

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Maite Murphy, Circuit Court Judge
Appellate Case Tracking No. 2013-002090

RECEIVED

JUN 25 2015

SC Court of Appeals

The State,

Respondent,

vs.

Stanley Wright,

Appellant.

**MOTION TO STRIKE PORTIONS OF INITIAL BRIEF OF APPELLANT;
STRIKE ITEMS FROM DESIGNATION OF MATTER; HOLD APPEAL
IN ABEYANCE; AND REQUIRE AN AMENDED INITIAL BRIEF OF
APPELLANT AND DESIGNATION OF MATTER**

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

Appellant served and filed an Initial Brief of Appellant and Designation of Matter on March 24, 2015. The State asks for certain items in the Designation of Matter to be stricken as not in compliance with Rules 209(b) and 210(c), SCACR. Further, the State requests various portions of the Initial Brief be struck as not proper for consideration on direct appeal or referencing matter which the State moves to strike from the Designation of Matter.

II.

In his Designation of Matter, Appellant includes numerous items which are not appropriate for inclusion in the Record on Appeal because they were not before the trial

court. See Rule 210(c), SCACR (“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”). First, Item 4, labeled as Exhibit A is an Affidavit by David Aiken which was created roughly one year after trial in this case and was clearly not before the trial court. Second, Items 7 and 8, labeled as Exhibits D-H, are photographs which appear to have been created by Appellant and are not appropriate for inclusion in the Record on Appeal because they were not presented to the trial court. Finally, Items 5 and 6, labeled as Exhibits B and C, seem to be duplicates of State’s Exhibits 4 and 5 filed with the trial court during the May 22, 2013 hearing. (See attached Exhibit 1). As a result, the State asks this Court to strike Items 4-8 from Appellant’s Designation of Matter.

III.

Additionally in Appellant’s Designation of Matter, he asks to include all exhibits from the trial on September 16-18, 2013. The State asks this Court to strike Item 3 from Appellant’s Designation because it includes numerous inappropriate and irrelevant items for inclusion in the Record or for transport to this Court. See Rules 209(b) and 210(c), SCACR. His Designation asking to include or transport all exhibits currently includes items such as a purple Crown Royal bag, which was used to hold the cocaine; three bags of marijuana; a bag of cocaine; digital scales; Appellant’s Visa card; and a sandwich bag box. (See attached Exhibit 2). None of these items are necessary or appropriate for transport to the Court of Appeals. Therefore, the State asks the Court to require a more specific Designation of Matter listing the specific exhibits from trial to be included in the Record on Appeal or transported to the Court to prevent improper and irrelevant items from being included or transported.

IV.

Appellant's Initial Brief, which has been filed with the Court, references numerous items included in his Designation of Matter which the State submits should be struck. As a result, all portions of the Brief referencing the various exhibits and affidavits should be struck from the Initial Brief of Appellant, and Appellant required to serve and file an Amended Initial Brief deleting any reference to those exhibits. Further, any discussion within the Amended Initial Brief should be required to be supported solely by exhibits or testimony properly within the Record on Appeal.

V.

Appellant also included an Issue on Appeal and Argument for Issue 3: "Whether trial counsel was ineffective for not interviewing witness who was present at the scene." The Issue and his Argument both center on ineffective assistance of counsel, which is an issue appropriately raised in Post-Conviction Relief and not in a direct appeal of his conviction and sentence. See State v. Kornahrens, 290 S.C. 281, 287, 350 S.E.2d 180, 184 (1986) (citing S.C. Code Ann. §§ 17-27-10 through 120 (1985); State v. Carpenter, 277 S.C. 309, 286 S.E.2d 384 (1982)) (finding claim of ineffective assistance of counsel in a capital murder appeal could not be addressed in direct appeal, but can only be raised under the Post-Conviction Relief Act). Accordingly, the State asks this Court to strike Issue 3 and any Argument section from Appellant's Initial Brief and require an Amended Initial Brief to not include Issue 3.

