

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Charleston County  
Honorable Kristi L. Harrington, Circuit Court Judge

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Appellate Case No. 013-000692

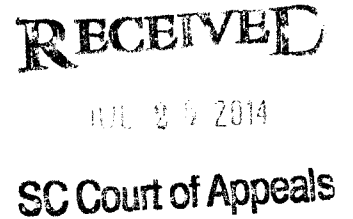
LARRY G. HARVIN,

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.



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**MOTION TO REQUIRE THE APPELLANT AMEND THE RECORD ON APPEAL  
PURSUANT TO RULE 210(b)**

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COMES NOW, Respondent, by and through undersigned counsel, making its Motion to Require the Appellant to Amend the Record on Appeal pursuant to Rule 210(b) of the South Carolina Appellate Court Rules. The Respondent respectfully shows this Court:

I.

The Respondent is in receipt of the Record on Appeal compiled by the Appellant in this matter. The Respondent respectfully requests this Court require the Appellant to amend the Record on Appeal to include the matters designated to be included in the Record on Appeal by the Respondent. South Carolina Appellate Court Rule 210(b) states “The Record on Appeal shall include all matter designated to be included by any party under Rule 209.” (emphasis added). The Respondent submits the Appellant has only included five of the thirty-eight documents the Respondent designated to be included in the Record on Appeal.

## II.

The Respondent submits the following documents designated to be included in the

Record on Appeal by the Respondent were excluded by the Appellant in the Record on Appeal:

1. Appellant's murder indictment and sentencing sheet (1997-GS-10-4288)
2. Appellant's possession of a weapon during commission of a violent crime indictment and sentencing sheet (1997-GS-10-4289)
3. Appellant's armed robbery indictment and sentencing sheet (1997-GS-10-4290)
4. Opinion affirming the Appellant's convictions on direct appeal
5. Remittitur issued on May 29, 2001 concluding the Appellant's direct appeal
6. Appellant's first PCR application filed August 9, 2001 (2001-CP-10-2971)
7. Respondent's Return to Appellant's first PCR Application dated February 1, 2002
8. Order denying Appellant's first PCR filed October 29, 2002
9. Order denying Appellant's Motion to Alter and Amend filed May 23, 2009
10. Appellant's Federal Habeas Petition dated February 26, 2003
11. Respondent's Return and Motion for Summary Judgment filed May 21, 2003
12. Magistrate's Report and Recommendation filed October 6, 2003
13. Order granting Respondent's Motion to Dismiss filed January 16, 2004
14. Order denying appeal to Fourth Circuit Court of Appeals dated August 10, 2004
15. Order denying Appellant's Motion to Vacate order granting of summary judgment dated January 11, 2007
16. Order denying Appellant's Motion for Relief from Judgment granting summary judgment dated September 13, 2011
17. Appellant's second PCR application filed March 3, 2010 (2010-CP-10-1709)
18. Respondent's Return and Motion to Dismiss Appellant's second PCR applicant dated June 24, 2010
19. Conditional Order of Dismissal of Appellant's second PCR filed July 6, 2010
20. Appellant's Response to signed Conditional Order of Dismissal filed August 6, 2010
21. Final Order of Dismissal of Appellant's second PCR filed November 12, 2010
22. Respondent's Return and Motion to Dismiss Appellant's habeas petition dated October 20, 2011
23. Appellant's Response to signed Conditional Order of Dismissal filed December 5, 2011
24. Order from the Fourth Circuit Court of Appeals dismissing and denying certificate of appealability dated February 28, 2012
25. Notice of Appeal initiating appeal from state habeas petition dated January 13, 2012
26. Appellant's Written Explanation pursuant to Rule 203(d)(1)(B)(vi) in appeal of state habeas petition dated January 13, 2012
27. Order dismissing appeal of denial of Appellant's state habeas petition filed April 9, 2012
28. Remittitur issued on August 21, 2012
29. Order recalling August 21, 2012 Remittitur filed August 24, 2012
30. Order denying Appellant's Petition for Rehearing dated July 20, 2012
31. Order denying Appellant's Petition for Writ of Certiorari to the Supreme Court filed August 21, 2012

32. Remittitur issued on October 9, 2012 concluding appeal of Appellant's state habeas petition
33. Notice of Appeal initiating present appeal

III.

In view of the foregoing, the Respondent respectfully requests this Court compel the Appellant to amend the Record on Appeal to include the matters designated for inclusion by the Respondent. The Respondent also asks this Court to hold in abeyance the filing of the Respondent Final Brief until the Respondent has been served an amended copy of the Record on Appeal.

IV.


WHEREFORE, it is respectfully requested that this motion be granted.

Respectfully submitted,

ALAN WILSON  
Attorney General

ASHLEIGH R. WILSON  
Assistant Attorney General  
S.C. Bar # 100269

P.O. Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

By:   
\_\_\_\_\_  
**Attorney for the Respondent**  
Columbia, South Carolina  
July 25, 2014

STATE OF SOUTH CAROLINA

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Honorable Kristi L. Harrington, Circuit Court Judge

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LARRY G. HARVIN,

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STATE OF SOUTH CAROLINA,

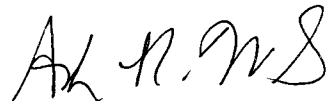
Respondent.

**PROOF OF SERVICE**

I, Ashleigh R. Wilson, certify that I have served the within Motion to Require the Appellant to Amend the Record on Appeal Pursuant to Rule 210(b) on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Larry Harvin, #253468  
S.C. Department of Corrections  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

I further certify that all parties required by Rule to be served have been served. This 25th day of July, 2014.



Ashleigh R. Wilson  
Assistant Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
#100269



ALAN WILSON  
ATTORNEY GENERAL

RECEIVED  
JUL 25 2014  
SC Court of Appeals

July 25, 2014

The Honorable Jenny Abbott Kitchings  
1015 Sumter Street  
Columbia, SC 29201

**Re: Larry Harvin v. State, Appellate Case No. 2013-000692**

Dear Ms. Kitchings:

Enclosed for filing in the Court of Appeals is the original and six (6) copies the Respondent's Motion to Require Appellant to Amend the Record on Appeal in the above referenced matter. An affidavit of service of this motion on the Appellant has also been included for filing.

Sincerely,

Ashleigh R. Wilson  
Assistant Attorney General

Cc: Larry Harvin, #253468- McCormick Correctional Institution

RECEIVED  
JUL 25 2014  
SC Court of Appeals