

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable J. Cordell Maddox Jr., Circuit Court Judge

THE STATE,

ORIGINAL

RECEIVED

MAY 03 2017

SC Court of Appeals

RESPONDENT,

V.

SHAWN ALAN MITCHELL,

APPELLANT.

APPELLATE CASE NO. 2016-000560

MOTION TO STRIKE

Counsel for appellant, Shawn Mitchell, moves to strike the six documents designated by the respondent, the Department of Probation, Parole and Pardon, because they are outside the record. These documents were not presented to the lower court as they are letters sent to the Court of Appeals by counsel for the appellant and orders from the Court of Appeals to appellant's counsel. All concern the time and procedure for Appellant Mitchell's appeal.

Pursuant to Rule 210 (c), SCACR, the "record shall not, however, include matter which was not presented to the lower court, or tribunal." The following documents were designated by the respondent. Copies of these documents are attached:

1. Court's letter to Appellant Dated January 12, 2017;

2. Appellant's Letter to Clerk Dated January 10, 2017;
3. Court's Order Dated November 4, 2016;
4. Appellant's Letter to Clerk Dated October 18, 2016;
5. Court's order Dated October 12, 2016;
6. Appellant's Letter to Clerk Dated July 27, 2016.

These documents listed above are on file with this Court.

For these reasons, appellant asks that the Court order that these documents designated by the Respondent be stricken and not included in the record because they were not presented to the lower court pursuant to Rule 210(c), SCACR, and contain factual information outside of the record. Appellant also asks that the deadline for filing the Record on Appeal be held in abeyance pending a decision from this Court on this Motion.

Respectfully submitted,


LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

May 3, 2017

**Designation of
Matter by
Respondent**

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
The Honorable J. Cordell Maddox, Circuit Court Judge

Appellate Case No. 2016-000560

THE STATE,.....RESPONDENT

v.

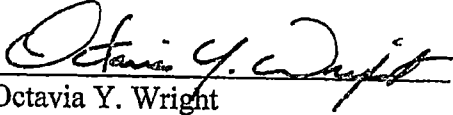
SHAWN ALLEN MITCHELL,.....APPELLANT

DESIGNATION OF MATTER

In addition to the matter designated by the Appellant, the Respondent proposes the following to be included in the Record on Appeal:

1. Court's Letter to Appellant Dated January 12, 2017;
2. Appellant's Letter to Clerk Dated January 10, 2017;
3. Court's Order Dated November 4, 2016;
4. Appellant's Letter to Clerk Dated October 18, 2016;
5. Court's Order Dated October 12, 2016;
6. Appellant's Letter to Clerk Dated July 27, 2016

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.


Octavia Y. Wright
Legal Counsel

April 7, 2017

J&P

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.state.sc.us/ppp

April 7, 2017

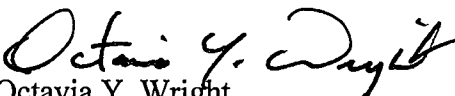
LaNelle DuRant, Appellate Defender
S.C. Commission on Indigent Defense
Post Office Box 11589
Columbia, SC 29211-1589

RE: State v. Shawn Mitchell

Dear Mr. Pachak:

Please find enclosed copies of the matter we designated for inclusion in the Record on Appeal.

Sincerely,


Octavia Y. Wright
Legal Counsel

OYW:dn

cc: The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals

**Court's Letter to
Appellant Dated
January 12, 2017**



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 12, 2017

Ms. LaNelle Cantey DuRant, Esquire
1330 Lady St., Suite 401
PO Box 11589
Columbia SC 29211

Re: The State v. Shawn Mitchell
Appellate Case No. 2016-000560

Dear Counsel:

The Court received your letter advising that the transcript was delivered. This appeal is no longer held in abeyance. The initial brief of appellant and designation of matter are due to be filed on February 9, 2017.

