

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Charleston County

DEC 14 2015

R. Markley Dennis, Jr., Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ALAN L. BURNS,

APPELLANT

APPELLATE CASE NO. 2012-212760

PETITION TO FILE SUPPLEMENTAL RECORD

Pursuant to Rule 212 of the South Carolina Appellate Court Rules, undersigned counsel requests leave to file supplemental records in the above titled appeal. In support of the motion, counsel submits the following.

1. When ordering transcripts in this case, undersigned counsel initially received a transcript dated July 15, 2012 from the court reporter, Anne Bouley Meyer. Appellant challenged the transcript directly with the court reporter. Ms. Meyer agreed with the challenge in two respects: (1) the date was incorrect because it *should have been* dated June 15, 2012; and (2) the transcript omitted a "disturbance." Thus, Ms. Meyer sent undersigned counsel a transcript dated June 15, 2012 and included a "disturbance." Undersigned counsel proposes to supplement the record with the letter from Ms. Meyer regarding those changes.

2. The Initial Brief of Appellant was filed on October 30, 2014. When undersigned counsel's office sent the transcripts to opposing counsel, the transcripts dated July 15, 2012 and June 15, 2012 were sent. However, undersigned counsel's office did *not* send the letter from Ms. Meyer regarding the corrected transcript to opposing counsel. Thus, opposing counsel was unaware of the corrections to the transcript. In other words, opposing counsel believed there had been hearings in the case on June 15, 2012 and July 15, 2012 based upon the dates on the covers of the transcripts and the failure of undersigned counsel to send the letter from Ms. Meyer regarding the corrections.

3. The Initial Brief of Respondent was filed on August 17, 2015, which included a reference to hearings on July 15, 2012 and June 15, 2012 in the body of the brief (Statement of Facts, p. 4). Respondent also designated the transcripts of both hearings in their entirety, excluding the certificate pages.

4. Copies of the record on appeal in the case were filed with this Court on September 17, 2015. The record on appeal included the July 15, 2012, and June 15, 2012 transcripts as designated.

5. On September 23, 2015, the Final Brief of Respondent was filed, and on October 12, 2015, the Final Brief of Appellant was filed. The Final Brief of Respondent included the reference to both hearing dates (Statement of Facts, p. 4).

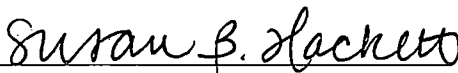
6. Subsequent to these filings and at the instigation of Appellant, undersigned counsel discovered her error in failing to transmit the letter from the court reporter to opposing counsel to explain that the June 15, 2012 transcript and the July 15, 2012

transcripts concerned the same hearing and that the court reporter had corrected the date and added a "disturbance."

7. Undersigned counsel requests permission to supplement the record with the letter from the court reporter, Ms. Meyer, so that the record is clear that the hearing occurred on June 15, 2012 and included a "disturbance." There was no hearing on July 15, 2012.

8. As indicated below, opposing counsel consents to this petition request. The undersigned is authorized to advise the Court Respondent's arguments on appeal are not impacted by the supplemental information, and Respondent will file an amended Final Brief to delete the two incident references to the July 15, 2012 hearing if required by the Court.

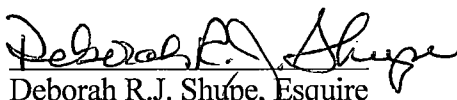
WHEREFORE, counsel for appellant requests leave to file supplemental records in the above titled appeal.


Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

December 14, 2015

I consent:


Deborah R.J. Shupe, Esquire

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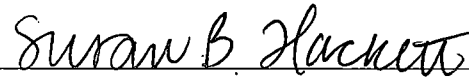
ALAN L. BURNS,

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CERTIFICATE OF SERVICE

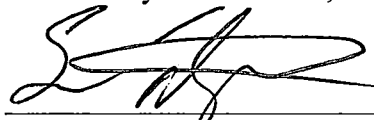
The undersigned attorney hereby certifies that a true copy of the Petition to File Supplemental Record in the above referenced case has been served upon Deborah R.J. Shupe, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of December, 2015.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 14th day of December, 2015.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

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SC Court of Appeals

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

Re: The State v. Alan Burns

Dear Ms. Kitchings:

Enclosed are an original and six copies of the Petition to File Supplemental Record on Appeal in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/smf

Enclosure

cc: Deborah R.J. Shupe, Esquire
Alan Burns