WHEREFORE, Respondent prays that the Court hold this matter in abeyance until ruling on this motion, strike items 3-8 of Appellant's Designation of Matter; strike Appellant's Initial Brief where it references inappropriate matters for inclusion in the Record on Appeal; strike Issue 3 and corresponding Argument from Appellant's Initial

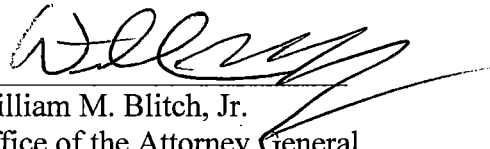
Brief; require Appellant to serve and file an Amended Initial Brief of Appellant; require Appellant to serve and file an Amended Designation of Matter to list specific exhibits for inclusion in the Record on transport to the Court; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General

BY:


William M. Blitch, Jr.
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

June 25, 2015

EXHIBIT 1

State versus Stanley Wright
 Pretrial, May 22, 2013
 Volume I of II

| 1 | <u>I N D E X</u> | PAGE |
|----|-------------------------------------|------|
| 2 | DESCRIPTION | |
| 3 | PROCEEDINGS | 4 |
| 4 | WITNESS: JONATHAN ALLEN COLLIER | |
| | Direct Examination by Mr. Shelton | 8 |
| 5 | Cross-Examination by Mr. Bauer | 25 |
| | Redirect Examination by Mr. Shelton | 28 |
| 6 | WITNESS: MITCHELL ARCHBELL | |
| 7 | Direct Examination by Mr. Shelton | 29 |
| | Cross-Examination by Mr. Bauer | 49 |
| 8 | Redirect Examination by Mr. Shelton | 51 |
| 9 | WITNESS: MELANIE SMITH | |
| | Direct Examination by Mr. Shelton | 54 |
| 10 | WITNESS: KATHLEEN JONES-GOODING | |
| 11 | Direct Examination by Mr. Shelton | 77 |
| 12 | REPORTER'S CERTIFICATE | 126 |

| 13 | <u>E X H I B I T S</u> | I.D. | ADMITTED |
|----|--|------|----------|
| 14 | DESCRIPTION | | |
| 15 | (State's Exhibit Numbers 1 through 5 are | | |
| 16 | pre-marked for identification before the | | |
| 17 | proceedings begin.) | | |
| 18 | State's Exhibit 1 | | 43 |
| 19 | State's Exhibit 4 | | 63 |
| 20 | State's Exhibit 5 | | 63 |
| 21 | State's Exhibit 3 | | 74 |
| 22 | State's Exhibit 2 | | 81 |
| 23 | | | |
| 24 | | | |
| 25 | | | |

Reported By:
 Rolayne M. Volpe, CCR, RPR
 Official Court Reporter for the State of South Carolina

State versus Stanley Wright
Pretrial, May 22, 2013
Volume I of II

1 Q Do you have knowledge of the system?

2 A Yes.

3 Q And you regularly pull these reports?

4 A Yes.

5 Q Thank you.

6 (Document is shown to Mr. Bauer.)

7 MR. BAUER: No objection.

8 MR. SHELTON: Thank you, your Honor. Thank you

9 Mr. Bauer.

10 Q (By Mr. Shelton) I'm going to --

11 MR. SHELTON: May I approach, your Honor?

12 THE COURT: You may.

13 MR. SHELTON: Thank you.

14 Q (By Mr. Shelton) -- hand you what's been
15 previously marked State's Exhibit 4 and 5. I want you
16 to describe to the Court what those are.

17 A The first one, Number 5 -- no, I'll do Number 4
18 first. I'm sorry. Number 4 is the event log for the
19 Sheriff's Department, Event 201108310543. And this is a
20 printout of all the actions that were done in the
21 computer on this certain event. So every --

22 Q Now -- sorry. Go ahead.

23 A -- from the time it was dispatched to the time
24 the officers cleared. So the beginning of the event to
25 the end of the event, it's got all the actions the

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Volume I of II

1 Q What does that refer to?

2 A That's his call sign. It's a number assigned
3 by the department they work for that we use to
4 communicate with them.

5 Q Now, on Exhibit Number 5, that I referred to,
6 it says CAPS. What does that stand for, at the top?

7 A At the top?

8 Q Yeah.

9 A Oh, CAPS is -- well, we use the CAD. It's
10 a -- it's an acronym in the computer-aided dispatch for
11 the program that the officers use to pull reports.

