

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FAVIAN A. HAYES,

APPELLANT

APPELLATE CASE NO 2009-129706

CONSENT MOTION TO AMEND APPELLANT'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, the undersigned counsel requests leave to file an Amended Designated of Matter to be Included in the Record on Appeal in the above captioned case. In support of this motion, counsel submits the following:

1. The above-captioned case stems from a grant of *habeas corpus* by the Honorable Richard Girgel, United States District Judge, "directing" the restoration of Appellant's direct appeal rights.
2. The initial brief of Appellant and Designation of Matter in the above titled case were filed with this Court on November 28, 2016.

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SC Court of Appeals

3. Senior Assistant Attorney General David Spencer, who represents the State, requested that Appellant remove legal filings from the Designation that the State believed were unrelated to Appellant's direct appeal. Undersigned counsel has agreed to remove the requested documents.

4. Specifically, Appellant moves to amend the Designation so as to remove: Appellant's Application for Post-Conviction Relief; State's Return to Application for Post-Conviction Relief; Order of Dismissal; Petition for Writ of Certiorari; State's Return to Petition for Writ of Certiorari; Petition for Writ of Habeas Corpus; State's Return to Petition for Writ of Habeas Corpus; State's Motion for Summary Judgment; Federal District Court, District of South Carolina, and the Magistrate's Report and Recommendation. These matters are numbered (3) – (11) in the Designation.

5. Counsel makes this request in good faith and not for purposes of delay. An amended designation of matter is being filed simultaneous to this motion.

WHEREFORE, the undersigned counsel respectfully requests this Court's permission to amend the Designation of Matter to be Included in the Record on Appeal.

Respectfully Submitted,



John H. Strom
Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
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(803) 734-1343

ATTORNEY FOR APPELLANT

April 4, 2017

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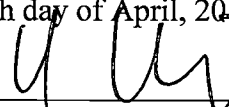
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Amend Designation of Matter and the Amended Designation of Matter in the above referenced case has been served upon David Spencer, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Motion to Amend Designation of Matter and the Amended Designation of Matter has been served on Favian A. Hayes, #293544, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 4th day of April, 2017.



John H. Strom
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 4th day of April, 2017.

 (L.S)

Notary Public for South Carolina
My Commission Expires: 5/12/2025