

PM - 12/14/11
POS - 12/14/11

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable DeAndrea Gist Benjamin, Judge

Richland County Sheriff's Office,

Appellant,

vs.

Nizar Awde,

Respondent.

NOTICE OF APPEAL

The State of South Carolina hereby appeals from the Order of the Honorable DeAndrea Gist Benjamin, Presiding Judge for the Fifth Judicial Circuit, dated November 22, 2011 and received by the Attorney General's Office, counsel for Appellant, on November 28, 2011, in the matter of Richland County Sheriff's Office vs. Nizar Awde, Case No. 2010-CP-40-7546.

DAVID SPENCER
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

December 14, 2011.

OTHER COUNSEL OF RECORD:

Jonathan S. Gasser, Esquire

RECEIVED

DEC 14 2011

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Honorable DeAndrea Gist Benjamin, Judge

Richland County Sheriff's Office,

Appellant,

vs.

Nizar Awde,

Respondent.

AFFIDAVIT OF SERVICE


PERSONALLY appeared before me, David Spencer, who being duly sworn, deposes and says:

That he is one of the attorneys for the Petitioner herein;

That there is a regular communication by mail throughout the State of South Carolina, and that this is a proper circumstances for service by mail; and

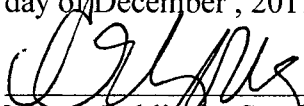
That he served the foregoing NOTICE OF APPEAL on the following persons by depositing one copy of each in the U.S. Mail, postage prepaid, and addressed as follows:

Jonathan S. Gasser, Esquire
Harris & Gasser
1529 Laurel Street
Columbia, SC 29201



David Spencer
Senior Assistant Attorney General

SWORN to before me this 14th
day of December, 2011.



Notary Public for South Carolina
My Commission Expires: 11/28/2014

RECEIVED

DEC 14 2011

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

December 14, 2011

HAND-DELIVERED

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Richland County Sheriff's Office v. Nizar Awde, 2010-CP-40-7546

Dear Ms. Gee:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following: 1) Proof of service of the notice of appeal on the respondent; 2) a copy of the order and judgment appellant is challenging on appeal including the ruling by Judge Benjamin dated October 13, 2011 and the denial of the Sheriff's motion to alter or amend the judgment, dated November 22, 2011; and 3) a copy of the letter being sent to the Court Reporter requesting the transcript of the proceedings below.

This appeal is taken on behalf of the Richland County Sheriff's Office. Therefore, under Rule 203(d)(1)(B)(iii), SCACR, it is my understanding that a filing fee is not required. Please let me know if my reading of the rule is incorrect and I will ensure the proper fee is provided.

Sincerely,

David Spencer
Senior Assistant Attorney General

cc: Jonathan S. Gasser, Esquire

RECEIVED
DEC 14 2011
SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

December 14, 2011

The Honorable Jeanette W. McBride
Richland County Clerk of Court
P.O. Box 2766
Columbia, South Carolina 29202

RE: Richland County Sheriff's Office v. Nizar Awde
2010-CP-40-7546

Dear Ms. McBride:

Enclosed for filing in your office is a Notice of Appeal in the above case.

Sincerely,

David Spencer
Senior Assistant Attorney General

DS/ab

cc: Jonathan S. Gasser, Esquire
The Honorable Tanya A. Gee



ALAN WILSON
ATTORNEY GENERAL

December 14, 2011

Deborah M. McCurdy, Court Reporter
1403 Geiger Avenue
Columbia, South Carolina 29201

Re: Richland County Sheriff's Office v. Nizar Awde
2010-CP-40-7546

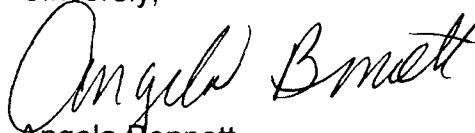
Dear Ms. McCurdy:

Please prepare the transcript of the above named individual taken on September 1, 2011 before the Honorable DeAndrea G. Benjamin for the term of the Court of Common Pleas in Richland County.

Please note that the amended Rule 243(f) (3), SCACR, now requires as detailed an index for PCR hearings as for trial transcripts filed in the Supreme Court. The index should include all exhibits. If exhibits were not introduced, then please note that no exhibits were submitted at the hearing.

