

The Supreme Court of South Carolina

ORDER

I find that Caroline Hiskell was employed as a Judicial Department court reporter for the period of October 2, 2008, through June 14, 2016, at which time she resigned.

I find that Caroline Hiskell was summoned to Court Administration on June 8, 2016, to discuss complaints received by the Office of Court Administration (SCCA) concerning her failure to deliver transcripts and respond to inquiries from transcript requesters and SCCA. One of these transcripts was ordered in June 2015. Pursuant to the S.C. Court Reporter Manual she was required to list requests received on her monthly report and failed to do so. Ms. Hiskell was allowed to explain the circumstances causing her inability to produce transcripts as requested and to explain the reasons for deficiencies in her work performance.

I find that during the meeting Ms. Hiskell indicated that she could produce the *State v Terry McCall* trial transcript by June 13, 2016. Further, she was directed to request an extension through June 13, 2016, in that case. That extension was requested and granted on June 9, 2016.

I find that on June 24, 2016, eleven days after it was due to be delivered, a partial transcript (May 12 and 13, 2015) was received by the Division of Appellate Defense in the *State v Terry McCall* trial. That office is still awaiting the sentencing portion of the transcript from proceedings held on May 14, 2015. I find that the full transcript has not yet been delivered.

I find that on that same date, June 24, 2016, the Division of Appellate Defense received a partial transcript in the matter of *State v Donald L. Young* with an indication on Page 97 that due to a theft, the remainder of the transcript could not be produced. This information had not been disclosed to the Division of Appellate Defense previously.

I find that Ms. Hiskell was directed to complete and deliver the transcript in the case of *State v James Michael Johnson*, which was originally due on May 16, 2016. She requested and was granted an extension on that transcript through June 16, 2016. I find that the transcript has not yet been delivered.

I find that storage boxes were sent and delivered to Ms. Hiskell by UPS on June 20, 2016, for the purpose of storing her records for delivery to SCCA. As of this date there have been no records delivered to SCCA by Ms. Hiskell.

I further find that numerous attempts have been made by Desiree Allen to obtain transcripts or information about the status of these transcripts without any success. Ms. Hiskell advised the requesting attorney (Mr. Wilkes) that she had

completed 500 pages of the *State v James Michael Johnson* transcript and it was in the process of being finalized. However, the transcript has not been delivered.

Several transcripts have been reported to SCCA as ordered but not delivered. These include transcripts for cases pending in the appellate courts. They include but are not limited to:

- State v Terry McCall, 2015-001097
- State v James Michael Johnson, 2014GS2302201
- State v Donald Lamon Young, 2014-002655
- Keyon Deshawn Robinson, 2014-002434
- Brent C. McLaurin, Jr., 2015-001147
- Phillips Brian Greene v Ashley Nicole Stewart, 2014DR4202472
- SC Department of Social Services v Janet Bright, et al, 2014DR4203156

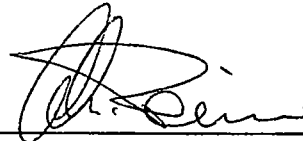
IT IS THEREFORE ORDERED that Caroline Hiskell complete the *State v Terry McCall*, *State v James Michael Johnson*, and *State v Donald Lamon Young* transcripts and deliver them to the requesters no later than close of business on **July 5, 2016**.

IT IS FURTHER ORDERED that Caroline Hiskell make a search of her home and any storage facility or any other locations under her control where all court records might be stored and shall properly label and deliver to SCCA by close of business on July 5, 2016, all court records for the period of June 28, 2011, through June 14, 2016, to include backup and primary audio, CD's or smart cards on which all court records are stored, trial notes and log sheets, and a written list of inventory enclosed.

IT IS FURTHER ORDERED that if these transcripts and/or court records are not delivered by close of business on July 5, 2016, Caroline Hiskell shall personally appear at the Supreme Court, 1231 Gervais Street, Columbia, South Carolina on **Thursday, July 14, 2016, at 3:00 PM** to show cause why she cannot produce the above-named transcripts and court records.

Failure to comply with the requirements of this Order shall subject Caroline Hiskell to penalties for contempt of court.

IT IS SO ORDERED.



Costa M. Pleicones
Chief Justice

Columbia, S.C.
June 30, 2016.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
J. Derham Cole, Circuit Court Judge

JUN 30 2016

S.C. SUPREME COURT

Court of Appeals Appellate Case No. 2015-001615

State of South Carolina, Respondent,
v.
James Michael Johnson, Appellant.

