

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

SEP 25 2017

SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Appellate Case No. 2017-000911

State of South Carolina.....Respondent,

v.

Jeanette Yvonne Glover.....Appellant.

**APPELLANT’S MOTION TO STRIKE ITEMS DESIGNATED BY RESPONDENT
TO BE INCLUDED IN THE RECORD ON APPEAL
AND MOTION TO STAY TIME TO FILE REPLY BRIEF**

Pursuant to Rules 210 and 240(a) of the South Carolina Appellate Court Rules, Appellant Jeanette Yvonne Glover, by and through her undersigned counsel, hereby moves this Court for an order striking the following matters designated by Respondent for inclusion in the Record on Appeal:

1. Statement of Leroy Glover dated January 2, 2015
2. Request for Dismissal of Prosecution dated January 5, 2015

The grounds for this motion are that these items designated for inclusion by the Respondent include matters not presented to the lower court. The appellate court rules are clear: “The Record shall not, however, include matter which was not presented to the lower court or tribunal.” Rule 210(c), SCACR. South Carolina courts have repeatedly held that, “We are, of course, bound by the record established at trial. The Record shall not...include matter which was not presented to the lower court or tribunal.” Argabright v. Argabright, 398 S.C. 176, 179, n. 3,

727 S.E.2d 748, 750, n. 3 (2012); see also Elam v. S.C. DOT, 361 S.C. 9, 23-24, 602 S.E.2d 772, 780 (2004) (citing Rule 210(c), SCACR that the record on appeal shall not include matter which was not presented to lower court); see also State v. White, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007) (“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”)

This case originated from the Orangeburg Municipal Court. At the trial, the only exhibits entered into evidence were three (3) photographs. No other exhibits were admitted at trial by either party. Furthermore, the above mentioned items were never filed by any party, nor heard or considered by the trial court or the Circuit Court.

Based on the foregoing, these items must be stricken from the Designation of Matter to be Included in the Record on Appeal pursuant to Rule 210(c), SCACR. Additionally, Appellant respectfully moves for an order staying the time for Appellant to file a Reply Brief until such time as Respondent files a revised Initial Brief after removing reference to these inappropriate items.

Respectfully submitted,



Minh L. Wyman (SC Bar #100381)
Office of the First Circuit Public Defender
190 Gibson Street
P.O. Box 1112
Orangeburg, SC 29116-1112
Telephone (803) 536-4858
Attorney for Appellant

Dated: September 21, 2017

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Appellate Case No. 2017-000911

RECEIVED
SEP 25 2017
SC Court of Appeals

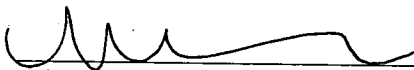
State of South Carolina.....Respondent,

v.

Jeanette Yvonne Glover.....Appellant.

PROOF OF SERVICE

I certify that I have served the **Appellant's Motion to Strike Items Designated by Respondent to be Included in the Record on Appeal and Motion to Stay Time to File a Reply Brief** on Respondent by depositing a copy in the United States Mail, postage prepaid, on September 21, 2017, addressed to Jay T. Thompson, Nelson Mullins Riley & Scarborough LLP, 1320 Main Street / 17th Floor, Post Office Box 11070 (29211-1070), Columbia, South Carolina 29201.



Minh L. Wyman (SC Bar #100381)
Office of the First Circuit Public Defender
190 Gibson Street
P.O. Box 1112
Orangeburg, SC 29116-1112
Telephone (803) 536-4858
Attorney for Appellant

Dated: September 21, 2017

Office of the Public Defender

First Judicial Circuit

107 W. 6th North Street
Suite 100
Summerville, SC 29483
(843) 821-9800
FAX (843) 871-0523

5200 East Jim Bilton Boulevard
Dorchester County Courthouse
St. George, SC 29477
(843) 832-0154



Courthouse, 151 Docket Street, Room 110
PO Box 1112
Orangeburg, SC 29116-1112
(803) 536-4858
FAX (803) 536-9986

716 Huff Drive
St. Matthews, SC 29135
(803) 874-2100
FAX (803) 874-2400

September 21, 2017

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

RECEIVED
SEP 25 2017
SC Court of Appeals

Re: State v. Jeanette Glover
Appellate Case No. 2017-000911

Dear Ms. Kitchings:

Enclosed is the following:

- Appellant's Motion to Strike Items Designated by Respondent to be Included in the Record on Appeal and Motion to Stay Time to File Reply Brief (original and seven copies), and
- Proof of Service

I have also enclosed a self addressed stamped envelope if you would be so kind as to clock in the copies and return one copy back to me.

Finally, please contact me with any questions or concerns regarding this matter.

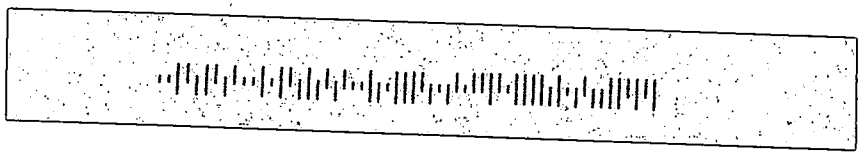
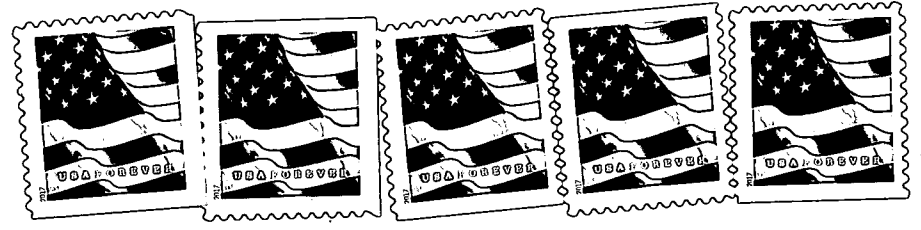
Sincerely,
ORANGEBURG COUNTY PUBLIC DEFENDER

Minh L. Wyman, Esq.
Assistant Public Defender

MLW/dam

cc: Jay T. Thompson, Esq. (via First Class Mail)

Office of the Public Defender
First Judicial Circuit
190 Gibson Street Room 110
PO Box 1112
Orangeburg, SC 29116-1112



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

RECEIVED
SEP 25 2017
SC Court of Appeals