

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Deadra L. Jefferson, Circuit Court Judge

RECEIVED
JUN 05 2015
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

PETITION FOR ORDER TO RECONSTRUCT THE RECORD OF THE PORTION OF APPELLANT'S TRIAL CONTAINING THE PARTIES' ARGUMENTS AND THE TRIAL COURT'S RULING ON MOTIONS PURSUANT TO BATSON V. KENTUCKY, 476 U.S. 79 (1986)

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests an order requiring the parties to reconstruct the record of the arguments made in support of motions by both the State and appellant pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) and the trial judge's rulings denying both the State and appellant's motions. The trial was held before the Honorable Deadra L. Jefferson in Orangeburg County. Breen Richard Stevens represented appellant. Harrison Bell and Ashley Cornwell represented the State.

In accordance with Rule 240(c), SCACR, Counsel submits the following exhibits to support his motion:

1. Pages 192 - 202 of the trial transcript.
2. Jury Strike Sheet
3. Affidavit of trial counsel, Breen Richard Stevens
4. Affidavit of undersigned counsel, David Alexander, with attached exhibits.

The facts supporting this motion are contained in the affidavits of the undersigned and Breen Richard Stevens. Soon after being assigned the case, I discussed the possible issues for appeal with trial counsel, Mr. Stevens, a former appellate defender. He told me that he believed the denial of a motion made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) would be one of the significant issues in Mr. May's appeal. Upon reviewing the transcript, I saw that it contained nothing about a Batson motion by appellant but indicated a motion by the State and a bench conference after jury selection.

I contacted Mr. Stevens. He confirmed both the State and appellant's motions took place at the bench. Mr. Stevens recalled that Judge Jefferson placed a recording device on the bench to hear argument on the motions. During the bench conference the State made a Batson motion that was denied. Appellant also made a Batson motion that was denied. Undersigned counsel contacted the court reporter but was informed that the recordings for this trial were destroyed. It is my belief that it is necessary to reconstruct the arguments and ruling on the Batson motion in order to prepare this ground for appeal.

When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002); China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968); Koon v. State, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004); Dolive v. J.E.E. Developers, Inc., 308 S.C. 380, 383, 418 S.E.2d 319, 321 (Ct. App.

1992); State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 273-274 (Ct. App. 2007). An important portion of appellant's trial transcript has been lost and is no longer available through no fault of appellant. Therefore, meaningful review of the record below is not possible with the current transcript. Appellant seeks reconstruction of the record to permit meaningful appellate review of his trial. Appellant believes that since what must be reconstructed are primarily arguments of counsel and rulings by the trial judge, reconstruction should not be difficult nor involve extraordinary delay.

WHEREFORE, the undersigned counsel requests an order for the reconstruction of the portion of appellant's trial transcript as described above in order to perfect appellant's direct appeal in the case. While this petition is pending, appellant asks this Court to hold the deadlines for filing his initial brief and designations in abeyance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David Alexander', written over a horizontal line.

David Alexander
Appellate Defender

Attorney for Petitioner

This 5th day of June, 2014

Exhibit 1

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 person doing it, when the computer does it it's almost
2 exactly duplicated. Funniest thing to me. I'm sure
3 that, again, there's some mathematical or statistical
4 explanation, but it's far beyond my mental acumen to
5 figure that one out. But it's really interesting to
6 have observed this.

7 In Charleston we had a huge barrel that was
8 probably almost as big as two of those podiums. And
9 we would turn it and hear all the capsules making
10 noise. And, literally, we had a person from the
11 Commission for the Blind who came and picked the
12 names. But it's just really interesting how it still
13 turns out the same way when we do it with a computer.

14 So if you would just give us a few moments to do
15 those strike sheets, we'll then begin the process.

16 [Off the record momentarily]

17 THE COURT: Okay. If you would -- once the
18 first one is done, if you will give her your attention
19 she will begin the selection process.

20 And then, again, if your name is called, please
21 come forward with all of your belongings and we'll
22 either seat or excuse you.