MOTION

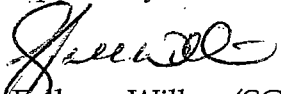
Appellant moves this Court to compel Caroline Hiskell, the court reporter in this case, to produce the trial transcript from the proceedings in circuit court. Appellant is informed and believes that this matter is within the jurisdiction of this Court and that the Office of Court Administration has monitored and/or has investigated this matter. That Court Administration has information relevant to the issues raised herein and Appellant moves this Court to act in accordance with the information available through Court Administration.

Counsel for the Appellant timely requested the transcript from the circuit court trial for the purposes of a direct appeal in a criminal case. Counsel for Appellant was informed of the cost by the court reporter. On November 13, 2015 the court reporter was sent a check in the amount requested by the court reporter for the production of the transcript (\$1,625.00). That the court reporter has not produced the transcript nor responded to counsel's numerous inquires. Counsel is informed and believes that the court reporter was given a final deadline of June 16, 2016 by Court Administration to produce the transcript in this case, and that no further extensions have been, or will be granted. Counsel has further attempted to resolve the matter through the Office of

Court Administration and, despite the efforts of Court Administration the transcript still has not been produced. Counsel has exhausted every other reasonable means of obtaining the transcript. That the Appellant's ability to pursue a direct appeal as a statutory, procedural, and/or constitutional right is being impeded by the failure of the court reporter to produce the transcript in a timely manner.

WHEREFORE, the Appellant moves this Court to inquire into the matter through the Office of Court Administration and to issue an order compelling the production of the transcript in this case.

Respectfully submitted,



J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)

Counsel for Appellant

June 28, 2016.

Other Counsel of Record:

Alan Wilson, Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
J. Derham Cole, Circuit Court Judge

Court of Appeals Case No. 2015-001615

State of South Carolina, Respondent,
v.
James Michael Johnson, Appellant.

CERTIFICATE

I certify that on June 28, 2016, I served the Appellant's Motion for an order compelling the production of the transcript by placing a copy of same in the United States Mail, first class postage prepaid, addressed to counsel for the Respondent, and others as indicated below:

Daniel E. Shearouse, Clerk
South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

The Honorable Rosalyn W. Frierson
Director, South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

Alan Wilson, Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211
Appellate Attorney for Respondent

Caroline Hiskell
32 Duxbury Lane
Easley, SC 29642

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

James Michael Johnson, 00340206
Kirkland Reception and
Evaluation Center
4344 Broad River Road
Columbia, SC 29210

Respectfully submitted,



J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)

Counsel for Appellant

June 28, 2016.

J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
Greenville, South Carolina 29601

Telephone: (864) 282-1292
Facsimile: (864) 271-6035

June 28, 2016

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JUN 30 2016

S.C. SUPREME COURT

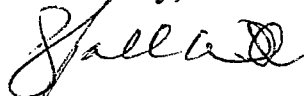
Hon. Daniel E. Shearouse, Clerk
South Carolina Supreme Court
1015 Sumter Street
Columbia, South Carolina 29201

Re: State v. James Michael Johnson,
Court of Appeals Appellate Case No.: 2015-001615

Dear Mr. Shearouse,

Enclosed please find a motion seeking to compel the production of the trial transcript in this case. The appeal is presently pending in the Court of Appeals. I have addressed this motion to the Supreme Court as the matter is one of court administration which, as I understand, is the exclusive jurisdiction of the Chief Justice.

Sincerely,



J. Falkner Wilkes

c.

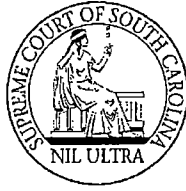
The Honorable Rosalyn W. Frierson
Director, South Carolina Court Administration
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JUL 05 2016

The Supreme Court of South Carolina

SC Court of Appeals

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

July 5, 2016

J. Falkner Wilkes, Esquire
114 Whitsett Street
Greenville, South Carolina 29601

Re: *State v. James Michael Johnson*, Appellate Court Case No. 2015-001615

Dear Mr. Wilkes:

This responds to your letter dated June 28, 2016. In light of the enclosed order that was issued prior to the receipt of your letter, no action will be taken on your motion.

Very truly yours,

CLERK

Enclosure

cc: Rosalyn W. Frierson, Esquire
John Benjamin Aplin, Esquire
The Honorable Jenny Abbott Kitchings