

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2012-212388

RECEIVED

MAY 13 2014

SC Court of Appeals

THE STATE,

Respondent,

vs.

TERRANCE SEABROOK,

Appellant.

**RETURN TO PETITION FOR ORDER TO RECONSTRUCT THE RECORD OF
APPELLANT'S TRIAL OR IN THE ALTERNATIVE AN ORDER SETTING
ASIDE HIS CONVICTION AND ORDERING A NEW TRIAL**

Respondent State of South Carolina respectfully submits the following in response to Appellant's Petition for Order to Reconstruct the Record of Appellant's Trial or in the Alternative an Order Setting Aside His Conviction and Ordering a New Trial:

1. Appellant Terrance Seabrook was indicted in Beaufort County for kidnapping and armed robbery. He proceeded to trial on March 19 – 21, 2012, before the Honorable Carmen T. Mullen, and a jury. He was found guilty of armed robbery but acquitted of kidnapping. He was sentenced to life without parole pursuant to S. C. Code Ann. Section 17-25-45 (A).

2. Appellant filed and served notice of appeal and requested the trial transcript. It appears Deborah Everette was the court reporter present at trial. It also appears that Harriett

Bennett was asked to transcribe the trial but was only able to transcribe the third day of the three day trial. On information and belief, it appears that motions heard on March 19, 2012 and the first day of trial held on March 20, 2012 were not contained in the records which were forwarded to Ms. Bennett for transcription.

3. Appellant now moves this Court for an order remanding this matter to the Court of General Sessions to convene a hearing to reconstruct the missing pretrial motions and missing portions of the trial. Appellant alternatively requests that this Court set aside the conviction and grant a new trial because he is not able to secure meaningful appellate review through no fault of his own.

4. The undersigned has made inquiries about possible dates for the pretrial hearings and for assistance in obtaining the missing portions of the trial transcript but has not been successful. Respondent also acknowledges that the unavailability of the transcript is through no fault of Appellant. Accordingly, Respondent has no basis to oppose Appellant's request for remand to reconstruct the record.

5. However, Respondent strenuously opposes Appellant's alternative request for an order setting aside his conviction and requiring a new trial. This request is premature until such time as the Court of General Sessions finds the record cannot be reconstructed. State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007). Respondent submits that once a hearing is convened and appropriate individuals appear for the hearing, the transcript may be forthcoming from the court reporter as has been the case with another appeal which was remanded for reconstruction.

WHEREFORE, Respondent has no basis to oppose Appellant's request to remand this case to the Beaufort County Court of General Sessions for a hearing to reconstruct the missing portions of the trial record but opposes Appellant's alternative request to set aside his conviction and remand for a new trial as being premature at this time.

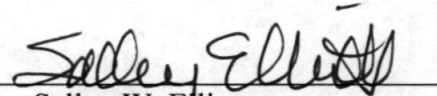
Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

I. McDUFFIE STONE III
Solicitor, Fourteenth Judicial Circuit

By:



Salley W. Elliott
S.C. Bar No. 1871

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ATTORNEYS FOR RESPONDENT.

May 13, 2014

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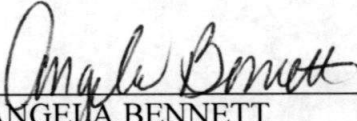
Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the **Return to Petition for Order to Reconstruct the Record of Appellant's Trial or in the Alternative an Order Setting Aside his Conviction and Ordering a New Trial** on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney, Lara M. Caudy, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211.

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

This 13th day of May, 2014.



ANGELA BENNETT
Administrative Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

May 13, 2014

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

Re: The State v. Terrance Seabrook
Appellate Case N: 2012-212388

Dear Mr. Kitchings:

Enclosed please find the original and six copies of the **Return to Petition for Order to Reconstruct the Record of Appellant's Trial or in the Alternative an Order Setting Aside his Conviction and Ordering a New Trial** along with proof of service in the above-referenced case.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General
S.C. Bar No: 1871

SWE/ab
Enclosures

cc: Lara M. Caudy, Esquire
Ms. Trisha Allen

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