

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
THE STATE,)
RESPONDENT,)
v.)
TERRY MCCALL,)
APPELLANT,)
_____)

IN THE SOUTH CAROLINA
COURT OF APPEALS

APPELLATE CASE NO.: 2015-001097

RECEIVED
AFFIDAVIT
AUG 25 2017
SC Court of Appeals

PERSONALLY appeared before me, TERRY MCCALL, who being duly sworn, deposes and says:

1. I am the appellant in the above-captioned case.
2. On December 21, 2012, I was indicted by the Greenville County Grand Jury for one count of felony DUI resulting in great bodily injury.
3. On May 12-14, 2015, I proceeded to trial before the Honorable Robin B. Stilwell and a jury. The jury found me guilty as charged. Judge Stilwell sentenced me to fifteen years imprisonment.
4. I filed a timely notice of appeal and was approved for representation by the Office of Appellate Defense. It took over a year for a partial trial transcript to be produced. On July 5, 2016, the Office of Appellate Defense received an unsigned facsimile from Court Reporter Hiskell stating that her records for several cases, including my case, were stolen. As a result, "certain portions" of my transcript were not available.
5. On March 14, 2017, I attended a reconstruction hearing before Judge Stilwell. At the hearing, I was represented by Appellate Defender John H. Strom. Assistant Solicitors Sara Lee Drawdy, Judy Munson, and Stan Overby represented the State.
6. I understand that Judge Stilwell has determined that the missing portions of the trial

record can be adequately reconstructed so as to allow for meaningful appellate review. I understand that I have a right to appeal Judge Stilwell's determination. I further understand that the direct appeal of my conviction would be held in abeyance during the appeal of the reconstruction.


7. After discussion with counsel, I do wish to appeal the reconstruction. I have been informed that if I drop the appeal of the reconstruction that I forever waive those issues that could be raised regarding the adequacy of my trial transcript.

8. In light of the risks which have been explained to me, it is my desire not to appeal the reconstruction of the record. I have made this decision on my own, with a full understanding of all the possible consequences of this action.

9. I do not wish to appeal Judge Stilwell's determination that the trial record was adequately reconstructed so as to allow for meaningful appellate review of my convictions.


Terry McCall

SWORN TO before me this 14th
day of August, 2017.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 8/30/2020



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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

August 25, 2017

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

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SC Court of Appeals

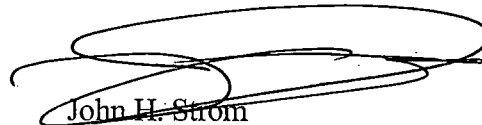
Re: The State v. Terry McCall
Appellate Case No. 2015-001097

Dear Ms. Kitchings:

Please allow this correspondence to serve as notice of Mr. McCall's intent to not appeal Judge Stilwell's finding that the trial record could be adequately reconstructed so as to allow for meaningful appellate review. Mr. McCall executed an affidavit, enclosed herewith, confirming his desire to not appeal the findings of the reconstruction hearing. I have spoken at length with Mr. McCall about the consequences of not appealing the reconstruction finding. Based on these discussions, I believe that his decision to not pursue an appeal is knowing and voluntary.

By copy of this letter, I am informing Judge Stillwell, the Office of the Attorney General, and the 13th Circuit Solicitor's Office of Mr. McCall's decision. Upon your receipt of this letter, I believe Mr. McCall's direct appeal, the case captioned above, may be taken out of abeyance. Please let me know if the Court would prefer a formal motion in lieu of this letter. Thank you for your time and assistance in this matter.

Sincerely,



John H. Strom
Appellate Defender

Enclosure

cc: Honorable Robin B. Stiwell, Jr.
J. Benjamin Aplin, Esq.
Sara Lee M. Drawdy, Esq.
Terry McCall