

S STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Chesterfield County
J. Michael Baxley, Circuit Court Judge
2010-GS-13-0192, 2010-GS-13-0263

Appellate Case No. 2012-213655

RECEIVED
OCT 29 2014
SC Court of Appeals

THE STATE,

Respondent,

v.

THOMAS STEWART,

Appellant

**MOTION TO ALLOW FILING OF
SUPPLEMENTAL RECORD ON APPEAL**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On August 22, 2014, the State filed and served its Initial Brief of Respondent and Designation of Matter. In the Initial Brief of Respondent, counsel made reference to Trial Transcript pages 470-496. Initial Brief of Respondent, pp. 1-2, 47. In its Designation of Matter, the State inadvertently failed to designate Trial Transcript pages 470-496. Below-signed counsel realized this when preparing the Initial Brief of Respondent for filing on October 29, 2014. On October 24, 2014, counsel for the

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Appellant advised counsel of his consent to allow the record to be supplemented to include this material.

II.

Because cited portions of the trial transcript within the Initial Brief of Respondent was inadvertently omitted from the Respondent's original Designation of Matter and Record on Appeal, the State believes it is necessary to file a Supplemental Record on Appeal containing the inadvertently omitted matter. See Rule 210(c), SCACR ("The Record on Appeal shall include all matter designated to be included by any party under Rule 209[.]"). Counsel for Appellant has indicated to the undersigned counsel for the State that he has no objection to the request. For the foregoing reasons, the State asks this Court to permit and accept the filing of a Supplemental Record on Appeal containing the designated matter inadvertently omitted from the Record on Appeal.

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WHEREFORE, Respondent prays that this Court will allow the State to file a Supplemental Record on Appeal; accept the filing of the State's Supplemental Record on Appeal; and for such other and further relief as the Court may deem just and proper.

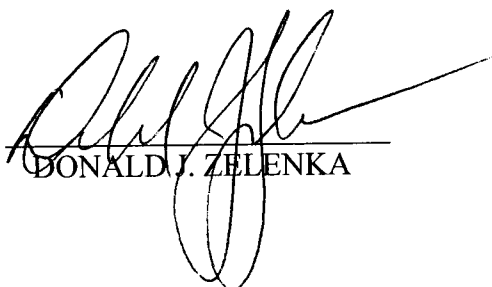
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

BY:


DONALD J. ZELENKA

S.C. Bar No. 5758

Office of the Attorney General
Post office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

ATTORNEYS FOR RESPONDENT

October 29, 2014.

43.

CERTIFICATE OF SERVICE

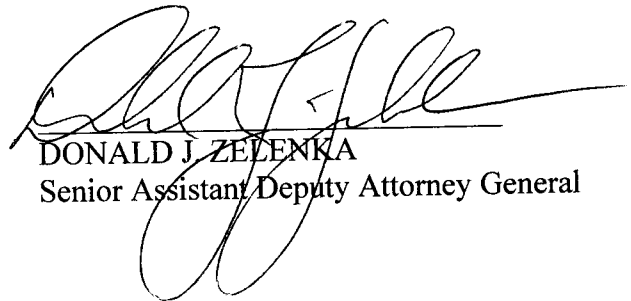
I, Donald J. Zelenka, hereby certify that I have served the Motion to File Supplemental Record on Appeal in the foregoing action by depositing copies in the United States mail, postage prepaid to:

Jarrett O. Coco, Esquire
Nelson Mullins Riley & Scarborough, LLP
Post Office Box 11070
Columbia, SC 29211-1070

and by InterAgency Mail to

Robert M. Dudek
Chief Attorney
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, SC 29201

This 29th day of October, 2014.



DONALD J. ZELEENKA
Senior Assistant Deputy Attorney General