If the cost of this transcript will exceed \$500, please inform me in writing before you complete the transcript. If you will prepare this transcript and forward it to me along with your statement, I will arrange for payment. Please note that all statements are to be signed.

Sincerely,


Angela Bennett
Legal Assistant

cc: Desiree R. Allen, Court Administration
Jonathan S. Gasser, Esquire
The Honorable Tanya A. Gee

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010-CF-40-7546

Richland County Sheriff

Nizar Avde

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : Motion to alter or amend is denied

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge *h/B* Judge Code 2161 Date 11-22-11

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 22nd day of NOV., 2011 to attorneys of record or to parties (when appearing pro se) as follows:

David A. Spencer
ATTORNEY(S) FOR THE PLAINTIFF(S)

Jonathan S. Gasser
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court *Jeanette W. McBride*

RECEIVED
DEC 14 2011

SC Court of Appeals

David A Spencer
S C Attorney General Office
P.O . Box 11549
Columbia, SC 29211

Civil



State of South Carolina
The Circuit Court of the Fifth Judicial Circuit

DeAndrea Gist Benjamin
Judge

Post Office Box 192
1701 Main Street, Room 215
Columbia, SC 29202
Phone: (803) 576-1746
Fax: (803) 576-1777
dbenjaminj@sccourts.org

October 17, 2011

David A. Spencer
South Carolina Attorney General
P. O. Box 11549
Columbia, SC 29211

In Re: 2010-CP-4007546
Richland County Sheriff Dept. Appellant
vs.
Nizar Awde

Dear Mr. Spencer,

Please find enclosed, The Honorable DeAndrea Gist Benjamin signed Motion to Alter or Amend Judgment.

If you have any questions, comments or concerns please feel free to contact me as soon as possible via email or office telephone.

Sincerely,

A handwritten signature in black ink that reads "Jerrell Kirk-James".

Jerrell Kirk-James
Administrative Assistant for
The Honorable DeAndrea Gist Benjamin
SC Courts Administration
1015 Sumter Street, Ste. 215
Columbia, SC 29201
Telephone: 803-576-1746
Fax: 803-576-1777
www.sccourts.org
dbenjaminj@sccourts.org

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-40-07546

Richland County Sheriff's Dept.,)
)
Appellant,)
)
v.)
)
Nizar Awde,)
)
Respondent.)

ORDER

Civil
Miscellaneous

JEANETTE W. MURPHY
2011 OCT 17 PM 12:12
FILED

This matter came before me on Thursday, the
appeal of Orders issued by the Honorable Michael Davis on
March 3, 2009 and June 19, 2009. In his initial Order, Magistrate Davis applied the
“dominant factor test” and found that the two Chess Challenge II games before him did
not violate S.C. Code Ann. § 12-21-2710 and were lawful games of skill. Magistrate
Davis also found the seizure of these two games to have been without probable cause. In
his second Order, Magistrate Davis denied Appellant’s Motion to Alter or Amend
Judgment pursuant to Rule 59 (e).

Appellant’s
Magistrate on

The post seizure hearing/trial of this matter was heard by Magistrate Davis on
February 6, 2009. The two Chess Challenge II games at issue were seized by Appellant
from a business operating at 5901 North Main Street in Columbia. Prior to the post
seizure hearing/trial, the parties agreed that the procedure to determine the legality of the
two games was set forth in *Allendale County Sheriff's Office v. Two Chess Challenge II
games of skill*, 361 S.C. 581, 606 S.E. 2d 471 (2004) and *State of South Carolina v. 192
Coin Operative Video Game Machines*, 338 S.C. 176, 525 S.E. 2d 872 (2000). The post
seizure hearing/trial lasted a full day during which Magistrate Davis examined each game

separately and received the testimony of lay and expert witnesses. Magistrate Davis also observed the two Chess Challenge II games being played and heard arguments of counsel. Magistrate Davis ultimately found the games to be legal games of skill and that Appellant, although acting in good faith, lacked probable cause to have seized them. His specific findings include the following:

1. The two games operate in an identical manner. This fact was confirmed by the testimony of Robert Snyder, the expert for the Respondent, and SLED Agent Brad Godfrey who testified for Appellant. On each screen, four rotating wheels spin through a series of seven icons in a fixed sequence for a duration of thirty seconds. A player's goal is to stop each reel on matching icons and matching three of the four reels is considered a win.

