

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions

Robin B. Stilwell, Circuit Court Judge

Case No. 2013-002752

State of South Carolina

Respondent,

v.

Michael Levant Mealor

Appellant.

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SC Court of Appeals

PETITION FOR ORDER
TO RECONSTRUCT THE
RECORD OF APPELLANT'S TRIAL

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, the undersigned counsel requests an order requiring the parties to reconstruct the record of Appellant's trial, and that this appeal be held in abeyance pending a ruling in this matter. In support of this petition, counsel would submit the following information:

1. Appellant and two co-defendants were tried for trafficking methamphetamine before the Honorable Robin B. Stilwell in Pickens County from December 16 – 20, 2013. Ms. Elizabeth P. Wiygul represented Appellant at trial. A jury found Appellant guilty and Judge Stilwell sentenced Appellant to imprisonment for nine years. Appellant timely filed a Notice of Appeal of his conviction and sentence on December 30, 2013.

2. The undersigned has reviewed a copy of the transcript of Appellant's trial proceedings. The transcript contains forty-nine "undiscernible" [sic] portions of the trial. The court reporter attributed that a number of these "undiscernible" [sic] portions were "due to equipment malfunction." The testimony of prosecution witness Paul Forst contained eighteen "undiscernible" [sic] portions of testimony. Mr. Forst's testimony was key for the prosecution in that his testimony allowed for the introduction of Appellant's and multiple co-defendant's NPLEX records into evidence. NPLEX records are the personal histories of pseudoephedrine purchases or attempts to purchase pseudoephedrine. The records were introduced into evidence under the "business records" exception to hearsay. The undersigned intends to argue on appeal that admitting such records was in error. It is imperative that counsel has at his disposal a complete copy of the transcript of Appellant's trial in order for Appellant to have a meaningful appellate review. Therefore, the undersigned counsel would request an order for the trial record to be reconstructed.
3. When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. See Whitehead v. State, 352 S.C. 25, 574 S.E.2d 200 (2002), and China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968). See also State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007), where the Court granted the appellant's motion to set aside his conviction and remand for a new trial when attempts to reconstruct the incomplete trial transcript were unsuccessful, thus not permitting the appellant meaningful appellate review.

WHEREFORE, the undersigned counsel requests an order from this Court for the reconstruction of the record of Appellant's trial, and that this appeal be held in abeyance pending a ruling in this matter.

November 10, 2014

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ryan C. Andrews', is written over a horizontal line.

Ryan C. Andrews
270 W. Coleman Blvd., Suite 1B
Mt. Pleasant, SC 29464
(843) 732-3476

ATTORNEY FOR APPELLANT

THE STATE OF SOUTH CAROLINA
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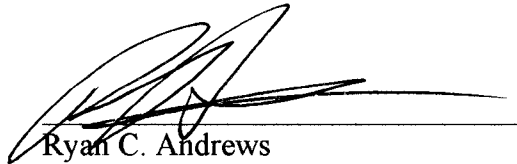
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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies the Petition for Order to Reconstruct the Record of Appellant's Trial in the above referenced case has been served upon Salley W. Elliot, Esquire, Senior Assistant Deputy Attorney General, P.O. Box 11549, Columbia, SC 29211, this 10th day of November, 2014.



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ATTORNEY FOR APPELLANT

CD COBB DILL
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Hal Cobb, *Of Counsel*

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CONTACT

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843-353-2583 (F)

November 10, 2014

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

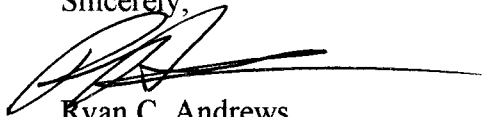
Re: *The State v. Michael L. Mealor*
Case No.: 2013-002752

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Petition for Order to Reconstruct the Record of Appellant's trial regarding the above-referenced case.

If you have any questions concerning the matter, please do not hesitate to contact me.

Sincerely,



Ryan C. Andrews
Enclosures

Cc: Michael L. Mealor (w/ Enclosures)
Elizabeth P. Wiygul, Esq. (via email w/ enclosures)
Robert M. Dudek, Esq. (w/ enclosures)
Salley W. Elliot, Esq. (w/ enclosures)

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