23 [Off the record momentarily]

24 THE CLERK OF COURT: Juror number 36, Ida
25 Crosby.

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August 12, 2014

1 [Whereupon, Ms. Crosby comes forward]

2 THE CLERK OF COURT: What says the State?

3 MR. BELL: Present the juror.

4 THE CLERK OF COURT: What says the defense?

5 MR. STEVENS: Please seat the juror.

6 [Whereupon, Ms. Crosby is seated in the jury box
7 as a juror]

8 THE CLERK OF COURT: Juror Number 155, Makeisha
9 Sharrow.

10 [Whereupon, Ms. Sharrow comes forward]

11 THE CLERK OF COURT: What says the State?

12 MR. BELL: Present the juror.

13 THE CLERK OF COURT: What says the defense?

14 MR. STEVENS: Please seat the juror.

15 THE CLERK OF COURT: Have a seat in the jury
16 box. Thank you.

17 [Whereupon, Ms. Sharrow is seated in the jury
18 box as a juror]

19 THE CLERK OF COURT: Juror Number 15, Aaron
20 Briggman.

21 [Whereupon, Mr. Briggman comes forward]

22 THE CLERK OF COURT: What says the State?

23 MR. BELL: Excuse the juror from this trial.

24 THE CLERK OF COURT: You may return to your
25 seat, sir.

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1 THE BAILIFF: You may be seated back in the
2 panel. Thank you.

3 [Whereupon, Mr. Briggman returns to the
4 audience]

5 THE CLERK OF COURT: Juror Number 133, Tracy
6 Pelzer.

7 [Whereupon, Ms. Pelzer comes forward]

8 THE CLERK OF COURT: What says the State?

9 MR. BELL: Present the juror.

10 THE CLERK OF COURT: What says the defense?

11 MR. STEVENS: Please excuse the juror.

12 THE CLERK OF COURT: You may return to your
13 seat.

14 [Whereupon, Ms. Pelzer returns to the audience]

15 THE CLERK OF COURT: Juror Number 17, Ladeidra
16 Brown.

17 [Whereupon, Ms. Brown comes forward]

18 THE CLERK OF COURT: What says the State?

19 MR. BELL: Present the juror.

20 THE CLERK OF COURT: What says the defense?

21 MR. STEVENS: Please seat the juror.

22 THE CLERK OF COURT: You may have a seat in the
23 jury box. Thank you.

24 [Whereupon, Ms. Brown is seated in the jury box
25 as a juror]

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1 THE CLERK OF COURT: Juror Number 39, Laurie
2 Dantzler.

3 [Whereupon, Ms. Dantzler comes forward]

4 THE CLERK OF COURT: What says the State?

5 MR. BELL: Present the juror.

6 THE CLERK OF COURT: What says the defense?

7 MR. STEVENS: Please strike the juror.

8 THE CLERK OF COURT: You may return to your
9 seat, ma'am.

10 [Whereupon, Ms. Dantzler returns to the
11 audience]

12 THE CLERK OF COURT: Juror Number 174, Kathleen
13 Sweatman.

14 [Whereupon, Ms. Sweatman comes forward]

15 THE CLERK OF COURT: What says the State?

16 MR. BELL: Present the juror.

17 THE CLERK OF COURT: What says the defense?

18 MR. STEVENS: Please seat the juror.

19 THE CLERK OF COURT: You may have a seat in the
20 jury box.

21 [Whereupon, Ms. Sweatman is seated in the jury
22 box as a juror]

23 THE CLERK OF COURT: Juror Number 164, Xavier
24 Stephens.

25 [Whereupon, Mr. Stephens comes forward]

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1 THE CLERK OF COURT: What says the State?

2 MR. BELL: Excuse the juror from this trial.

3 THE CLERK OF COURT: You may return to your
4 seat, sir.

5 [Whereupon, Mr. Stephens returns to the
6 audience]

7 THE CLERK OF COURT: Juror Number 2, Wilford
8 Arant.

9 [Whereupon, Mr. Arant comes forward]

10 THE CLERK OF COURT: What says the State?

11 MR. BELL: Present the juror.

12 THE CLERK OF COURT: What says the defense?

13 MR. STEVENS: Please strike the juror.

14 THE CLERK OF COURT: Please return to your seat.

15 [Whereupon, Mr. Arant returns to the audience]

16 THE CLERK OF COURT: Juror Number 50, Stephen
17 Eaddy.

18 [Whereupon, Mr. Eaddy comes forward]

19 THE CLERK OF COURT: What says the State?

20 MR. BELL: Please excuse the juror from this
21 trial.

22 THE CLERK OF COURT: You may return to your
23 seat.

24 [Whereupon, Mr. Eaddy returns to the audience]

25 THE CLERK OF COURT: Juror Number 200, Jaquetta

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1 Zimmerman.

