

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

 ORIGINAL

RECEIVED

AUG 04 2017

SC Court of Appeals

Appeal from Richland County  
Honorable William P. Keesley, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

KEVIN LAMAR GARY,

APPELLANT

APPELLATE CASE NO. 2016-001603

---

**RETURN TO RESPONDENT'S MOTION  
TO TRANSPORT EXHIBITS  
AND TO HOLD TIMELINES IN ABEYANCE**

---

The State filed a motion to transport a total of thirty-four exhibits from the Richland County Clerk of Court to this Court so that counsel for the State can review the exhibits prior to completing its initial brief of respondent. The State further requested that the filing deadlines be held in abeyance pending resolution of its motion. In response to the State's motion, Appellant respectfully states:

1. Generally, the transportation of exhibits to this Court is intended to accompany the filing of the Record on Appeal and include only exhibits included in the designation of matter that are either non-paper exhibits or paper exhibits that "are larger, or do not reasonably lend themselves to accurate reproduction." Rule 210(f), SCACR. In the present case, none of the

exhibits listed in the State's motion were included in Appellant's designation of matter, and the State has not yet to file its initial brief of respondent and designation of matter.

2. The State's motion includes no averments regarding what efforts, if any, were made to obtain copies of the exhibits directly from the Richland County Clerk of Court to review in preparation of the State's initial brief. Thus, this does not appear to be a rare circumstance where the State's only means of reviewing the trial exhibits is via transportation to this Court.

3. When the State has filed such a motion in the past, it has been without opposition because the exhibits requested for transport were already listed in Appellant's designation such that they would inevitably be transported along with the Record on Appeal. Appellant will not oppose the motion in this case, but rather leaves this matter to this Court's discretion. However, counsel for Appellant may oppose future motions for transportation that are made *prior* to the filing of the initial briefs and *designations of matter*.

WHEREFORE, the undersigned counsel leaves this matter to the sound discretion of this Court.

Respectfully submitted,



Laura R. Baer  
Appellate Defender

South Carolina Commission on  
Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

August 4, 2017

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Richland County  
Honorable William P. Keesley, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

KEVIN LAMAR GARY,

APPELLANT

---

CERTIFICATE OF SERVICE

---

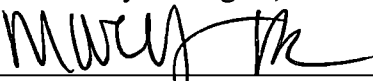
I certify that a copy of the Return to Respondent's Motion To Transport Exhibits And To Hold Timelines In Abeyance in the above referenced case has been served upon David Spencer, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 4<sup>th</sup> day of August, 2017.



Laura R. Baer  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 4<sup>th</sup> day of August, 2017.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: May 12, 2027



# 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

August 4, 2017

The Honorable Jenny Kitchings  
Clerk of Court, South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Re: *State v. Kevin Lamar Gary*, Appellate Case No. 2016-001603

Dear Ms. Kitchings:

Enclosed please find an original and six copies of the Return to Respondent's Motion to Transport Exhibits and to Hold Timelines in Abeyance, along with proof of service, in the above-referenced case.

Sincerely,

Laura R. Baer  
Appellate Defender

LRB/meb

Enclosures  
cc: David Spencer, Esquire (with two copies)