2. The icon sequence for both games is fixed and not subject to manipulation. A player is able to stop each reel individually by pushing the corresponding button and employing hand/eye coordination and dexterity.

3. The games could be played skillfully. Magistrate Davis observed Respondent's expert repeatedly stop the rotating icons with a high degree of certainty on the icon of his choosing.

4. The games contain no picture substitution or morphing that would prevent a player from being able to stop the rotating reels on the icon of his choosing. SLED Agent Godfrey did not dispute Snyder's testimony that the games contain no quality that would prevent a player from being able to play the game skillfully.

In determining the two games to be games of skill, Magistrate Davis applied the more stringent "dominant factor test." Both parties agreed that the elements of the

dominant factor test are set forth in Justice Burnett's dissent in *Johnson v. Collins Entertainment Co., Inc.*, 333 S.C. 96, 508 S.E. 2d 575 (1998) (Burnett, J., dissent): "if through the exercise of skill or judgment a participant can determine the outcome, the scheme is not [a game of chance.]" *Id.* At 584. Magistrate Davis also cited a prior Attorney General's opinion in which the Attorney General declared that "the exercise of skill includes manual dexterity, eye-hand coordination, reflexes, muscular control, concentration, judgment, practice, adroitness, intellectual abilities, deductive analysis, alertness, and mental superiority." See, e.g., A.G. Opinion dated August 28, 2002 (2002 S.C. A.G. Lexis 137). Magistrate Davis found that the two games satisfied the dominant factor test and stated "It has been proven to this Court that the two Chess Challenge II games are games of skill because a skillful player can select a specific icon and, to the exercise of skill, stop each individually rotating reel to obtain the desired result."

Magistrate Davis also found the seizure of the games to have been without probable cause. Magistrate Davis received the testimony of Investigator Robbie Crane in support of Appellant's seizure. Investigator Crane testified that he did not play either game or observe others engaged in play. Investigator Crane further testified that he had no knowledge of the *Allendale* case involving two other Chess Challenge II games and acknowledged having no experience in distinguishing between lawful games of skill and illegal games of chance. Investigator Crane testified that he would have proceeded differently had he been aware of the *Allendale* case.

In *Allendale*, the Supreme Court affirmed Magistrate Love and Judge Buckner's findings that two other Chess Challenge II games were lawful games of skill. Respondent's expert Snyder testified that the games before Magistrate Davis operated in

an identical manner to those seized in the *Allendale* case. Magistrate Davis received no testimony that the games before him had been manipulated or changed in any manner to distinguish them from the Chess Challenge II games deemed lawful by the Supreme Court, Judge Buckner, and Magistrate Love.

On May 22, 2009, Magistrate Davis heard Appellant's motion to alter or amend judgment. Appellant contended that the Court misapplied the legal standard established to determine the legality of the two Chess Challenge II games and maintained that even if the games are games of skill, they are still illegal. In denying Appellant's motion, Magistrate Davis referenced an advisory opinion dated May 5, 2003 in which the Attorney General "*summarized the basic law in determining whether a video game is legal or illegal under South Carolina law.*" According to the Attorney General, "*a game of skill is one in which the element of skill is predominant over the element of chance*" and cited Judge Burnett dissent in *Johnson v. Collins Entertainment Co., Inc.*, 333 S.C. 96, 508 S.E. 2d 575 (1998). Magistrate Davis properly applied the "dominant factor test", the legal standard promoted by the Attorney General and set forth in Justice Burnett's dissent in reaching his conclusion.

Appellant also contended that even if the two games satisfied the dominant factor test, they are illegal because they are vending machines and have a free play feature. Magistrate Davis rejected this contention and noted that amusement games such as Chess Challenge II are not "vending machines" as they do not vend products to consumers. Magistrate Davis also found that the Chess Challenge II games are not "*used for gambling*" and thus, do not violate S.C. Code Ann. § 12-21-2710.

In its appeal, Appellant restates its trial and post-trial arguments. Having heard the arguments of counsel, reviewed Magistrate Davis' Orders, and the memorandum of the parties, the Court affirms Magistrate Davis' findings and specifically affirms Magistrate Davis' finding that the two games before him are lawful games of skill which comply with South Carolina law including S.C. Code Ann. § 12-21-2710.

