



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
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Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 12, 2014

Ms. Desiree Allen
Court Reporter Manager
1015 Sumter Street, Suite 200
Columbia, SC 29201

RECEIVED

MAR 12 2014

SC Court of Appeals

Re: State v. Wallace E. Evatt, Jr., Appellate Case No. 2012-212616

Dear Ms. Allen:

I represent Wallace Evatt in his direct appeal to the South Carolina Court of Appeals. I wrote to your office on September 6, 2013 and December 27, 2013 regarding this matter. Please find those letters enclosed for your convenience.

I sent the enclosed letter to Phyllis Barrett, the court reporter, on August 6, 2013. The letter was returned to me on August 6, 2013. My office contacted your office and you explained she was retired. Therefore, I am directing this situation to your attention.

As I explained in my letter to Ms. Barrett, while preparing for his appeal, I discovered the transcript is incomplete. On page 306 of the transcript, there is a note stating "Transcriber's Note: Recording of this witness' testimony on cross examination was in progress on the digital recording." I require clarification of what this note means. For Mr. Evatt's appeal, I need the entire testimony of the witness, David Gross.

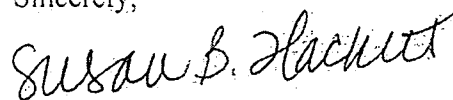
Additionally, I explained that it was my understanding that April Herron was the court reporter for the proceedings. I copied Ms. Herron on my request.

If I am unable to obtain a transcript, then I will likely have to file a motion to reconstruct the record of the missing portions of the trial transcript. Obviously, reconstructing the record is a difficult task for all involved and uses valuable court time that could be used for other matters. However, I must be able to provide the Court with a record that allows for meaningful review.

I am copying my client, the Court of Appeals, and the Attorney General's Office on this correspondence.

Please contact me if you have questions or concerns regarding this matter. I look forward to hearing from you soon concerning the remaining portion of the transcript of Mr. Evatt's trial.

Sincerely,



Susan B. Hackett
Appellate Defender

SBH/

cc: Wallace E. Evatt, Jr.
Court of Appeals
Donald J. Zelenka

Enclosures: Letter to Barrett dated 8/6/2013
Letter to Allen dated September 5, 2013
Letter to Allen dated December 27, 2013



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

August 6, 2013

Ms. Phyllis S. Barrett
Circuit Court Reporter
P.O. Box 642
Rock Hill, SC 29731-0642

Re: State v. Wallace E. Evatt, Jr., Appellate Case No. 2012-212616

Dear Ms. Barrett:

I represent Wallace Evatt in his direct appeal to the South Carolina Court of Appeals. While preparing for his appeal, I discovered the transcript is incomplete. On page 306 of the transcript, there is a note stating "Transcriber's Note: Recording of this witness' testimony on cross examination was in progress on the digital recording." I require clarification of what this note means. For Mr. Evatt's appeal, I need the entire testimony of the witness, David Gross. Is this testimony available through a back-up recording device or other mechanism? Do you have any notes concerning what transpired?

I appreciate your prompt attention to this matter. I am copying my client, the Court of Appeals, and the Attorney General's Office on this correspondence. I am also copying April Herron because it is my understanding that Ms. Herron was the court reporter for the proceedings. My file indicates that all of our requests for the transcript were sent to Ms. Herron. The Court's website also indicates Ms. Herron was the court reporter assigned to Judge Pyle for Mr. Evatt's trial. My best guess is that you transcribed the proceedings based upon Ms. Herron's recording(s).

Please contact me if you have questions or concerns regarding this matter. I look forward to hearing from you soon concerning the remaining portion of the transcript of Mr. Evatt's trial.

SIGNATURE ON FOLLOWING PAGE

Sincerely,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SBH/eab

cc: Wallace E. Evatt, Jr.
Court of Appeals
Donald J. Zelenka
April Herron



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

September 5, 2013

Ms. Desiree Allen
Court Reporter Manager
1015 Sumter Street, Suite 200
Columbia, SC 29201

Re: State v. Wallace E. Evatt, Jr., Appellate Case No. 2012-212616

Dear Ms. Allen:

I represent Wallace Evatt in his direct appeal to the South Carolina Court of Appeals. I sent the enclosed letter to Phyllis Barrett, the court reporter, on August 6, 2013. The letter was returned to me today. My office contacted your office and you explained she was retired. Therefore, I am directing this situation to your attention.

As I explained in my letter to Ms. Barrett, while preparing for his appeal, I discovered the transcript is incomplete. On page 306 of the transcript, there is a note stating "Transcriber's Note: Recording of this witness' testimony on cross examination was in progress on the digital recording." I require clarification of what this note means. For Mr. Evatt's appeal, I need the entire testimony of the witness, David Gross.

Additionally, I explained that it was my understanding that April Herron was the court reporter for the proceedings. I copied Ms. Herron on my request.

I am copying my client, the Court of Appeals, and the Attorney General's Office on this correspondence.

Please contact me if you have questions or concerns regarding this matter. I look forward to hearing from you soon concerning the remaining portion of the transcript of Mr. Evatt's trial.

SIGNATURE ON FOLLOWING PAGE

Sincerely,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SBH/eab

cc: Wallace E. Evatt, Jr.
Court of Appeals
Donald J. Zelenka

Enclosure: Letter to Barrett dated 8/6/2013



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

December 27, 2013

Ms. Desiree Allen
Court Reporter Manager
1015 Sumter Street, Suite 200
Columbia, SC 29201

Re: State v. Wallace E. Evatt, Jr., Appellate Case No. 2012-212616

Dear Ms. Allen:

I wrote to you on September 5, 2013 regarding the above-referenced case, but I have not heard back regarding how to proceed. I am enclosing a copy of that letter for your convenience. As explained in the prior letter, while preparing for his appeal, I discovered the transcript is incomplete. On page 306 of the transcript, there is a note stating "Transcriber's Note: Recording of this witness' testimony on cross examination was in progress on the digital recording." I require clarification of what this note means. For Mr. Evatt's appeal, I need the entire testimony of the witness, David Gross.

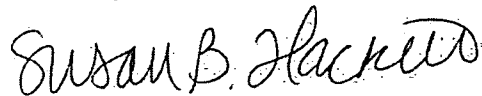
It is my understanding that Phyllis Barrett who prepared the transcript has retired. However, I still need the entire transcript. I am not sure what protocols your office has in place in these situations, but I am sure there are ways of obtaining the transcript after a court reporter retires. Additionally, it appeared to me that April Herron actually recorded the proceedings based upon the Court's online calendar. If I am unable to obtain a transcript, then I will be required to request to reconstruct the missing portions of the trial. It will be much better if I am able to make such a request earlier when memories are fresher.

I am copying my client, the Court of Appeals, and the Attorney General's Office on this correspondence.

SIGNATURE ON FOLLOWING PAGE

Please contact me if you have questions or concerns regarding this matter. I look forward to hearing from you soon concerning the remaining portion of the transcript of Mr. Evatt's trial.

Sincerely,

A handwritten signature in black ink that reads "Susan B. Hackett". The signature is written in a cursive style with a large, looped initial "S".

Susan B. Hackett
Appellate Defender

SBH/

cc: Wallace E. Evatt, Jr.
Court of Appeals
Donald J. Zelenka

Enclosure: Letter to Ct. Admin. dated 9/5/2013