

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

79392

APPEAL from Court of Common Pleas of CHARLESTON COUNTY

RECEIVED

J.C. Nicholson, Circuit Court Judge

APR 27 2016

CASE NO. 2014-CP-10-5355
Appellate Case No. 2016-000748

SC Court of Appeals

IN RE Estate of Norman R. Knight, Jr., (deceased), and Estate of Mildred C. Knight, (deceased),
and Norman Robert 'Bobby' Knight, III, Plaintiffs,

Of whom Norman Robert "Bobby" Knight, III is the Appellant,

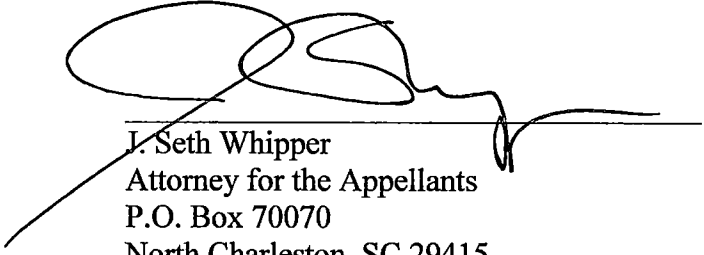
v.

Beatrice A. Whitten, as a Special Administrator, and Chloe Knight-Tonney, Respondents,

MOTION TO REQUEST A TRANSCRIPT OUT OF TIME

NOW comes Appellants to request a Transcript Out of Time. Appellants requested a copy of the transcript for the November 9, 2015 hearing before the Honorable J. C. Nicholson, Jr. in a letter dated April 19, 2016. Appellants filed and served their notice of appeal on April 8, 2016. Appellants inadvertently and mistakenly confused the date when the civil appeal transcript should be requested with the later filing date of the criminal appeal transcript request. This motion is based on the South Carolina Rules of Court and applicable law.

April 25, 2016


J. Seth Whipper
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

Other Counsel of Record:

Beatrice E. Whitten, Esquire
C. Mac Gibson, Esquire

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IN RE Estate of Norman R. Knight, Jr., (deceased), and Estate of Mildred C. Knight, (deceased),
and Norman Robert ‘Bobby’ Knight, III, Plaintiffs,

Of whom Norman Robert ‘Bobby’ Knight, III is the Appellant,

v.

Beatrice A. Whitten, as a Special Administrator, and Chloe Knight-Tonney, Respondents,

MEMORANDUM IN SUPPORT OF MOTION TO REQUEST TRANSCRIPT OUT OF
TIME

DISCUSSION

Appellants filed and served the original Notice of Appeal on April 8, 2016. This Notice of Appeal was filed after receipt on March 11, 2016 of written notice of entry of the order denying post-trial motions. On April 11, 2016, Appellants wrote the Clerk of Court notifying the Court that the within appeal would cover several additional orders, and on April 18, 2016, Appellants responded to a clerk office letter regarding correction of the title of this appeal. On April 19, 2016, Appellant requested a copy of the transcript (Exh.1). In preparing for the next level of filings, Appellants recognized that the transcript was requested one (1) day after the date directed in the proceedings. Appellants mistakenly and inadvertently confused the date when the civil appeal transcript should be requested with the later filing date of the criminal appeal transcript request.

The transcript of the oral argument is relevant and necessary to the record of all proceedings. The transcript will certify the issues presented to the lower tribunal and provide

clarification on the positions of the parties. All appeals require a bonafide record. Jackson v. Jackson, 256 S.C. 127, 181 S.E.2d 266, (1971); Robert Harmon and Bore, Inc. v. Jenkins, 282 S.C. 189, 318 S.E.2d 371 (Ct. App.1984).

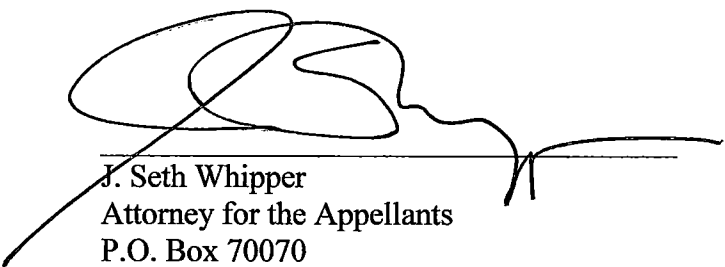
Because the transcript was requested one (1) day beyond the normal date, the flow of the proceedings is not effected adversely, and Appellants' have addressed the matter promptly. The Appellants are presenting major and profound issues, and Respondents will not be prejudiced by the use of the transcript of the lower tribunal hearing. Appellants' prompt response has significantly diminished the impact of this issue and does not alter the normal limits for this appeal. The request for the transcript out of time should be allowed. Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992).

CONCLUSION

Appellants should be allowed to request the transcript of the lower tribunal hearing no later than April 19, 2016.