This Court has also relied upon the opinion recently issued by the Court of Appeals in *South Carolina Law Enforcement Division v. 1-Speedmaster S/N 00218 Opinion No.: 4834* (Ct. of Appeals, 2011) (hereinafter "*Speedmaster*") which provides additional support for Magistrate Davis' findings. In *Speedmaster*, the Court considered a Circuit Court Order affirming a Magistrate's determination that a *Speedmaster* game was a game of skill as contemplated by S.C. Code Ann. § 12-21-2710. In *Speedmaster*, the Court addressed the issues presently before the Court and also recognized the "*dominant factor test*" applied by Magistrate Davis as the legal standard in determining whether a game constitutes a legal game of skill as opposed to an illegal game of chance. As in the present case, the Magistrate had observed successful game play. In *Speedmaster*, the Court noted that the evidence showed a good player can win every game and affirmed the Magistrate's determination that the *Speedmaster* game was a game of skill.


The Court of Appeals also addressed the "*used for gambling*" argument raised in this appeal. In *Speedmaster*, the court rejected Appellant's "*used for gambling*" argument and found it contemplates two parties betting or wagering on a game. As in *Speedmaster*, the record reflects that no such wagering was involved in the games' seizure.

This Court affirms Magistrate Davis' rejection of Appellant's contention that the games are illegal despite being games of skill because they are vending machines with a free play feature. Magistrate Davis correctly found amusement devices to be distinguishable from vending machines and noted that a successful player of Chess Challenge II uses winnings for prizes or merchandise. The Attorney General has opined that awarding merchandise or prizes to successful players of games of skill does not violate South Carolina law. This Court concurs with the findings of the Attorney General and Magistrate Davis.

In light of the above, the rulings in the Allendale case, and the recently issued *Speedmaster* decision, Magistrate Davis' Orders are hereby affirmed.

IT IS SO ORDERED, this 13 day of Oct, 2011.

Date: 10-13-11


DeAndrea G. Benjamin, Circuit Court Judge
Fifth Judicial Circuit



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 9, 2012

David A. Spencer, Esquire
S.C. Attorney General's Ofc.
P.O. Box 11549
Columbia, SC 29211

Re: Richland County v. Awde, Nizar
2012205508

Dear Mr. Spencer:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. Failure to file in the proper court may result in the dismissal of your appeal. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the bar number and firm name of any counsel shown must be included in his or her address.

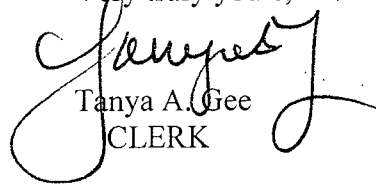
Please be advised the caption of the Notice of Appeal does not match the body of the appeal. It will be necessary for you to send an amended Notice of Appeal with the correct information within ten (10) days of the date of this letter.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

I further wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the

Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,



Tanya A. Gee
CLERK

TAG/jt

cc: Jonathan S. Gasser, Esquire

HARRIS & GASSER
ATTORNEYS AT LAW
1529 LAUREL STREET
COLUMBIA, SC 29201
TELEPHONE (803) 779-7080
FACSIMILE (803) 746-0480

GREGORY P. HARRIS
greg@harrisgasserlaw.com

JONATHAN S. GASSER
johnny@harrisgasserlaw.com

January 3, 2012

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

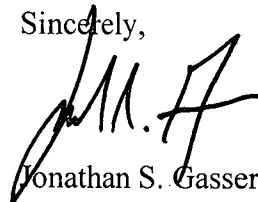
Re: Richland County Sheriff's Office v. Nizar Awde, 2010-CP-40-7546

Dear Ms. Gee:

Please add Jonathan S. Altman as an attorney of record for Respondent Nizar Awde. Mr. Altman is with the firm Derfner, Altman, & Wilborn, LLC, with a mailing address of P.O. Box 600, Charleston, SC 29402. He has been an attorney of record since the inception of this legal matter.

Thank you for your attention to this matter. If you have any questions, please contact me at your convenience.

Sincerely,



Jonathan S. Gasser

JSG/awk

cc: David Spencer, Attorney General's Office
Jonathan S. Altman, Esquire

RECEIVED
JAN 04 2012
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable DeAndrea Gist Benjamin, Judge

Richland County Sheriff's Office,

Appellant,

vs.

