

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of General Sessions  
Knox McMahon, Circuit Court Judge

Court of Appeals Case No. 2014-000051

RECEIVED  
NOV 25 2015  
SC Court of Appeals

The State of South Carolina,

Respondent,

v.

Kenneth Ordell Murray,

Appellant.

Motion to Dismiss

or to Direct Counsel for Appellant to File the Final Brief of Appellant

*Handwritten initials and number:*  
#126

ALAN MCCRORY WILSON  
Attorney General

AMIE L. CLIFFORD  
Special Assistant Attorney General  
*aclifford@cpc.sc.gov*  
S.C. Bar No. 1285

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3727

SCARLETT A. WILSON  
Solicitor, Ninth Judicial Circuit

101 Meeting Street, Suite 400  
OT Wallace Building  
Charleston, South Carolina 29401  
(843) 958-1900

Other Counsel of Record:

LEAH B. MOODY, Esquire  
*lbmatty@comporium.net*  
Law Office of Leah B. Moody, LLC  
235 East Main Street, Suite 115  
Rock Hill, South Carolina 29730  
(803) 327-4192

ROBERT M. DUDEK  
Chief Appellate Defender  
*rdudek@sccid.sc.gov*  
S.C. Comm'n on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, South Carolina 29211  
(803) 734-1330

ATTORNEYS FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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

I.

The South Carolina Commission on Indigent Defense is participating in a multiple-year Appellate Practice Project designed to assist the Commission's Appellate Division control and reduce its caseload, while providing South Carolina attorneys with the opportunity to gain appellate experience in cases before the South Carolina Court of Appeals. Under the project, volunteer lawyers serve – as co-counsel with Appellate Defense – as counsel for indigent criminal defendants on direct appeal in the South Carolina Court of Appeals.

II.

This case is one in which the Appellant is being represented through the Project. Leah B. Moody, Esquire, a volunteer with the Project, is representing Appellant with Robert M. Dudek, Director, Division of Appellate Defense.

*RM*  
#2084

III.

The undersigned attorney has volunteered to handle some of the Project cases for the South Carolina Attorney General's Office, and is serving as a Special Assistant Attorney General for that purpose. She is representing the State in this appeal.

IV.

Under Rule 211(a), SCACR, the final briefs of all parties are due within 20 days after service of the Record on Appeal.

V.

The Record on Appeal in this case was filed with this Court on August 5, 2015, and the final briefs from both parties were due to be filed on or before August 25, 2015.

VI.

The Final Brief of Respondent was filed on August 24, 2015.

VII.

On November 5, 2015, the undersigned attorney was informed by the Attorney General's Office that it had not yet received the Final Brief of Appellant. The undersigned attorney emailed Appellant's counsel, Leah B. Moody and Robert M. Dudek, and spoke to Ms. Moody on the telephone. At that time, the undersigned counsel told Ms. Moody that a motion to file out of time would need to be filed, but that she, on behalf of the State, would consent.

VIII.

On Friday, November 13, 2015, the undersigned counsel, following up on the November 5 communications with Counsel for Appellant, communicated by email with Salley Elliott, her supervisor in the Attorney General's Office, as well as Mr. Dudek, co-counsel for Appellant. In that email, she informed them that she still had not received a motion and questioned whether a motion to dismiss should be filed. Mr. Dudek responded that Ms. Moody was going to get the final brief done. (A copy of that email exchange is attached as Attachment A and incorporated herein.)

Handwritten initials and the number #396.

IX.

It has been three (3) months since the original deadline for filing the Final Brief of Appellant with no action taken by Appellant's counsel to either file the brief or obtain more time for doing so from this Court. Neither the Final Brief nor a motion to file the Final Brief out-of-time has been served upon the State. The undersigned counsel has not been contacted further by either Ms. Moody or Mr. Dudek.

XI.

