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SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

RECEIVED

JAN 23 2014

SC Court of Appeals

January 23, 2012

The Honorably Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State v. John Edward Haynes, Appellate Case No. 2013-000468

Dear Ms. Kitchings:

The initial brief of appellant and designation of matter in the above case are due to be served and filed January 27, 2014. While reviewing the transcript, I discovered a prior hearing occurred in the case that may be relevant to my client's appeal. On page 180 of the transcript, the defense attorney incorporates his argument in a prior Schmerber hearing held before the Honorable Edgar W. Dickson. A copy of that page is attached to this letter. We had no prior notice of the hearing.

I am attempting to find out the exact date and court reporter for the other hearing and will order that transcript as soon as possible. I will, of course, copy the Court when I order this transcript.

I ask that the time limits be held in abeyance pending receipt of these transcripts. I apologize for the delay this will cause. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

David Alexander
Appellate Defender

cc: Attorney General's Office
Robert M. Dudek, Esq.
Client

1 (Convened 10:20 a.m., February 27, 2013).

2 THE COURT: Anything from the State before we
3 bring the jury out this morning?

4 MS. FORD: Nothing from the State.

5 THE COURT: From the defense?

6 MR. WISE: Very briefly, Your Honor, I have
7 one matter I would like to take up with the Court.
8 Prior to the case being called for trial a Smuerver
9 hearing was held in this matter, testimony was
10 taken in front of Judge Dickson, arguments were
11 heard, I opposed the motion, the motion was
12 granted. It is my intention not to waive that
13 objection that I raised at the time asserted in
14 front of anothr judge. I didn't want to relitigate
15 it but I did want to let the Court know that we
16 were not waiving that. At the time the DNA
17 evidence is offered in I will just renew that
18 objection just so it is preserved for appeal.

19 THE COURT: Very well.

20 MR. WISE: Thank you.

21 THE COURT: And I appreciate the explanation
22 and I do believe at the time the DNA, assuming it
23 is offered, I think that you must renew it but you
24 can just renew on the same grounds as you raised
25 earlier with Judge Dickson in the Smuerver hearing