

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Steven H. John, Circuit Court Judge

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OCT 21 2015

Respondent **SC Court of Appeals**

THE STATE,

v.

ARMANDO K. CHESTNUT,

Appellant.

Appellate Case No. 2013-002123

**MOTION TO ALLOW FILING OF JOINT
SUPPLEMENTAL RECORD ON APPEAL**

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The Respondent, above-named, through its undersigned counsel, would respectfully show unto this Court the following:

I.

On September 18, 2015, the State filed and served its Initial Brief of Respondent and Designation of Matter. In the Initial Brief of Respondent, counsel made reference to Trial Transcript pages 569, 832-850, and 948-62. Also, counsel for Respondent referenced *State v. Chestnut*, Order Denying Motion for New Trial-Amended, dated September 26, 2013. In its Designation of Matter, the State inadvertently failed to designate Trial Transcript pages 569, 832-850, 948-62 and the September 26, 2013 Order. Below-signed counsel realized this when preparing the Final Brief of Respondent for the October 21, 2015 filing on October 20, 2015.

On October 20, 2015, Robert Dudek, counsel for the Appellant advised by telephone

messages of his desire to file his own Supplemental Record on Appeal to include Order Denying the Motion for New Trial-Amended due to his failure to designate the same material, but was unable to communicate with counsel due to counsel being out of town. On October 20, 2015, prior to receiving below-signed counsel consent due to counsel being in Beaufort County, Appellant's counsel filed a motion and proposed Supplemental Record on Appeal.

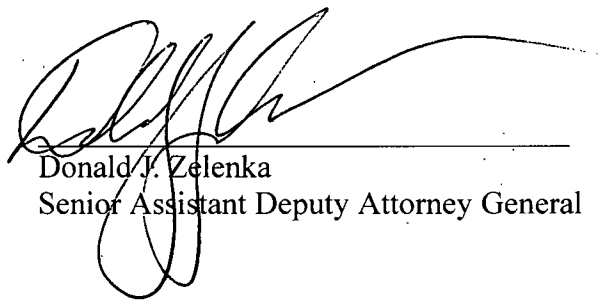
On October 21, 2015, counsel for Appellant advised below-signed counsel of his consent and agreement to withdraw his requested Supplemental Record and consent to allow the record to be supplemented to include this material.

II.

Because cited portions of the trial transcript within the Initial Brief of Respondent was inadvertently omitted from the Respondent's original Designation of Matter and Record on Appeal, the State believes it is necessary to file a Supplemental Record on Appeal containing the inadvertently omitted matter. See Rule 210(c), SCACR ("The Record on Appeal shall include all matter designated to be included by any party under Rule 209[.]"). Counsel for Appellant has indicated to the undersigned counsel for the State that he has no objection to the request. For the foregoing reasons, the State asks this Court to permit and accept the filing of a Supplemental Record on Appeal containing the designated matter inadvertently omitted from the Record on Appeal.

Wherefore, Respondent prays that this Court will allow the State to file a Supplemental Record on Appeal; accept the filing of the State's Supplemental Record on Appeal; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,



Donald J. Zelenka
Senior Assistant Deputy Attorney General

October 21, 2015

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THE STATE,

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Appellate Case No. 2013-002123

CERTIFICATE OF SERVICE

I, **Donald J. Zelenka**, hereby certify that I have served the Motion to File Supplemental Record on Appeal in the foregoing action by depositing copy of same in the the InterAgency Mail to Robert M. Dudek, Chief Appellate Defender, SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201, this 21st day of October, 2015.



DONALD J. ZELENIKA
Senior Assistant Deputy Attorney General



ALAN WILSON
ATTORNEY GENERAL

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SC Court of Appeals

October 21, 2015

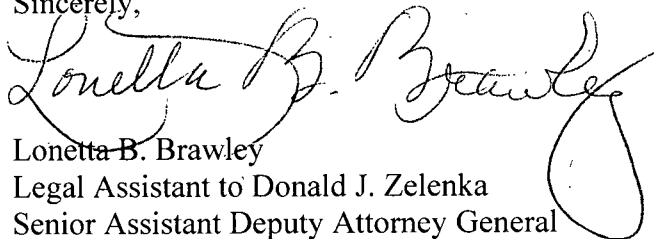
Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: The State v. Armando Chestnut
Appellate Case No. 2013-002123

Dear Ms. Kitchings:

Enclosed please find the original and nine (9) copies of the **Final Brief of Respondent** in the above-referenced case for filing. Also, enclosed please find **Respondent's Motion to Allow Filing of Joint Supplemental Record on Appeal** to include matters missing from the Record on Appeal along with the original and one (1) copy of the **Supplemental Record on Appeal** in this matter. By copy of this letter, I am serving opposing counsel with same.

Sincerely,


Lonetta B. Brawley
Legal Assistant to Donald J. Zelenka
Senior Assistant Deputy Attorney General

/lbb
Enclosures

cc: Robert M. Dudek, Esquire
Jimmy A. Richardson, Solicitor
Trisha Allen, Victim Assistance