

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

G.D. Morgan, Jr., Circuit Court Judge

RECEIVED

Sep 23 2026

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DARIUS LAMAR MONTGOMERY,

APPELLANT

APPELLATE CASE NO. 2025-002326

MOTION TO HOLD APPEAL IN ABEYANCE PENDING RECEIPT OF TRANSCRIPT

Undersigned counsel respectfully moves to hold the above-captioned case in abeyance pending receipt of the transcript of appellant's mistrial before the Honorable Alex Kinlaw, Jr., and a jury during the week of January 22-26, 2024. The Initial Brief of Appellant and Designation of Matter in this case are due for filing September 25, 2026. There have been four extensions in this case. In support of this request, counsel shows:

1. On January 27, 2026, this office ordered the transcript in this case for November 3-6, 2025, after several requests that trial counsel give us all pretrial hearings, trial, and sentencing dates. Transcripts for November 3-6, 2025, were received by this office on March 26, 2026.

2. Appellant was indicted at the May 2023, term of the Greenville County Grand Jury for the

offenses of two counts of attempted murder, possession of a weapon during the commission of a violent crime, and discharging a firearm at/into a vehicle while occupied.

3. Appellant's case was called to trial November 3-6, 2025, before the Honorable G.D. Morgan, Jr., and a jury. Lawrence W. Crane represented appellant. Brittany Danielle Scott and Hannah Mossbrook prosecuted for the state.

4. The jury found appellant guilty as indicted. Judge Morgan sentenced appellant to an aggregate term of twenty-five years' imprisonment. This case is now on appeal before this Court, and undersigned counsel represents appellant.

5. While recently reviewing the transcripts undersigned counsel discovered that a mistrial was had before the Honorable Alex Kinlaw, Jr., in General Sessions Court in Greenville County in January 2024.¹

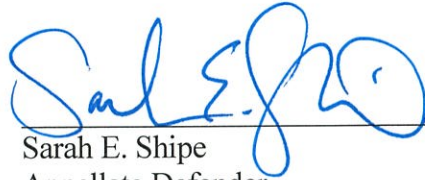
6. On September 9, 2026, our office contacted court reporter April Herron requesting the mistrial transcript from January 22-26, 2024.

7. Counsel will notify this Court immediately upon receipt of the transcript. There have been four (4) extensions requests made in this case.

¹ Attached to this motion is Exhibit A, page 60 of the November 2025, trial transcript, which references the prior mistrial.

WHEREFORE, undersigned counsel respectfully requests that the time limits for filing the Initial Brief of Appellant and designation of matter be held in abeyance until receipt of the mistrial transcript.

Respectfully submitted,



Sarah E. Shipe
Appellate Defender

Attorney for Appellant

This 23rd day of September 2026.

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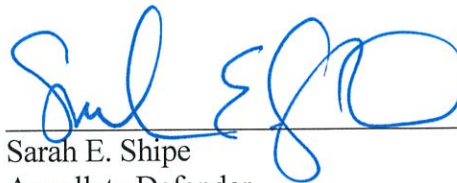
DARIUS LAMAR MONTGOMERY,

APPELLANT

APPELLATE CASE NO. 2025-002326

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 Hold in Abeyance in the above referenced case has been served on Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 23rd day of September, 2026.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

Exhibit A

1 THE COURT: That's why I always ask a lot of questions in
2 pretty much every case I'm in because I want to make sure I
3 issue the right ruling.

4 MR. CRANE: I understand.

5 THE COURT: All right. Any other arguments on that?

6 MR. CRANE: Not on that, Judge. And I'll be glad to
7 bring it up when he takes the stand rather than now, unless
8 you want to make a ruling.

9 THE COURT: No. I don't want to make a ruling now.
10 That's pre-trial motions. Things may come out and may help
11 your argument and allow it in. So, I don't want to make a
12 ruling right now.

13 MR. CRANE: And I do have one last motion, having been
14 reminded by the solicitor with her argument just now.

15 I would actually move for a dismissal based on double
16 jeopardy. My client went before the Court, picked a jury.
17 It's my understanding that the jury was sworn, and then this
18 thing happened.

19 THE COURT: When you say "this thing happened," what
20 happened?

21 MR. CRANE: The assault happened on my client, which then
22 resulted in a mistrial because of the State's action. This is
23 a witness for the State that caused the mistrial.

24 THE COURT: Wait a minute. A witness for the State; you
25 got a case that says that's state action?

Bast, Daniel

From: Bast, Daniel
Sent: Wednesday, September 23, 2026 2:27 PM
To: mfarthing@scag.gov
Cc: Shipe, Sarah; gracesommer@scag.gov
Subject: 2025-002326 - The State v. Darius Lamar Montgomery
Attachments: 2025-002326 - The State v. Darius Lamar Montgomery - Motion to Hold in Abeyance.pdf

Good afternoon,

Attached is a copy of the Motion to Hold in Abeyance in the above referenced case which will be filed today, September 23, 2026, with the Court of Appeals.

All the best,

Daniel Bast
Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
(803) 734-1330