2 [Whereupon, Ms. Zimmerman comes forward]

3 THE CLERK OF COURT: What says the State?

4 MR. BELL: Present the juror.

5 THE CLERK OF COURT: What says the defense?

6 MR. STEVENS: Present the juror.

7 THE CLERK OF COURT: You may have a seat in the
8 jury box, ma'am.

9 [Whereupon, Ms. Zimmerman is seated in the jury
10 box as a juror]

11 THE CLERK OF COURT: Juror Number 29, John Carr.

12 [Whereupon, Mr. Carr comes forward]

13 THE CLERK OF COURT: What says the State?

14 MR. BELL: Present the juror.

15 THE CLERK OF COURT: What says the defense?

16 MR. STEVENS: Please strike the juror.

17 THE CLERK OF COURT: You may return to your
18 seat.

19 [Whereupon, Mr. Carr returns to the audience]

20 THE CLERK OF COURT: Juror Number 22, Kayla
21 Butler.

22 [Whereupon, Ms. Butler comes forward]

23 THE CLERK OF COURT: What says the State?

24 MR. BELL: Present the juror.

25 THE CLERK OF COURT: What says the defense?

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1 MR. STEVENS: Please seat the juror.

2 THE CLERK OF COURT: You may have a seat in the
3 jury box.

4 [Whereupon, Ms. Butler is seated in the jury box
5 as a juror]

6 THE CLERK OF COURT: Juror Number 101, Katheryn
7 Kennerly.

8 [Whereupon, Ms. Kennerly comes forward]

9 THE CLERK OF COURT: What says the State?

10 MR. BELL: Present the juror.

11 THE CLERK OF COURT: What says the defense?

12 MR. STEVENS: Please seat the juror.

13 THE CLERK OF COURT: Have a seat in the jury
14 box. Thank you.

15 [Whereupon, Ms. Kennerly is seated in the jury
16 box as a juror]

17 THE CLERK OF COURT: Juror Number 81, Dorothy
18 Hollis.

19 [Whereupon, Ms. Hollis comes forward]

20 THE CLERK OF COURT: What says the State?

21 MR. BELL: Present the juror.

22 THE CLERK OF COURT: What says the defense?

23 MR. STEVENS: Please seat the juror.

24 THE CLERK OF COURT: You may have a seat in the
25 jury box.

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1 [Whereupon, Ms. Hollis is seated in the jury box
2 as a juror]

3 THE CLERK OF COURT: Juror Number 14, Laurie
4 Brenn.

5 [Whereupon, Ms. Brenn comes forward]

6 THE CLERK OF COURT: What says the State?

7 MR. BELL: Present the juror.

8 THE CLERK OF COURT: What says the defense?

9 MR. STEVENS: Please seat the juror.

10 [Whereupon, Ms. Brenn is seated in the jury box
11 as a juror]

12 THE CLERK OF COURT: Juror Number 121, Larry
13 Moorer.

14 [Whereupon, Mr. Moorer comes forward]

15 THE CLERK OF COURT: What says the State?

16 MR. BELL: Present the juror.

17 THE CLERK OF COURT: What says the defense?

18 MR. STEVENS: Please seat the juror.

19 THE CLERK OF COURT: Have a seat in the jury
20 box.

21 [Whereupon, Mr. Moorer is seated in the jury box
22 as a juror]

23 THE CLERK OF COURT: Juror Number 193, Roy
24 Williams.

25 [Whereupon, Mr. Williams comes forward]

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1 THE CLERK OF COURT: What says the State?

2 MR. BELL: Present the juror.

3 THE CLERK OF COURT: What says the defense?

4 MR. STEVENS: Please strike the juror.

5 THE CLERK OF COURT: You may return to your
6 seat.

7 [Whereupon, Mr. Williams returns to the
8 audience]

9 THE CLERK OF COURT: Juror Number 65, Frank
10 Gantt.

11 [Whereupon, Mr. Gantt comes forward]

12 THE CLERK OF COURT: What says the State?

13 MR. BELL: Present the juror.

14 THE CLERK OF COURT: What says the defense?

15 MR. STEVENS: Please seat the juror.

16 THE CLERK OF COURT: You may have a seat in the
17 jury box.

18 [Whereupon, Mr. Gantt is seated in the jury box
19 as a juror]

20 THE CLERK OF COURT: Juror Number 90, Elaine
21 Jeffcoat.

22 [Whereupon, Ms. Jeffcoat comes forward]

23 THE CLERK OF COURT: What says the State?

24 MR. BELL: Present the juror.

25 THE CLERK OF COURT: What says the defense?

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1 MR. STEVENS: Please seat the juror.

