

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM OCONEE COUNTY  
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

**RECEIVED**

JAN 17 2014

**S.C. Supreme Court**

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Appellate No.: 2012-206186

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The State.....Respondent,

v.

Anthony Clark Odom.....Appellant,

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**APPELLANT'S RETURN TO RESPONDENT'S MOTION TO  
AMEND RECORD ON APPEAL**

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Now comes the Appellant in this matter, Anthony C. Odom, by and through his counsel of record Brian D. McDaniel, Esquire of the Law Office of Brian McDaniel, LLC, Beaufort, South Carolina. The Appellant (Odom) pursuant to Rule 240(e) and 240(a), SCACR requests this Court deny the motion of Respondent to Amend the Record on Appeal. The grounds for the Return are as follows:

1. Appellant fully complied with the requirements of Rule 210(c), SCACR. The Record, both the PDF and printed copies, contains a title page, index, orders,

pleadings, transcripts, exhibits, and other material or documents, in that order, as required by the rule.

2. Respondent does not appear to argue that any items are not included in the Record on Appeal instead they suggest that the order of the Record, or indexing of the Record on Appeal should be altered. Specifically, the Respondent requests that transcript pages from the same hearing be placed in chronological order and that all hearings be placed in chronological order with regard to each other. The Respondent, however, does not present an argument that the Record on Appeal, as compiled by the Appellant, is actually in violation of Rule 210 (c), but is instead an argument based upon the preferences of the Respondent.

3. As required, the transcript pages have the date, and if it those portions contain witness testimony then they also designate the phase of exam and name of attorney conducting such exam, in compliance with Rule 210 (c), SCACR.

4. Rather than a chronological sorting, the Appellant ordered the transcript pages in the order found in Appellant's Final Brief and Designation of Matter, and then it ordered the Respondent's designated transcript pages subsequently in order of the Respondent's Designation of Matter to be Included in the Record on Appeal. This ordering is believed to facilitate reference to the Record on Appeal from the briefs and to allow the reader of the briefs to more easily follow the designations in the Record on Appeal. Because all the transcript portions designated are only excerpts of transcripts (excepting the Federal TRO Transcript designated by the Respondent) and not full transcripts, placing the trial and

hearing transcripts in chronological order is not believed to be advantageous to the reader in this situation.

5. Also, because the Respondent in its Designation of Matter re-designated all items found in Appellant's Designation, those items appear twice, in strict compliance with Rule 210 (c), SCACR. Certainly, it is no disadvantage to the Respondent to have the materials so designated in as much as the Respondent's record is in the order in which it is referenced in their Designation and because the Appellant incurred the cost of the duplicate page production in an effort to avoid any issue with the Record on Appeal, and to make the ordering of the transcripts consistent.

6. The Respondent also contends that the Appellant failed to Index certain designations in violation of Rule 210, SCACR. However, all required items pursuant to Rule 210 (e), SCACR are believed to be included in the Index. The Rule does not require all transcript excerpts to be indexed and given the limited citations to the record in the Respondent's brief (less than 60) the Record on Appeal as indexed would not appear to create any significant burden to the Respondent in either completing or arguing its Final Brief. In fact the Appellant also provided a PDF version which is searchable and contains "Bookmarks" for more easy reference to the record.<sup>1</sup>

7. In addition, Appellant filed his Final Brief along with the Record on Appeal and had no confusion citing to the Record. Requiring a significant reordering of the Record on Appeal materials would create an unnecessary burden

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<sup>1</sup> The Bookmark function can be found on Adobe Reader under the "View" heading- subheading "Navigation Panels" and contains additional jump references for the Respondent and the reader to easily find all designated materials.

of time and expense on the Appellant to re-draft, re-print and re-serve, not only the Record, but also his Final Brief, in this case.

8. In conclusion, all designated materials are included in the proper order in the Record on Appeal in full compliance with Rule 210(c). The materials are organized as set forth at Rule 210 (c) SCACR. Further, it is believed that ordering the transcript pages to correlate with the order in which those pages are cited in the briefs makes the Record more understandable and easy to follow. It is also believed that the Index is proper and sufficient for the Respondent to easily complete its brief without delay, but that any oversights in Indexing are minor and create no burden to the parties or the Court to justify further delaying the case, particularly given that the PDF version of the Record on Appeal is searchable, allowing a party to quickly find any page needed for reference to the Final Brief.

Conclusion

Appellant based on the forgoing request that this Court deny the Respondent's Motion to Amend the Record on Appeal.



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Date: January 14, 2014

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PROOF OF SERVICE

I certify that I have served the Appellant's Return to Respondent's Motion to Amend Record on Appeal upon The Office of the South Carolina Attorney General by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2014, addressed to the attorney of record, William M. Blich, Jr., Esquire, P.O. Box 11549, Columbia, SC, 29211

January 14, 2014



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