

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Appeal to Oconee County

MAY 26 2016

Scott R. Sprouse, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WAYNE BEECHER CARTER,

APPELLANT

APPELLATE CASE NO. 2015-002009

RETURN TO MOTION TO STRIKE PORTIONS OF DESIGNATION OF MATTER TO
BE INCLUDED IN THE RECORD ON APPEAL AND TO HOLD IN ABEYANCE

In opposition to the State's Motion to Strike and Hold Appeal in Abeyance, counsel for Appellant Wayne Beecher Carter states as follows:

1. Appellant, Wayne Beecher Carter, would respectfully note that he, and not respondent is the appellant in this appeal. Respondent's first sentence in her motion claims that "the State" is the appellant even though her caption states otherwise.

2. In response to "respondent's" motion to strike the designation of the incident report in this case appellant would note that it is mentioned no less than 8 times during the suppression hearing. Even on one occasion it is referenced by the solicitor. (Tr. p. 71, line 23, line 25; Tr. p. 73, line 1, line 5, line 8; Tr. p. 78, line 4; Tr. p. 80, line 23; Tr. p. 81, line

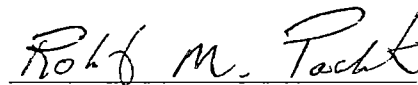
2) One would think the trial judge took into account what was in the incident report before making his decision. Of course if this Court does not like judicial economy it could remand appellant's case for a determination if the lower court considered the incident report and what findings it make in that regard.

3. Appellant would note that the relief requested by "respondent" on page 3 of her motion to strike is to ask this Court to strike the improper matter designated by "Jolly" in her designation and to strike "Jolly's" brief in that regard. In so far as "respondent" wishes to have "Jolly's" designated matter stricken appellant would agree in respect to "Jolly" but not appellant.

4. Appellant would also note on the cover page to the motion to strike only reference initials of Ms. Jameson appear sans any administrative assistant. Perhaps an assistant would be helpful in the future.

Wherefore, the undersigned counsel respectfully requests that this Court deny Respondent's Motion to Strike and Request for Abeyance.

Respectfully submitted,


Robert M. Pachak
Appellate Defender

This 26th day of May, 2016.

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THE STATE,

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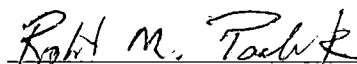
WAYNE BEECHER CARTER,

APPELLANT

APPELLATE CASE NO. 2015-002009

CERTIFICATE OF SERVICE

I certify that a true copy of the Return to Respondent's motion to strike portions of designation of matter to be included in the record on appeal and to hold in abeyance in the above case has been served upon Megan Harrigan Jameson at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 26th day of May, 2016.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO ME this 26th day
of May, 2016.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: March 1, 2026



SCCID

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

May 26, 2016

RECEIVED
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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. Wayne Beecher Carter
Appellate Case No. 2015-002009

Dear Ms. Kitchings:

Enclosed please find Appellant's Return to Respondent's Motion to Strike in the above-entitled case.

Should you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Robert M. Pachak
Appellate Defender

RMP/ccf

Enclosure