2 THE CLERK OF COURT: You may have a seat in the
3 jury box, ma'am.

4 [Whereupon, Ms. Jeffcoat is seated in the jury
5 box as a juror].

6 THE COURT: Two alternates. Strikes are one and
7 two.

8 THE CLERK OF COURT: Juror Number 7, Anthony
9 Blocker.

10 [Whereupon, Mr. Blocker comes forward]

11 THE CLERK OF COURT: What says the State?

12 MR. BELL: Present the juror.

13 THE CLERK OF COURT: What says the defense?

14 MR. STEVENS: Please seat the juror.

15 THE CLERK OF COURT: You may have a seat in the
16 jury box, sir.

17 [Whereupon, Mr. Blocker is seated in the jury
18 box as an alternate juror]

19 THE CLERK OF COURT: Juror Number 163, Tammie
20 Steele.

21 [Whereupon, Ms. Steele comes forward]

22 THE CLERK OF COURT: What says the State?

23 MR. BELL: Present the juror.

24 THE CLERK OF COURT: What says the defense?

25 MR. STEVENS: Please present the juror.

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1 THE CLERK OF COURT: You may have a seat in the
2 jury box, ma'am.

3 [Whereupon, Ms. Steele is seated in the jury box
4 as an alternate juror]

5 THE COURT: The jury has been selected. Are
6 there any motions from the State?

7 MR. BELL: Yes, Your Honor, the State does.

8 THE COURT: Please approach.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Ladies and gentlemen, we thank you
12 for your patience. We have selected the panel for
13 this case. If you would call the jury information
14 line after six o'clock, there will be a message to let
15 you know if we have further need of your services.

16 Again, we appreciate your patience. I hope
17 everyone has a wonderful day. You're excused with the
18 Court's appreciation.

19 [Whereupon, the jury panel exits at 11:35 a.m.]

20 THE COURT: Ladies and gentlemen, please stand
21 and raise your right hand so that the clerk can
22 administer the oath to you.

23 [Whereupon, the jury is duly sworn by the clerk
24 of court as follows: do you solemnly swear or affirm
25 that you shall well and truly try and true deliverance

Exhibit 2

Orangeburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Deadra L. Jefferson

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2013A3820800492

DESCRIPTION : State of South Carolina vs. Tykeem K. May Trial

COURTROOM CTRM

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
1 Crosby, Ida M	36	N	F	()	()	()	1.
2 Sharrow, Makeisha M	155	B	F	()	()	()	2.
3 Briggman, Aaron J	15	B	M	(x)	()	()	
4 Pelzer, Tracy	133	B	F	()	(x)	()	
5 Brown, Ladeidra S	17	B	F	()	()	()	3.
6 Dantzler, Laurie S	39	W	F	()	(x)	()	
7 Sweatman, Kathleen V	174	W	F	()	()	()	4.
8 Stephens, Xavier P	164	B	M	(x)	()	()	
9 Arant, Wilford P Jr.	2	W	M	()	(x)	()	
10 Eaddy, Stephen L	50	B	M	(x)	()	()	
11 Zimmerman, Jacquetta L	200	B	F	()	()	()	5
12 Carr, John D	29	W	M	()	(x)	()	
13 Butler, Kayla B	22	B	F	()	()	()	6.
14 Kennerly, Kathryn M	101	W	F	()	()	()	7.
15 Hollis, Dorothy J	81	B	F	()	()	()	8.
16 Brenn, Laurie J	14	W	F	()	()	()	9.
17 Moorer, Larry L	121	B	M	()	()	()	10.
18 Williams, Roy R Jr.	193	W	M	()	(x)	()	
19 Gantt, Franks A Jr.	65	B	M	()	()	()	11.
20 Jeffcoat, Elaine F	90	W	F	()	()	()	12.
21 Blocker, Anthony	7	B	M	()	()	()	1A
22 Steele, Tammie G	163	W	F	()	()	()	2A
23 Moultrie, Jacqueline V	122	B	F	()	()	()	
24 Barden, Mindy D	4	W	F	()	()	()	

Orangeburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Deadra L. Jefferson
 TRIAL TYPE : Criminal
 PANEL ID : 2013A3820800492
 COURTROOM CTRM