12 Q Correct. And C-A-P-S, what does that stand
13 for?

14 A I'm not sure what the actual acronym stands
15 for.

16 Q So it's not CAD, but they're --

17 A Yeah.

18 Q And how is the CAPS report different from CAD
19 reports?

20 A They come from the same thing. There's
21 different modules in our system. One is CAPS, which the
22 officers use to fill in information. There's also like
23 what's called an ECAD, which the dispatcher uses.
24 There's also what's called JAMS, which the jail uses.
25 They're just different modules in the system where they

Reported By:
Rolayne M. Volpe, CCR, RPR
Official Court Reporter for the State of South Carolina

EXHIBIT 2

I-N-D-E-X - CON'T

E-X-H-I-B-I-T-S

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EVD.</u> |
|------------|--|------------|-------------|
| 4 | CT.1 Note from Bailiff 9/17/13 | | P.173 |
| 5 | CT.2 Fax from Juror to Clerk | | P.269 |
| 6 | CT.3 Affidavit from Tom Paige | | |
| 7 | dated 9/18/13 | | P.529 |
| 8 | CT.4 Jury Charge | | P.530 |
| 9 | CT.5 Jury Charge/Second Print. | | P.581 |
| 10 | CT.6 Jury Note/Question from jury | | |
| 11 | with Judge's response. | | P.589 |
| 12 | ST.1 Photograph | P.89 | P.233 |
| 13 | ST.2 911 Call | P.89 | |
| 14 | ST.3 911 Call | P.89 | |
| 15 | ST.4 911 Call | P.89 | |
| 16 | ST.5 Not entered into evidence | | |
| 17 | ST.6 Photo of digital scales. | | P.353 |
| 18 | ST.7 Purple Crown Royal Bag | | P.346 |
| 19 | ST.8 Photo of Photo of | | |
| 20 | Defendant in mirror. | | P.356 |
| 21 | ST.9 Close up of St.8 | | P.356 |
| 22 | ST.10 Photograph | | P.245 |
| 23 | ST.11 Photograph | | P.244 |
| 24 | ST.12 Photo/Visa Card. | | P.351 |
| 25 | ST.13 Close up of St.12. | | P.351 |

I-N-D-E-X- CON'TE-X-H-I-B-I-T-S

| 3 | <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EVD.</u> |
|----|------------|--|------------|-------------|
| 4 | ST.14 | Photograph | | P.233 |
| 5 | ST.15 | Photo/MB Closet, shoes | | P.364 |
| 6 | ST.16 | Photograph | | P.233 |
| 7 | ST.17 | Photograph | | P.233 |
| 8 | ST.18 | Photo/marijuana. | | P.233 |
| 9 | ST.19 | Photo/marijuana. | | P.330 |
| 10 | ST.20 | Photo/2 Mason jars | | P.358 |
| 11 | ST.21 | Photo/shoes & mail | | P.372 |
| 12 | ST.22 | Not entered into evidence | | |
| 13 | ST.23 | Not entered into evidence | | |
| 14 | ST.24 | Photo/Currency | | P.374 |
| 15 | ST.25 | Photo/Currency | | P.374 |
| 16 | ST.26 | Photo/Currency | | P.374 |
| 17 | ST.27 | Duplicate Exhibit | | |
| 18 | ST.28 | Diagram/Home Interior. | | P.324 |
| 19 | ST.29 | Photo/Home Exterior. | | P.325 |
| 20 | ST.30 | 3 bags marijuana | | P.448 |
| 21 | ST.31 | Cocaine Bag. | | P.512 |
| 22 | ST.32 | Defendant's Visa Card. | | P.351 |
| 23 | ST.33 | Photograph of Def. (Original). | | P.357 |
| 24 | ST.34 | Digital Scales | | P.354 |
| 25 | ST.35 | Sandwich bag box | | P.344 |

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PROOF OF SERVICE

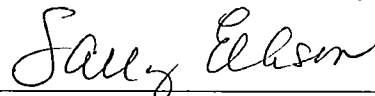
I, Sally Ellison, certify that I have served the Motion To Strike Portions Of Initial Brief Of Appellant; Strike Items From Designation Of Matter; Hold Appeal In Abeyance; And Require An Amended Initial Brief Of Appellant And Designation Of Matter on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

C. Andrew Carroll, Esquire
Carroll Law Firm, LLC
44 Markfield Drive, Suite C
Charleston, South Carolina 29407

Valerie V. Vie, Esquire
Soyna Chachere-Compton, Esquire
5682 Palazzo Way, Suite 102
Douglas, Georgia 30134

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

This 25th day of June, 2015.



SALLY ELLISON
Office of Attorney General
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(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

June 25, 2015

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SC Court of Appeals

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

Re: State v. Stanley L. Wright

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of a Motion along with proof of service for filing in the above-referenced appeal.

Sincerely,

William M. Blich, Jr.
Assistant Attorney General

Enclosures

cc: C. Andrew Carroll, Esquire
Valerie V. Vie, Esquire
Soyna Chachere-Compton, Esquire
Victim Services