

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge

Appellate Case No.: 2016-000823

RECEIVED

FEB 16 2017

S.C. SUPREME COURT

James LivingstonPetitioner

v.

State of South Carolina.....Respondent

REPLY TO RETURN TO MOTION TO HOLD APPEAL IN ABEYANCE AND
MOTION TO REMAND FOR RECONSTRUCTION
OF POST-CONVICTION RELIEF HEARING

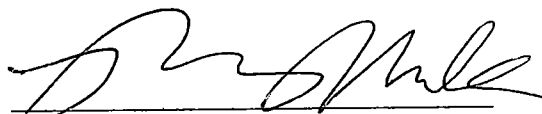
In reply to the Return to Motion to hold appeal in abeyance and Motion to Remand for Reconstruction of Post-Conviction Hearing, Petitioner submits the following:

1. Petitioner never contended that the exhibits were unable to be obtained as alleged by Respondent in the Return. Petitioner argued in the Motion that a reconstruction hearing is necessary to determine if the exhibits referenced in the privately obtained transcript are fully available. Petitioner also requested that the court at a reconstruction hearing review the audio files and exhibits.

2. Petitioner requests that this Court review the transcript which was not obtained through the normal course of the appeal and make a determination as to whether it should be included in the

Appendix or whether a reconstruction hearing is necessary to determine this issue in conjunction with reviewing the audio files from the hearing and the exhibits. As argued in the Motion, Petitioner asserts that the granting of an order remanding this case for a reconstruction hearing is necessary in order to determine the completeness of the privately ordered transcript.

Respectfully submitted,



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Attorney for Petitioner

Columbia, SC
February 16, 2017

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PROOF OF SERVICE

I certify that I have served the REPLY TO RETURN TO MOTION TO HOLD APPEAL IN ABEYANCE AND MOTION TO REMAND FOR RECONSTRUCTION OF POST-CONVICTION RELIEF HEARING on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on February 16, 2017 addressed to the attorney of record, Jessica Kinard, Office of the Attorney General, P.O. Bo 11549, Columbia, South Carolina 29211-1549.

February 16, 2017



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