Nizar Awde,

Respondent.

AMENDED NOTICE OF APPEAL

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RECEIVED

JAN 12 2012

SC Court of Appeals



DAVID SPENCER
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

January 12, 2012.

OTHER COUNSEL OF RECORD:

Jonathan S. Altman, Esquire

Jonathan S. Gasser, Esquire

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Honorable DeAndrea Gist Benjamin, Judge

Richland County Sheriff's Office,

Appellant,

vs.

Nizar Awde,

Respondent.

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me, David Spencer, who being duly sworn, deposes and says:

That he is one of the attorneys for the Petitioner herein;

That there is a regular communication by mail throughout the State of South Carolina, and that this is a proper circumstances for service by mail; and

That he served the foregoing NOTICE OF APPEAL on the following persons by depositing one copy of each in the U.S. Mail, postage prepaid, and addressed as follows:

Jonathan S. Gasser, Esquire
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Columbia, SC 29201

Jonathan S. Altman, Esquire
PO Box 600
Charleston, SC 29402

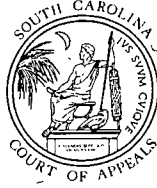
RECEIVED
JAN 12 2012
SC Court of Appeals



David Spencer
Assistant Deputy Attorney General

SWORN to before me this 12th
day of January 2012.

Jamien Meala
Notary Public for South Carolina
My Commission Expires: 9/25/19



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

March 2, 2012

Assistant Deputy Attorney General David Spencer
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: Richland County v. Awde, Nizar
2012205508

Dear Counsel:

As of today's date we have received no information regarding the transcript, nor have we received the Appellant's Initial Brief and Designation of Matter. Please provide the Court with a copy of your letter requesting the transcript and a motion to request it late within ten (10) days of the date of this letter. If there was no transcript available to order, you must serve and file a motion to file the Appellant's Initial Brief and Designation of Matter Late within ten (10) days.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/ma

cc: Jonathan S. Gasser, Esquire
Jonathan Scott Altman, Esquire



ALAN WILSON
ATTORNEY GENERAL

March 6, 2012

HAND-DELIVERED

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Richland County Sheriff's Office v. Nizar Awde

Dear Ms. Gee:

I am in receipt of your letter dated March 2, 2012 concerning the status of the transcript on this case. On March 1, 2012, I had hand-delivered to this Court a letter indicating we received the transcript on February 27, 2012 and calculating the due date for the initial brief and designation of matter as being due on March 28, 2012. Also enclosed is my letter to the Court Reporter ordering the transcript on December 14, 2012, a copy of which, according to my records, was enclosed with the Notice of Appeal on this case. Please let me know if my calculations concerning the due date are incorrect.

Please feel free to contact me with any questions or comments.

Sincerely,

David Spencer
Assistant Deputy Attorney General

cc: Jonathan S. Gasser, Esquire
Jonathan S. Altman, Esquire

RECEIVED

MAR 06 2012

SC Court of Appeals



DS
Gambli...

The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 2, 2012

Assistant Deputy Attorney General David Spencer
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: Richland County v. Awde, Nizar
2012205508

Dear Counsel:

As of today's date we have received no information regarding the transcript, nor have we received the Appellant's Initial Brief and Designation of Matter. Please provide the Court with a copy of your letter requesting the transcript and a motion to request it late within ten (10) days of the date of this letter. If there was no transcript available to order, you must serve and file a motion to file the Appellant's Initial Brief and Designation of Matter Late within ten (10) days.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/ma

cc: Jonathan S. Gasser, Esquire
Jonathan Scott Altman, Esquire

RECEIVED

MAR 06 2012

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

March 1, 2012

HAND-DELIVERED

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

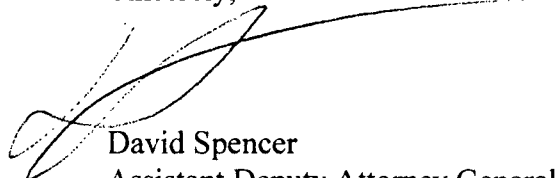
Re: Richland County Sheriff's Office v. Nizar Awde

Dear Ms. Gee:

The purpose of this letter is to advise the Court that I received the transcript from the lower court's proceedings for the above appeal on February 27, 2012. By my calculations, pursuant to SCACR, Rule 208(a)(1), the Initial Brief of Petitioner is therefore due on March 28, 2012. Please let me know if my calculations are incorrect.

