

STATE OF SOUTH CAROLINA
In the Court Of Appeals

APPEAL FROM DILLON
Robin Stillwell, Circuit Court Judge

Appellate Case No. 2015-002353

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SC Court of Appeals

THE STATE,

Respondent,

v.

DAMIEN INMAN,

Appellant.

**RETURN TO MOTION FOR A NEW TRIAL OR, IN THE ALTERNATIVE, AN ORDER
TO RECONSTRUCT THE RECORD OF APPELLANT'S TRIAL**

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Initially, for the reasons set for the below, Respondent (the State) submits MOTION FOR A NEW TRIAL OR, IN THE ALTERNATIVE, AN ORDER TO RECONSTRUCT THE RECORD OF APPELLANT'S TRIAL be partially denied and partially granted. Respondent consent to an Order of this Court remanding the matter to the trial court for reconstruction of the record. Respondent submits that the request for a new trial is premature at this time.

Respondent respectfully submits that an attempt should be made to reconstruct the testimony from available materials court records and audio from June 8 and June 9, 2015. According to the June 7, 2016 letter from the Court Reporter Hattie Gordon which was attached, she indicated that the judge had listened to the recording when the trial was ongoing and advised her work with what she had. Appellant's Exhibit #6. It appears that there is

available material that may be able to be reconstructed if the parties can agree upon the content. It is unclear whether any portions of the trial record of June 9 and 10 have been actually "lost", but it appears it is a sound quality issue concerning June 8-9, 2015.

WHEREFORE, having made Return, Respondent request an order remanding the matter to attempt reconstruction of the record. Respondent requests the motion for new trial be denied without prejudice as premature.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

WILL ROGERS
Solicitor, Fourth Judicial Circuit

BY:


Donald J. Zelenka
S.C. Bar No: 5758

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ATTORNEYS FOR RESPONDENT

November 14, 2016

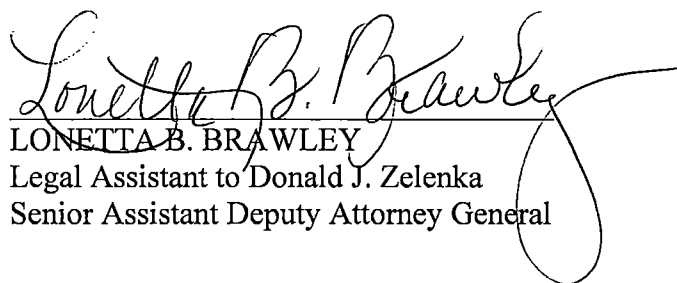
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CERTIFICATE OF SERVICE

I, **Lonetta B. Brawley**, hereby certify that I have served the *Return to Motion for a New Trial or, in the Alternative, an Order to Reconstruct the Record of Appellant's Trial* in the foregoing action by depositing copies in the InterAgency Mail to:

John H. Strom
Appellate Defender
Division of Appellate Defense
P. O. Box 11589
Columbia, SC 29211

This 14th day of November, 2016.


LONETTA B. BRAWLEY
Legal Assistant to Donald J. Zelenka
Senior Assistant Deputy Attorney General

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ALAN WILSON
ATTORNEY GENERAL

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SC Court of Appeals

November 14, 2016

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

RE: State v. DAMIEN INMAN
Appellate Case No: 2015-002353

Dear Ms. Kitchings:

I am in receipt of Appellant's Motion for a New Trial or, In the Alternative, an Order to Reconstruct the Record of Appellant's Trial in the above-referenced case. Please be advised that Respondent has no objection to the request to remand reconstruct the record.

Sincerely,

Donald J. Zelenka
Senior Assistant Deputy Attorney General
S.C. Bar No: 5758

DJZ/dz

cc: John H. Strom, Esquire
Ms. Trisha Allen