Respectfully Submitted,

April 25, 2016



J. Seth Whipper
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

Other Counsel of Record:

Beatrice E. Whitten, Esquire
C. Mac Gibson, Esquire

WHIPPER LAW FIRM

Attorneys and Counselors at Law

4592 Durant Avenue
North Charleston, SC 29405
(843) 740-7777
FAX (843) 740-9108

CHERYL WHIPPER HAMILTON
J. SETH WHIPPER

Mailing Address
P. O. Box 70070
North Charleston, SC 29415

April 19, 2016

Sharon Vizer
Post Office Box 1413
Johns Island, SC 29457

RE: IN THE MATTER OF NORMAN ROBERT KNIGHT, JR. (deceased) and Estate of Mildred C. Knight, (deceased) and Norman Robert "Bobby" Knight, III, v. Beatrice E. Whitten, as Special Administrator and Chloe Knight-Toney, Claimant, Respondents
Case Number: 2014-CP-10-5355
Hearing Date: November 9, 2015

Dear Ms. Vizer:

I am writing to request a complete copy of the transcript of the trial in the above-referenced matter which is now on appeal. The trial was conducted on November 9, 2015, before the Honorable Judge J. C. Nicholson, Jr., as a non-jury matter in the Charleston County Court of Common Pleas. I will be responsible for all costs associated with your production of this transcript

Please let me know if anything else is needed at this time to facilitate my request for this transcript.

Sincerely yours,
WHIPPER LAW FIRM
/s

J. Seth Whipper

cc: The Hon. Jenny Abbott Kitchings
Rosalyn W. Frierson
Judy L. Brown
Bobby Knight, III
Beatrice E. Whitten
C. Mac Gibson, Jr.

(Exhibit 1)

THE STATE OF SOUTH CAROLINA

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J.C. Nicholson, Circuit Court Judge

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IN RE Estate of Norman R. Knight, Jr., (deceased), and Estate of Mildred C. Knight, (deceased),
and Norman Robert 'Bobby' Knight, III, Plaintiffs,

Of whom Norman Robert "Bobby" Knight, III is the Appellant,

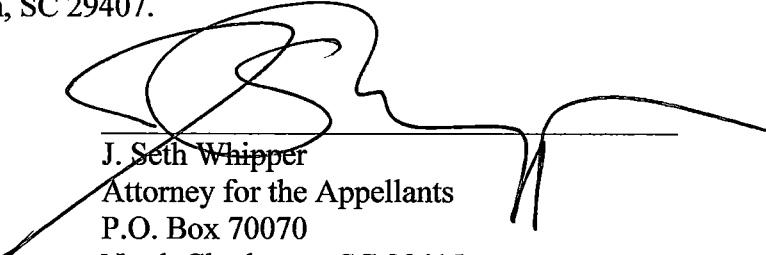
v.

Beatrice A. Whitten, as a Special Administrator, and Chloe Knight-Tonney, Respondents,

PROOF OF SERVICE

I certify that I have served the Motion to Request A Transcript Out of Time, Memorandum in Support of Motion to Request Transcript out of Time, and the Transcript Letter on Beatrice E. Whitten, Esquire and C. Mac Gibson Jr., Esquire by depositing a copy to them in the United States Mail, postage prepaid, on April 25, 2016, addressed to attorneys of record, Beatrice E. Whitten, Esquire 1110 Queensborough Blvd, Mt. Pleasant, SC 29464 and C. Mac Gibson Jr., Esquire 1118 Savannah Highway Charleston, SC 29407.

April 25, 2016



J. Seth Whipper
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

Other Counsel of Record:

Beatrice E. Whitten, Esquire
C. Mac Gibson, Esquire

WHIPPER LAW FIRM

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CHERYL WHIPPER HAMILTON
J. SETH WHIPPER

MAILING ADDRESS
POST OFFICE BOX 70070
NORTH CHARLESTON, SC 29419

April 25, 2016

APR 27 2016

SC Court of Appeals

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

Re: **IN RE Estate of Norman R. Knight, Jr., (deceased), and Estate of Mildred C. Knight, (deceased), and Norman Robert 'Bobby' Knight, III, Plaintiffs; Of whom Norman Robert "Bobby" Knight, III is the Appellant, v. Beatrice A. Whitten, as a Special Administrator, and Chloe Knight-Tonney, Respondents,**
Appellate Case No.: 2016-000748
Motion to Request a Transcript out of time – For filing
Memorandum In Support of Motion to Request Transcript Out of Time – For Filing
Proof of Service – For Filing

Dear Ms. Kitchings:

Find enclosed check number **# 9897** in the amount of \$25.00 for filing. Also, enclosed for filing are the following documents: Motion to Request a Transcript out of Time, Memorandum In Support of Motion to Request Transcript out of Time, Transcript Letter (exhibit 1), and Proof of Service in the above case. I have enclosed a self-addressed, stamped envelope for returning the conformed copy.

Thank you for your assistance and cooperation with this matter.

Sincerely,
WHIPPER LAW FIRM


J. Seth Whipper, Esquire

JSW/ljs
Enclosures

xc: Bobby Knight
Judith L. Brown
C. Mac Gibson, Jr.
Beatrice E. Whitten



CHARLESTON SC 294
MON 25 APR 2016 PM

J. Seth Whipper
Whipper Law Firm
P.O. BOX 70070
North Charleston, SC 29415

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APR 27 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals **SC Court of Appeals**
Post office Box 11629
Columbia, South Carolina 29211