Very truly yours,


CLERK

cc: Matthew C. Buchanan, Esquire

**Appellant's Letter to
Clerk Dated
January 10, 2017**



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 10, 2017

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

Re: The State of South Carolina v. Shawn Allen Mitchell
Appellate Case No. 2016-000560

Dear Ms. Kitchings:

On October 18, 2016, I sent a letter requesting that this case be held in abeyance due to a requested missing transcript. Our office received the transcript today, January 10, 2017. Accordingly, I respectfully request that Mr. Shawn Allen Mitchell's case be taken out of abeyance.

By our calculations, resetting the time limit in which to file the initial brief of appellant and designation of matter 30 days from January 10, 2017, gives us a due date of February 9, 2017. If this is not accurate, please contact me at your earliest convenience. Thank you for your time and attention to this matter.

Sincerely,

LaNelle C. DuRant
Appellate Defender

LCD/cnp

cc: Matthew Buchanan, Esquire

Court's Order
Dated
November 4, 2016

The South Carolina Court of Appeals

The State, Respondent,

v.

Shawn Alan Mitchell, Appellant.

Appellate Case No. 2016-000560

The Honorable J. Cordell Maddox, Jr.
Anderson County
Trial Court Case No. 2012GS0401034

ORDER

Appellant filed a motion to hold appeal in abeyance after it was discovered that there is an additional transcript needed. The motion is granted. This appeal is now held in abeyance for a period of sixty (60) days. Counsel for appellant will advise the Court when the transcript is received.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:
Matthew C. Buchanan, Esquire
LaNelle Cantey DuRant, Esquire

FILED
11/4/16 BH

**Appellant's Letter to
Clerk Dated
October 18, 2016**



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 18, 2016

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

Re: The State of South Carolina v. Shawn Allen Mitchell

Dear Ms. Kitchings:

The initial brief of appellant in the above case is due to be served and filed November 9, 2016. However, in preparing the initial brief we have discovered that we need an additional transcript. We have requested this transcript today and would request that the time limits be held in abeyance pending receipt of it. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

LaNelle Cantey DuRant
Appellate Defender

LCD/cnp

cc: SCD Probation, Parole, and Pardon Services

Court's Order
Dated
October 12, 2016

The South Carolina Court of Appeals

The State, Respondent,

v.

Shawn Alan Mitchell, Appellant.

Appellate Case No. 2016-000560

The Honorable J. Cordell Maddox, Jr.
Anderson County
Trial Court Case No. 2012GS0401034

ORDER

The request for an extension to serve and file the initial brief of appellant and designation of matter is granted and extended until November 9, 2016. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01), any further extension request must be based on a showing of good cause.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Matthew C. Buchanan, Esquire

LaNelle Cantey DuRant, Esquire

FILED

10/12/16 BH

**Appellant's Letter to
Clerk Dated
July 27, 2016**



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

July 27, 2016

The Honorable Jenny Abbott Kitchings,
Clerk, S. C. Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: The State of South Carolina v. Shawn Allen Mitchell 2016-000560

Dear Ms. Kitchings:

I have had to reorder one of the transcript in the above-captioned case. The first request was made in a timely manner, but the court reporter has informed us that she did not take the proceedings and the attorney confirmed the hearing was presided by a different judge. I would respectfully request that you start our time schedule for ordering the transcript from today's date.

If you have any questions concerning this matter, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,

Paula Murdoch
Administrative Coordinator

cc: S. C. Dept Probation, Parole and Pardon Services

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

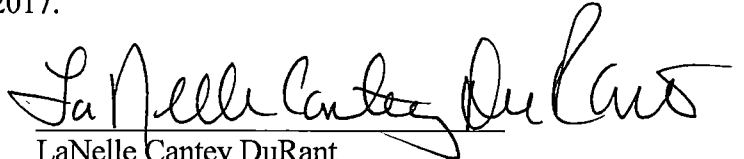
V.

SHAWN ALAN MITCHELL,

APPELLANT

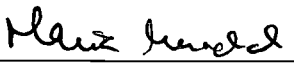
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the motion to strike in the above referenced case has been served upon Octavia Wright, Esquire, at the South Carolina Department of Probation, Parole, and Pardon Services, Post Office Box 50666, Columbia, SC 29250, this 3rd day of May 2017.


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 3rd day of May, 2017.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

RECEIVED

MAY 03 2017

SC Court of Appeals