Under Rule 260(a), the Clerk of the Court of Appeals shall issue an order of dismissal whenever an appellant has failed to comply with the requirements of these Rules. The Clerk has not taken any action in this matter.

For the foregoing reasons, the State asks that the appeal in this matter be dismissed or, in the alternative, that Counsel for Appellant be directed to file the Final Brief of Appellant within 20 days.

Respectfully submitted,

ALAN MCCRORY WILSON  
Attorney General

AMIE L. CLIFFORD  
Special Assistant Attorney General  
aclifford@cpc.sc.gov

Post Office Box 11549  
Columbia, South Carolina 29211  
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SCARLETT A. WILSON  
Solicitor, Ninth Judicial Circuit

101 Meeting Street, Suite 400  
OT Wallace Building  
Charleston, South Carolina 29401  
(843) 958-1900

BY:   
ATTORNEYS FOR RESPONDENT

November 25, 2015

Columbia, South Carolina




**From:** Robert M. Dudek  
**To:** Clifford, Amie; Salley W. Elliott  
**Cc:** Anne Mueller; Sean Flynn  
**Subject:** RE: South Carolina v. Kenneth Oradell Murray (2014-000051) - Final Brief of Appellant  
**Date:** Friday, November 13, 2015 5:07:11 PM

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Amie: We have been in touch in Leah about this. She has promised to get it done. We only do the printing, and offer suggestions when asked. We will try again next week explaining the urgency given a possible motion to dismiss. I am copying Sean Flynn on this email since Sean works most closely with Leah. Thanks –

Bob  
803-734-1955

Robert M. Dudek  
Chief Appellate Defender  
South Carolina Commission on Indigent Defense  
Appellate Division  
1330 Lady Street, Suite 401  
PO Box 11589  
Columbia, SC 29201-1589  
(803) 734-1330 – Telephone  
(803) 734-1397 - Fax



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**From:** Clifford, Amie [mailto:[aclifford@cpc.sc.gov](mailto:aclifford@cpc.sc.gov)]  
**Sent:** Friday, November 13, 2015 4:45 PM  
**To:** Salley W. Elliott; Robert M. Dudek  
**Cc:** Anne Mueller  
**Subject:** FW: South Carolina v. Kenneth Oradell Murray (2014-000051) - Final Brief of Appellant

Have heard nothing since I sent this email on November 5. If she doesn't file the motion next week, do I file a motion to dismiss? What are you guys doing in these cases?

*Amie L. Clifford*  
*Education Coordinator*  
*South Carolina Commission on Prosecution Coordination*  
*Wade Hampton Building, Suite B-03*  
*1200 Senate Street*  
*Post Office Box 11561*  
*Columbia, South Carolina 29211-1561*  
*(803) 832-8275*  
*FAX: (803) 343-0766*  
*[aclifford@cpc.sc.gov](mailto:aclifford@cpc.sc.gov)*

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**From:** Clifford, Amie  
**Sent:** Thursday, November 05, 2015 2:39 PM  
**To:** 'Leah Moody'; Robert M. Dudek  
**Cc:** Kimberly McCall  
**Subject:** RE: South Carolina v. Kenneth Oradell Murray (2014-000051) - Final Brief of Appellant

*State v. Kenneth Ordell Murray: Attachment A to Motion to Dismiss or  
to Direct Counsel for Appellant to File the Final Brief of Appellant*

Leah and Bob,

I've received both of your emails and Leah called me around 12:30 and said she still needs to prepare it. Because it was due back, I think, on either August 24 or 25, you'll have to file a motion to file out of time. I will consent to filing out of time.

Amie

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**From:** Leah Moody [<mailto:lbmatty@comporium.net>]  
**Sent:** Thursday, November 05, 2015 12:34 PM  
**To:** Clifford, Amie  
**Cc:** Robert M. Dudek; Kimberly McCall  
**Subject:** Re: South Carolina v. Kenneth Oradell Murray (2014-000051) - Final Brief of Appellant

Working on it. Been in court and with a bunch of deadlines with retained clients. Crazy times without a paralegal.

