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September 28, 2015

The Honorable Jenny Kitchings
Clerk of Court for Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RECEIVED

OCT 01 2015

SC Court of Appeals

RE: The State v. Quentin Price, Appellate Case No. 2015-001779

Dear Ms. Kitchings:

Per my conversation today, September 28, 2015, with the case manager in the above-referenced appeal, please accept this letter in response to your notice, dated September 23, 2015, regarding the ordering of the transcript in this case. In order to address the issue raised in the notice, I will provide a brief summary of the procedural posture of this case, and the reasons that this has led to some confusion on my part.

The appeal in this case was originally filed on October 14, 2014; however, Respondent filed a Petition for Rehearing on October 17, 2014, followed by Appellant's Reply on October 22, 2014. No action was taken on the Petition until March 25, 2015, when the Honorable William P. Keesley, who presided over the appeal at the Circuit Court level sent an email to the parties asking whether the Petition still needed to be addressed. In response, Respondent filed a Motion to Dismiss or, Alternatively, to Remand, and this Court dismissed without prejudice, pursuant to Rule 59, SCACR, and remanded to the Circuit Court for the Petition to be addressed.

Upon remand, Judge Keesley issued an order setting forth the guidelines for addressing the petition; however, shortly thereafter, on July 8, 2015 Respondent withdrew the Petition. Judge Keesley issued a final order in the form of a Form 4 Judgment in a Civil Case, which was provided upon request to the Clerk of Court on August 13, 2015. I initially re-filed the Notice of Appeal on August 21, 2015; however, I forgot to include the order from which the appeal was taken. After receiving a notice from the Court that the order was not included, an Amended Notice of Appeal was filed on August 31, 2015.

From the point of filing the Amended Notice of Appeal through receiving the Court's notice on Friday, a few factors were at play that led to confusion on my part as to the next step. First, because the Notice of Appeal was a re-file, as opposed to an original filing, and the transcript of the circuit court oral argument had already been requested and received, I was not sure whether I needed to file something with the Court indicating that the transcript had already been requested and received or whether this was known to the Court because of the earlier proceedings. I recalled from the first filing that the Court sent a letter to the parties providing the new case caption and appellate case number after the Notice of Appeal had been properly filed, and I was not sure whether that caption would be different than the original one, so I thought that I would call the Court to ask what needed to be filed in lieu of the transcript request once I had the new case number to reference and had confirmation that the

appeal was properly filed.

I received the letter from the Court that provided the case caption around September 16 or 17, 2015. We were in the middle of a term of General Sessions court at the time, and I was in court every day that week before going out of town on Friday, September 18, 2015. The following week, I was again out of town in training at the annual Public Defender Conference through Wednesday, September 23, 2015. On Thursday, September 24, 2015, I reviewed the letter again to ensure that I had not missed an instruction regarding the next filing or a date and planned to call the Court the following morning.

When I arrived to work the next day, I received the notice from the Court regarding the transcript request. I immediately called the Court and left a voicemail for the case manager assigned to my case, attempted to locate an applicable appellate court rule, and contacted other attorneys to request advice as to how to proceed. Until this time, I had interpreted the "if no transcript is ordered" language of Rule 208(a)(1), SCACR, as applying to a case where no transcript was ordered at all and therefore not applying to this case, since a transcript was ordered and received previously. After discussing the issue with another attorney, we grew concerned that I had misinterpreted this rule and that the brief would now be due sooner than previously thought.

Because of the General Sessions term of court, the Public Defender Conference, and other intervening circumstances that have arisen since the filing of the Notice of Appeal and Amended Notice of Appeal, my initial brief and designation of matter were not yet complete, so I filed a Petition for Extension. Knowing that the original re-filed Notice of Appeal was deemed deficient for failing to include the order, I believed that the date the Amended Notice of Appeal was filed would be considered the date of filing for purposes of calculation of time, which is why I believed the initial brief due date under Rule 208(a)(1), if applicable, to be September 30, 2015. When the case manager returned my call this morning, she indicated that she had spoken with a supervisor who had told her that the original Notice of Appeal filing date was the one used for calculating the brief's due date and that Rule 208(a)(1) was applicable in this case.

I apologize for my confusion in how to proceed under these circumstances. This is my first appeal before this Court, so I am unfamiliar with the nuances of the procedural rules for this type of situation. If I need to provide anything else to the Court in lieu of the transcript request, please let me know. I would also ask that the Court take these matters into account in determining the status of this case and whether to grant my Petition for Extension to File Initial Brief and Designation of Matter. Additionally, if a motion to file an extension out of time is necessary to supplement the original Petition and this letter, please let me know, and I will file one immediately.

Sincerely,



Jael D. Gilreath
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(803) 785-8873

CC: Salley W. Elliott, Esquire

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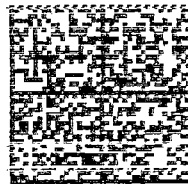


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