Sorted by: Random Nbr

DESCRIPTION : State of South Carolina vs. Tykceem K. May Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Jeffords, Ronnie W	91	W	M	()	()	()	_____
26 Houser, Marcus M	82	B	M	()	()	()	_____
27 Johnson, Clay D	93	B	M	()	()	()	_____
28 Frazier, Arnetra N	63	B	F	()	()	()	_____
29 Perry, Diane	134	B	F	()	()	()	_____
30 Proveaux, Ameia M	138	W	F	()	()	()	_____
31 Gavins, Wallace	67	W	M	()	()	()	_____
32 Dickson, Dorothy C	49	W	F	()	()	()	_____
33 Robinson, Bruce L	145	W	M	()	()	()	_____
34 Pam, Dorothy A	129	B	F	()	()	()	_____
35 Felder, James E Jr.	53	B	M	()	()	()	_____

Total Number of Jurors: 35

**END OF REPORT **

Exhibit 3

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County
Deadra L. Jefferson, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

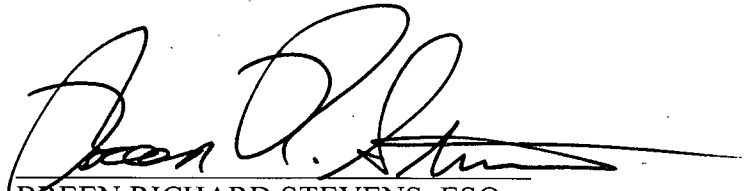
AFFIDAVIT OF BREEN RICHARD STEVENS, ESQUIRE

PERSONALLY appeared before me the Affiant, Breen Richard Stevens, Esq., who being duly sworn, does depose and state as follows:

1. I am an attorney licensed to practice in South Carolina.
2. I represented Tykeem K. May in his trial. The Honorable Deadra L. Jefferson presided. Harrison Bell and Ashley Cornwell represented the State.
3. I have reviewed pages 192-202 of the trial transcript, which is the record of jury selection. I have also reviewed the jury strike sheet.
4. Page 202 of the trial transcript omits motions made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986).

5. As is reflected in the transcript, the trial judge asked the State if there were any motions regarding jury selection. Mr. Bell indicated he had a motion and both he and I approached the bench. Mr. Bell then made a Batson motion, and I argued a separate Batson motion for Mr. May.
6. Judge Jefferson took one of the court reporter's recording devices and moved it from one place on the bench closer to the attorneys. Judge Jefferson then heard argument from Mr. Bell and me on our respective Batson motions. The court denied both motions.
7. It was my belief that these motions were recorded.
8. The basis of the Batson motion for the defense was that the State used all of its peremptory strikes against black males. Mr. May is a black male. Mr. Bell stated that he struck them because they were unemployed. However, Mr. Bell did not exercise strikes on other white jurors who were unemployed. It is my belief that Judge Jefferson's denial of the defendant's Batson motion constitutes a significant issue for appeal.

FURTHER AFFIANT SAYETH NOT.


GREEN RICHARD STEVENS, ESQ.

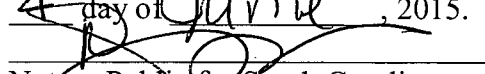
SWORN to before me on this
4 day of JUNE, 2015.

Notary Public for South Carolina
My Commission Expires: 2-2-25.

Exhibit 4

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County
Deadra L. Jefferson, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

AFFIDAVIT OF DAVID ALEXANDER, ESQUIRE

PERSONALLY appeared before me the Affiant, David Alexander, Esq., who being duly sworn, does depose and state as follows:

1. I am an attorney licensed to practice in South Carolina.
2. I represent Tykeem K. May in his appeal.
3. Soon after being assigned the case, I discussed the possible issues for appeal with trial counsel, Breen Stevens, a former appellate defender. He told me that he believed the denial of a motion made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) would be one of the significant issues in Mr. May's appeal.
4. Upon reviewing the transcript, I saw that it contained nothing about a Batson motion but indicated a motion by the State and a bench conference after jury selection.

5. I contacted Mr. Stevens and he confirmed the motions took place at the bench and that Judge Jefferson had placed a recording device on the bench to hear argument on the motions.
6. On April 30, 2015, I emailed the court reporter, Mia Perron, page 202 of the transcript and alerted her to Mr. Stevens' memory of a recorder used by Judge Jefferson. A copy of this email is attached as Exhibit A.
7. On May 11, 2015, court reporter Mia Perron responded that "I'm sorry, but we destroy after 30 days. I do not have the bench conference." A copy of this email is attached as Exhibit B.
8. It is my belief that it is necessary to reconstruct the arguments and ruling on the Batson motion in order to prepare this ground for appeal.