Leah B. Moody  
Law Office of Leah B. Moody, LLC  
Sent from my iPhone

On Nov 5, 2015, at 12:27 PM, Clifford, Amie <[aclifford@cpc.sc.gov](mailto:aclifford@cpc.sc.gov)> wrote:

Hi Leah and Bob,

Just checking to see if the Final Brief has been filed. I don't think I received a copy and the AG has not received a copy.

Thanks,

Amie

Amie L. Clifford  
Special Assistant Attorney General  
Post Office Box 5010  
Columbia, South Carolina 29250  
(803) 760-3072  
FAX: (803) 343-0766  
[aclifford@cpc.sc.gov](mailto:aclifford@cpc.sc.gov)

*AL*  
*#684*

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of General Sessions  
Knox McMahan, Circuit Court Judge

Court of Appeals Case No. 2014-000051

RECEIVED  
NOV 25 2015  
SC Court of Appeals

The State of South Carolina,

Respondent,

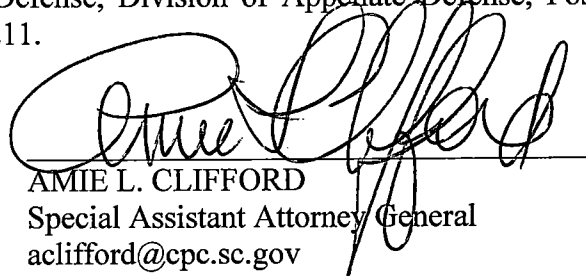
v.

Kenneth Ordell Murray,

Appellant.

PROOF OF SERVICE

I certify that I have today served the Motion to Dismiss or to Direct Counsel for Appellant to File the Final Brief of Appellant on Appellant, Kenneth Ordell Murray, by depositing one copy of such in the United States Mail, first class postage prepaid, addressed to his attorney of record, Leah B. Moody, Esquire, Law Office of Leah B. Moody, LLC, 235 East Main Street, Suite 115, Rock Hill, South Carolina 29730, and by depositing one copy of such in the United States Mail, first class postage prepaid, addressed to his co-counsel, Robert M. Dudek, Esquire, S.C. Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina 29211.

  
AMIE L. CLIFFORD  
Special Assistant Attorney General  
aclifford@cpc.sc.gov  
S.C. Bar No. 1285

Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727 or 760-3072

November 25, 2015  
Columbia, South Carolina



ALAN WILSON  
ATTORNEY GENERAL

November 25, 2015

RECEIVED  
NOV 25 2015  
SC Court of Appeals

Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

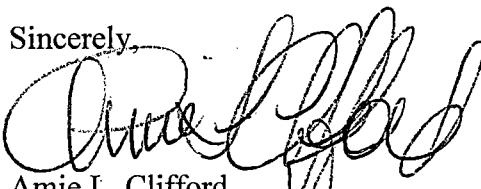
RE: *State v. Kenneth Ordell Murray*, Appellate Case No. 2014-000051

Dear Ms. Kitchings:

Enclosed for filing, please find the original and six copies of the State's Motion to Dismiss or to Direct Counsel for Appellant to File the Final Brief of Appellant in the above-referenced appeal. I have also enclosed the original Proof of Service indicating service of the Motion to Dismiss or to Direct Counsel for Appellant to File Final Brief of Appellant on today's date.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Amie L. Clifford  
Special Assistant Attorney General  
aclifford@cpc.sc.gov  
S.C. Bar No. 1285

ALC/  
Enclosures (as stated)

cc: Leah B. Moody, Esquire, Counsel for Appellant (with motion and proof of service)  
Robert M. Dudek, Esquire, Chief Appellate Defender (with motion and proof of service)  
Ms. Trisha Allen, Victim Services