

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SEP 16 2016

SC Court of Appeals

Appeal from Greenwood County
Honorable Donald B. Hocker, Circuit Court Judge
Appellate Case No. 2016-000424

THOMAS A. WILLIAMS,

Appellant,

vs.

THE STATE,

Respondent.

**MOTION TO HOLD APPEAL IN ABEYANCE
PENDING RECEIPT OF TRANSCRIPTS FROM
CIRCUIT COURT PROCEEDINGS**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On March 30, 2013, Appellant Thomas A. Williams was arrested for driving under the influence and was issued a uniform traffic ticket for the offense. On August 26, 2014, a jury trial was commenced in the Greenwood County Magistrate’s Court, and, at the conclusion of the trial, the jury convicted Williams as charged. Thereafter, Williams appealed his conviction to the Greenwood County Court of Common Pleas, and an appeal hearing was conducted on September 2, 2015, with the Honorable Donald B. Hocker, circuit court judge, presiding. Following the hearing, Judge Hocker issued an order dated October 9, 2015, rejecting Williams’s appeal. Subsequently, Williams moved for Judge Hocker to reconsider his ruling, and a hearing was

conducted on the reconsideration motion on January 14, 2016. Following that hearing, Judge Hocker denied Williams's motion for reconsideration through an order dated February 12, 2016. Williams's then timely appealed Judge Hocker's rulings to this Court.

II.

On appeal, Williams filed an Initial Brief of Appellant and Designation of Matter on May 18, 2016. Thereafter, undersigned counsel for the State began preparing the Initial Brief of Respondent and Designation of Matter in response. In preparing the State's brief, undersigned counsel for the State discovered the transcripts from the circuit court proceedings in this appeal have not yet been requested or ordered.

III.

Pursuant to Rule 208, SCACR, an appellant is required to order a transcript of the circuit court proceedings within ten days of the filing of the notice of appeal in an appeal from a court of common pleas. See Rule 208(a)(1), SCACR ("In appeals from the court of common pleas, masters in equity, special referees or the family court in domestic actions, the transcript must be ordered within ten (10) days after the date of service of the notice of appeal."). Furthermore, our appellate court rules require an appellant to order a transcript of the entire circuit court proceedings absent agreement of the parties to the appeal. See id. ("Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below.").

IV.

In the case sub judice, the transcripts from the appeal hearing and the reconsideration motion hearing have not yet been ordered despite the mandates of the South Carolina Appellate Court Rules. See Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) ("[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this

Court with an orderly mechanism through which to guide appeals in this State.”). As a result, undersigned counsel for the State is currently unable to complete the Initial Brief of Respondent as undersigned counsel has not yet had an opportunity to review the transcripts from the circuit court proceedings conducted in Williams’s case. See generally Schultze v. Schultze, 403 S.C. 1, 8, 741 S.E.2d 593, 597 (Ct. App. 2013) (“For [the appellate] court to evaluate the merits of a disputed issue, the appellant must provide the court with a sufficient record pertaining to that issue; otherwise, there is nothing for this court to review.”). Accordingly, the State asks this Court to hold the matter in abeyance so the transcripts of the circuit court proceedings can be ordered and transcribed and to grant the State thirty days in which to prepare the State’s Initial Brief of Respondent following the receipt of those transcripts. Undersigned counsel for the State certifies he has contacted and spoken with appellate counsel for Williams in regard to this matter, and Williams’s appellate counsel has agreed to order the transcripts as required by Rule 208, SCACR.

WHEREFORE, Appellant prays that the Court hold this appeal in abeyance pending the preparation and receipt of transcripts from the circuit court proceedings related to this appeal; grant the State thirty days to serve and file the Initial Brief of Respondent and Designation of Matter from the date the transcripts from the circuit court proceedings are received by the State; hold the matter in abeyance pending a ruling on Respondent’s motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 
Mark R. Farthing

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Post Office Box 11549
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September 16, 2016

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PROOF OF SERVICE

I, Keely Carter, certify that I have served the within Motion to Hold Appeal in Abeyance Pending Receipt of Transcripts from Circuit Court Proceedings on Appellant by sending two copies of the same to:

C. Rauch Wise, Esquire
305 Main Street
Greenwood, SC 29646

I further certify that all parties required by Rule to be served have been served.
This 16th day of September, 2016.



KEELY CARTER
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



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ALAN WILSON
ATTORNEY GENERAL

September 16, 2016

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

RE: Thomas A. Williams v. State – Appellate Case No. 2016-000424

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion to Hold Appeal in Abeyance Pending Receipt of Transcripts from Circuit Court Proceedings, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General
Bar Number 76901

MRF/
Enclosures

cc: C. Rauch Wise, Esquire
Victim Services