

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
George M. McFaddin, Jr., Circuit Court Judge

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Appellate Case No. 2017-001396  
Case No. 2016-CP-40-5671

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RECEIVED

JUL 21 2017

SC Court of Appeals

Clifton Lyles, #294075, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

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**RESPONDENT'S RETURN TO  
APPELLANT'S MOTION TO ORDER  
TRANSCRIPT OUT OF TIME**

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The Appellant Clifton Lyles has filed a motion requesting that the Court allow him to order a transcript of the May 17, 2017 trial out of time. The Respondent South Carolina Department of Correction (SCDC) opposes that motion because (1) the Appellant has not as yet paid any filing fees for this appeal or for any motions that he has filed including the present motion and (2) the Appellant has still not made

a proper request for the trial transcript because he has not made any financial arrangements to pay for the transcript.<sup>1</sup>

The record shows that the Appellant served his Notice of Appeal on June 9, 2017, but failed to make any attempt to order the transcript within ten days as required by Rule 207(a)(1), SCACR. Instead, in mid-July, the Appellant sent an undated letter to the court reporter in which he states that he is "unable to pay the cost to have the transcript transcribed" and has pending "a motion with the court to be allowed to proceed without payments of costs." The Court of Appeals, however, has previously sent a letter to the Appellant dated July 10, 2017, declining to act on his motion to proceed without payment of costs due to other deficiencies. Consequently, there is absolutely no basis for the Appellant to request a transcript at no cost,<sup>2</sup> and his current request for the transcript to the court reporter failed to include any agreement regarding payment for the transcript.

In sum, the Respondent SCDC opposes the Appellant's request to order the transcript out of time because he has not perfected his appeal by the payment of filing

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<sup>1</sup> Rule 207(a)(1), SCACR, provides: "Where a transcript of the proceeding must be prepared by the court reporter, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript." See, Rule 207(a)(1), SCACR.

<sup>2</sup> In fact, the Supreme Court has previously refused to excuse transcript costs for an appellant who even was granted *in forma pauperis* status. In *Quillian v. Evatt*, 308 S.C. 555, 419 S.E.2d 783 (1992), the Supreme Court wrote: "Appellant is reminded that the scope of a grant to proceed *in forma pauperis* extends only to those fees associated with filing the appeal and related motions with this Court. The costs of the court reporter's transcript and of copying the record and brief remain the responsibility of the appellant." 419 S.E.2d at 783.

fees that are due. In addition, SCDC submits that the motion should be denied and the appeal dismissed because the Appellant has failed to make arrangements to pay for the trial transcript as is required for a proper request for a transcript under Rule 207(a)(1), SCACR.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY:   
\_\_\_\_\_  
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*Counsel for Respondent  
South Carolina Department of Corrections*

Columbia, South Carolina

July 18, 2017

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
George M. McFaddin, Jr., Circuit Court Judge

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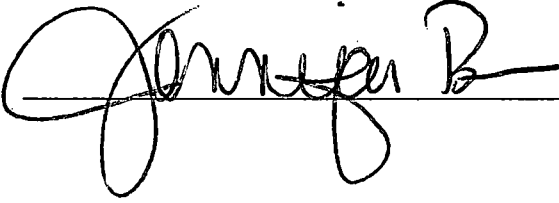
**CERTIFICATE OF SERVICE**

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The undersigned employee of Davidson & Lindemann, P.A., counsel for the Respondent, does hereby certify that service of **Respondent's Return to Appellant's Motion to Order Transcript Out of Time** in the above-captioned matter was made upon the *pro se* Appellant and all other counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 19th day of July 2017:

Clifton Lyles, #294075  
Kirkland Correctional Institution  
4344 Broad River Road  
Columbia, South Carolina 29210

James E. Parham, Jr., Esquire  
James E. Parham, Jr., P.A.  
Post Office Box 1576  
Irmo, South Carolina 29063



A handwritten signature in black ink, appearing to read "James E. Parham, Jr.", is written over a horizontal line. The signature is stylized and cursive.

DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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July 19, 2017

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

RE: Clifton Lyles v. South Carolina Department of Corrections  
Appellate Case Number: 2017-001396  
Civil Action Number: 2016-CP-40-5671  
Claim Number: A3797  
Our File Number: 104.10192

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JUL 21 2017  
SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of **Respondent's Return to Appellant's Motion to Order Transcript Out of Time** in the above referenced matter. Please file the original and return a clocked-in copy to me in the enclosed envelope. By copy of this letter, I am serving copies on the *pro se* Appellant and all other counsel of record.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb  
Enclosures

The Honorable Jenny Abbott Kitchings  
July 19, 2017  
Page Two

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cc: (w/ Enclosure)

Clifton Lyles, #294075  
Kirkland Correctional Institution  
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South Carolina Court of Appeals  
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