FURTHER AFFIANT SAYETH NOT.



DAVID ALEXANDER, ESQ.

SWORN to before me on this
5th day of June, 2015.

Mavis Hendrix (L.S.)

Notary Public for South Carolina

My Commission Expires: July 3, 2023.

Exhibit A

David Alexander

From: David Alexander
Sent: Thursday, April 30, 2015 1:57 PM
To: 'MPerron@sccourts.org'
Subject: State v. Tykeem May, 2014-GS-38-00189

Ms. Perron:

I am the appellate defender representing Tykeem May. Below I have cut-and-pasted a page from the transcript. The trial lawyer tells me that at the bench conference indicated at lines 9-10, the State and the defense made Batson motions related to jury selection. He also says that the trial judge put a voice recorder on the bench during this conference. Any chance you still have the recording of this conference?

Any help you can provide would be much appreciated. If you would like to give me a call, my direct dial is 803-734-1573.

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE CLERK OF COURT: You may have a seat in the
2 jury box, ma'am.

3 [Whereupon, Ms. Steele is seated in the jury box
4 as an alternate juror]

5 THE COURT: The jury has been selected. Are
6 there any motions from the State?

7 MR. BELL: Yes, Your Honor, the State does.

8 THE COURT: Please approach.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Ladies and gentlemen, we thank you
12 for your patience. We have selected the panel for
13 this case. If you would call the jury information
14 line after six o'clock, there will be a message to let
15 you know if we have further need of your services.

16 Again, we appreciate your patience. I hope
17 everyone has a wonderful day. You're excused with the
18 Court's appreciation.

19 [Whereupon, the jury panel exits at 11:35 a.m.]

20 THE COURT: Ladies and gentlemen, please stand
21 and raise your right hand so that the clerk can
22 administer the oath to you.

23 [Whereupon, the jury is duly sworn by the clerk
24 of court as follows: do you solemnly swear or affirm
25 that you shall well and truly try and true deliverance

MLA PERRON, CVR-CM-M

-202-

David Alexander
Appellate Defender
SCCID

Exhibit B

David Alexander

From: Perron, Mia <MPerron@sccourts.org>
Sent: Monday, May 11, 2015 8:58 PM
To: David Alexander
Subject: RE: State v. Tykeem May, 2014-GS-38-00189
Attachments: image001.png

Please forgive my taking so long to give you an answer. I was out of the country for two weeks and am just beginning to take normal breaths again. I'm sorry, but we destroy after 30 days. I do not have the bench conference.

Mia Perron
PO Box 31865
Charleston, SC 29417

From: David Alexander <dalexander@sccid.sc.gov>
Sent: Thursday, April 30, 2015 1:56 PM
To: Perron, Mia
Subject: State v. Tykeem May, 2014-GS-38-00189

Ms. Perron:

I am the appellate defender representing Tykeem May. Below I have cut-and-pasted a page from the transcript. The trial lawyer tells me that at the bench conference indicated at lines 9-10, the State and the defense made Batson motions related to jury selection. He also says that the trial judge put a voice recorder on the bench during this conference. Any chance you still have the recording of this conference?

Any help you can provide would be much appreciated. If you would like to give me a call, my direct dial is 803-734-1573.

[cid:image001.png@01D0834D.8000A230]

David Alexander
Appellate Defender
SCCID

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

JUN 05 2015

SC Court of Appeals

Appeal from Orangeburg County

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT


CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Motion To Remand For a Reconstruction of the Record in the above referenced case has been served upon opposing counsel, Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 5<sup>th</sup> day of June, 2015.

  
David Alexander  
Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me  
this 5<sup>th</sup> day of June, 2015.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 3, 2023.



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

June 5, 2015

RECEIVED

JUN 05 2015

SC Court of Appeals

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

Re: The State v. Tykeem K. May

Dear Ms. Kitchings:

Enclosed are an original and six copies of the Motion to Remand for a Reconstruction of a portion of the record in the above-captioned case. I previously received a request from the Court for a status update. I hope the Court will allow this motion to serve as that update. If further information is necessary, please do not hesitate to contact me.

Sincerely,

David Alexander  
Appellate Defender

DAA/mpm

Enclosure

cc: Salley W. Elliott, Esquire  
Mr. Tykeem K. May, #361073