

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from Richland County  
R. Knox McMahon, Circuit Court Judge

Appellate Case No. 2012-212696

---

THE STATE,

Respondent,

vs.

DAQWAN MARQUELL JOHNSON,

Appellant.

---

**MOTION TO HOLD TIME LIMITS FOR FILING INITIAL BRIEF OF RESPONDENT  
AND DESIGNATION OF MATTER IN ABEYENCE UNTIL  
APPELLANT PROVIDES A COMPLETE RECORD OF TRANSCRIPTS IN THE CASE**

---

The undersigned counsel respectfully moves, on behalf of the State of South Carolina, to hold the time limits for filing the Initial Brief of Respondent and Designation of Matter in abeyance until one week after Appellant provides a copy of the transcript of the May 21, 2012 proceedings held in this case to Respondent, or Respondent independently obtains a copy thereof. In support of this motion, counsel would respectfully show the Court the following:

1. Respondent's Initial Brief of Respondent and Designation of Matter is currently due to be served and filed on April 9, 2014, following this Court's grant of Respondent's fourth request for an extension filed on March 17, 2014.

**RECEIVED**

APR 07 2014

**SC Court of Appeals**

2. Once the undersigned counsel began reading the transcript of the proceedings of the July 26, July 30-August 2, and August 8, 2012 proceedings surrounding the trial, it became readily apparent that the case had been called for trial on May 21, 2012, but that the Appellant moved for and was granted a continuance at that time, when an issue arose as to whether the swabs had been tested or touch DNA;

3. Defense counsel represented to the trial judge that he had requested a transcript of those proceedings. **Tr. p. 22, line 17 – p. 23, line 3; Tr. p. 38, lines 4-15;**

4. A copy of that transcript was apparently provided to the prosecution by defense counsel. **Tr. p. 50, lines 12-13;**

5. Appellant's Designation of Matter did not designate any portion of this transcript as part of the Record on Appeal and he does not cite to it in his Initial Brief of Appellant;

6. Rule 207, SCACR, requires an Appellant to provide a transcript of all proceedings in the lower court to opposing counsel. *See also Laser Supply and Services, Inc. v. Orchard Park Associates*, 382 S.C. 326, 332 & n. 1, 676 S.E.2d 139, 143 & n. 1 (Ct.App. 2009); *Wallace v. Broad River South, Inc.*, 287 S.C. 189, 189, 337 S.E.2d 1, 1 (1985) ("Supreme Court Rule 1, § 2(A) requires the appellant to obtain a transcript satisfactory to both parties from which the record on appeal can be settled. If the parties cannot agree, the entire transcript should be obtained but when printed all irrelevant matter shall be deleted");

7. Although the undersigned does not impute any impropriety to Appellant's counsel, in any manner, a copy of the May 21, 2012 proceedings was not provided at the time that the transcript of the July-August proceedings was provided.

8. The undersigned counsel reasonably believes that the May 21, 2012 transcript may be relevant to the issues before this Court and thus requests the opportunity to review this transcript before filing the Initial Brief of Respondent and Designation of Matter; and

8. Counsel has not only requested a copy of this transcript from Appellant's counsel, he has contacted both the Richland County Public Defender's Office and the Fifth Circuit Solicitor's Office in an effort to obtain a copy thereof.

9. Respondent will notify the Court (and opposing counsel if Respondent independently obtains a copy) upon receipt of the May 21, 2012 transcript.

WHEREFORE, Respondent hereby respectfully requests that this Court hold the time limits for filing the Initial Brief of Respondent and Designation of Matter in abeyance until one week after Appellant provides a copy of the transcript of the May 21, 2012 proceedings held in this case to Respondent, or Respondent independently obtains a copy thereof.

Respectfully Submitted,


ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General  
No. 4425

WILLIAM EDGAR SALTER, III  
Senior Assistant Attorney General  
No. 3710

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

By:   
WILLIAM EDGAR SALTER, III  
ATTORNEYS FOR RESPONDENT

April 7, 2014.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

APR 07 2014

SC Court of Appeals

---

Appeal from Richland County  
R. Knox McMahon, Circuit Court Judge

Appellate Case No. 2012-212696

---

THE STATE,

Respondent,

vs.

DAQWAN M. JOHNSON,

Appellant.

---

**PROOF OF SERVICE**

---

I, William E. Salter, III, of counsel for the Respondent, certify that I have served two (2) copies of the within motion to hold the time limits for filing the Initial Brief of Respondent and Designation of Matter in abeyance via U.S. mail to Appellant's counsel of record, Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201-3332.

I further certify that all parties required by Rule to be served have been served.

This 7<sup>th</sup> day of April, 2014.



---

WILLIAM EDGAR SALTER, III  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

April 7, 2014

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

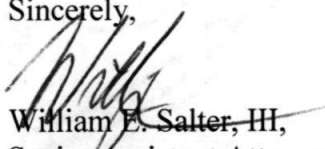
Re: *The State vs. Daqwan M. Johnson*  
Appellate Case No.: 2012-212696

Dear Ms. Kitchings:

The Initial Brief of Respondent and Designation of Matter in the above matter is currently due to be filed on Wednesday, April 9, 2014. Enclosed please find an original and six (6) copies of a Motion to Hold Time Limits for Filing Initial Brief of Respondent and Designation of Matter in Abeyance until Appellant Provides a Complete Record of Transcripts in the case.

In am informing opposing counsel of my request by copy of this letter.

Sincerely,

  
William E. Salter, III,  
Senior Assistant Attorney General

WES:dmd  
Enclosures  
cc: Robert M. Dudek, Esq. (w/two copies of encls.)

RECEIVED

APR 07 2014

SC Court of Appeals