reconstruction would cause delay, waste judicial resources, and even in a best case scenario, result in two cobbled-together transcripts that would prove exceedingly difficult to review for counsel, the state, and this Court.

WHEREFORE, undersigned counsel respectfully requests an order remanding the case to the circuit court for a new trial or in the alternative remanding the case to the circuit court for an attempt at reconstruction. While this motion is pending, counsel asks this Court to hold in abeyance the timelines for filing the initial brief of appellant and designation of matter. No extensions have been requested in this case.

Respectfully submitted,



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Sarah E. Shipe  
Appellate Defender

Attorney for Appellant

This 24th day of July, 2026.

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**Jul 24 2026**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
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Appeal from Pickens County

Honorable R. Lawton McIntosh, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

RENEE LAVONNE SIMON,

APPELLANT

APPELLATE CASE NO. 2026-000664

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for a New 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 24th day of July, 2026.



Sarah E. Shipe  
Appellate Defender

Attorney for Appellant

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SC Court of Appeals

**From:** [Mcinnis, Sara](#)  
**To:** [Mark Farthing](#)  
**Cc:** [Caroline Collins](#); [Shipe, Sarah](#); [Bast, Daniel](#)  
**Subject:** 2026-000664 The State v. Renee L. Simon Motion for a New Trial  
**Date:** Friday, July 24, 2026 9:53:00 AM  
**Attachments:** 2026-000664 The State v. Renee L. Simon Motion for a New Trial.pdf  
2026-000664 The State v. Renee L. Simon Motion for a New Trial - Exhibit B.pdf  
2026-000664 The State v. Renee L. Simon Motion for a New Trial - Exhibit A.pdf

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Good morning Mr. Farthing,

Attached for service in the above-referenced case are a motion for a new trial and the accompanying exhibits, which will be filed with the Court of Appeals today, July 24, 2026, via email filing.

Thank you,

Sara McInnis  
Administrative Assistant  
South Carolina Commission on Indigent Defense  
Appellate Division  
(803) 734-1330