

Allen, Claire

From: Zelenka, Don
Sent: Wednesday, November 04, 2015 3:07 PM
To: Kitchings, Jenny; Allen, Claire
Cc: Matt Bogan; Robert M. Dudek
Subject: State v. Earnest Daise - Status of Initial Brief of Respondent

2013-002394

Ms. Kitchings and Ms. Allen:

I wanted to give you a heads up that the Initial Brief of Respondent has not been mailed/filed as of yet. I intend to file the Brief with a motion to allow filing on Friday November 4, 2015. The primary reason is that I realized while preparing the brief that I did not have in my possession a copy of a pretrial transcript where a hearing was held related to the initial claim in the Initial Brief of Appellant which was not provided to this Office by Appellate Defense and I have learned that Appellate Defense also did not have a copy .

I received a partial copy of the September 26, 2013 pretrial hearing this morning through the 14th Circuit Solicitors Office. I immediately provided a copy to opposing counsel. The additional material is significant on the first issue in the briefs concerning the surviving child victim's statement. This includes the pretrial testimony from two paramedics and the argument and includes Judge Mullen's actual ruling on the objection that was made at the hearing on September 26, 2013.

I have advised opposing counsel of this and my intent to file Friday and Mr. Matthew Bogan has indicated his consent by email.

I am sorry for the delay in this matter but sometimes issues go to unexpected places.

LV
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