Please feel free to contact me with any questions or comments.

Sincerely,



David Spencer
Assistant Deputy Attorney General

cc: Jonathan S. Gasser, Esquire
Jonathan S. Altman, Esquire



ALAN WILSON
ATTORNEY GENERAL

December 14, 2011

HAND-DELIVERED

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Richland County Sheriff's Office v. Nizar Awde, 2010-CP-40-7546

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This appeal is taken on behalf of the Richland County Sheriff's Office. Therefore, under Rule 203(d)(1)(B)(iii), SCACR, it is my understanding that a filing fee is not required. Please let me know if my reading of the rule is incorrect and I will ensure the proper fee is provided.

Sincerely,

David Spencer
Senior Assistant Attorney General

cc: Jonathan S. Gasser, Esquire



ALAN WILSON
ATTORNEY GENERAL

December 14, 2011

Deborah M. McCurdy, Court Reporter
1403 Geiger Avenue
Columbia, South Carolina 29201

Re: Richland County Sheriff's Office v. Nizar Awde
2010-CP-40-7546

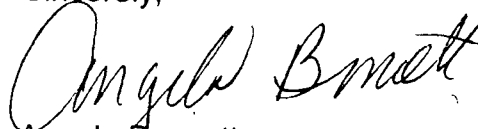
Dear Ms. McCurdy:

Please prepare the transcript of the above named individual taken on September 1, 2011 before the Honorable DeAndrea G. Benjamin for the term of the Court of Common Pleas in Richland County.

Please note that the amended Rule 243(f) (3), SCACR, now requires as detailed an index for PCR hearings as for trial transcripts filed in the Supreme Court. The index should include all exhibits. If exhibits were not introduced, then please note that no exhibits were submitted at the hearing.

If the cost of this transcript will exceed \$500, please inform me in writing before you complete the transcript. If you will prepare this transcript and forward it to me along with your statement, I will arrange for payment. Please note that all statements are to be signed.

Sincerely,


Angela Bennett
Legal Assistant

cc: Desiree R. Allen, Court Administration
Jonathan S. Gasser, Esquire
The Honorable Tanya A. Gee



ALAN WILSON
ATTORNEY GENERAL

March 1, 2012

HAND-DELIVERED

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Richland County Sheriff's Office v. Nizar Awde

Dear Ms. Gee:

The purpose of this letter is to advise the Court that I received the transcript from the lower court's proceedings for the above appeal on February 27, 2012. By my calculations, pursuant to SCACR, Rule 208(a)(1), the Initial Brief of Petitioner is therefore due on March 28, 2012. Please let me know if my calculations are incorrect.

Please feel free to contact me with any questions or comments.

Sincerely,

David Spencer
Assistant Deputy Attorney General

cc: Jonathan S. Gasser, Esquire
Jonathan S. Altman, Esquire



ALAN WILSON
ATTORNEY GENERAL

March 28, 2012

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
MAR 28 2012
SC Court of Appeals

Re: Richland County Sheriff's Office v. Nizar Awde
2010-CP-40-7546

Dear Ms. Kitchings:

The Initial Brief of Appellant and Designation of Matter in the above appeal is due to be served and filed today. However, due to an unusually heavy workload, I am requesting a thirty day extension.

By copy of this letter, I am advising counsel for Appellant, Jonathan S. Gasser, Esquire and Jonathan S. Altman, Esquire of this extension request.

Sincerely,

David Spencer
Assistant Deputy Attorney General

DS/nb

cc: Jonathan S. Gasser, Esquire
Jonathan S. Altman, Esquire

152
3/28/12
4/27/12

The South Carolina Court of Appeals

Richland County Sheriff's Department, Appellant,

v.

Nizar Awde, Respondent.

The Honorable DeAndrea G. Benjamin
Richland County
Trial Court Case No. 2010-CP-40-07546

ORDER

For good cause having been shown, the time for serving and filing the Appellant's Initial Brief and Designation of Matter in the above entitled matter is hereby extended until April 27, 2012.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For the Court

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina
cc: Assistant Deputy Attorney General David Spencer
Jonathan S. Gasser, Esquire
Jonathan Scott Altman, Esquire

FILED

cc 4/15/12