

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Sumter County

W. Jeffrey Young, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**  
JAN 22 2018  
SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

MICHAEL SPANN,

APPELLANT.

APPELLATE CASE NO. 2015-002317

\_\_\_\_\_  
MOTION FOR APPOINTMENT OF A JUDGE  
\_\_\_\_\_

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests an order appointing a judge to oversee the reconstruction hearing. On October 11, 2016, this Court granted Appellant’s motion to remand for reconstruction of the record. Specifically, this Court remanded this case to the Honorable W. Jeffrey Young to hold such hearings as the judge deemed appropriate. Thereafter, the parties worked with Judge Young to obtain all parts of the trial transcript that were available. The parties also worked to move toward the reconstruction hearing. However, missing portions of the transcript remain. Judge Young is no longer a member of the circuit court bench. In fact, he is now employed by the South Carolina

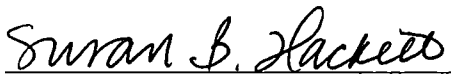
Attorney General's Office. Therefore, Appellant respectfully requests assignment of a judge to oversee the reconstruction of the missing portions of the trial transcript.

A Sumter County grand jury indicted Appellant on December 30, 2009 for armed robbery. The state, represented by Jason Corbett, called the case to trial on November 14, 2012, before the Honorable W. Jeffrey Young and a jury. John P. Britton, now deceased, represented Appellant. The jury returned a guilty verdict on the following day, November 15, 2012. Judge Young sentenced Appellant to thirty years' imprisonment. The sentence was opened and read on November 3, 2015, by the Honorable R. Knox McMahon. Ernest A. "Chip" Finney, III, represented the state, and Appellant appeared *pro se*. After the filing of the notice of appeal, undersigned counsel began representing Appellant. Thereafter, undersigned counsel received a partial transcript of the proceedings, which was discussed in the motion for new trial or reconstruction.

When the case was remanded for reconstruction, Judge Young's chambers informed undersigned counsel that a different court reporter may have a portion of the transcript. This was ordered from Margaret T. Sullivan on October 14, 2016. On February 17, 2017, undersigned counsel received a transcript from Frances B. Ray, who transcribed the proceedings on behalf of Ms. Sullivan. There were still portions missing from the trial, and all parties were made aware of the receipt of the transcript and the missing portions. Thereafter, conversations ensued among the parties regarding provision of the discovery materials to enable reconstruction of the missing portions of the trial. Due to the death of defense counsel, undersigned counsel has been unable to obtain Appellant's file from defense counsel. The discovery materials are necessary to reconstruction. Subsequent conversations among the parties indicated the state was working on assembling the file materials.

WHEREFORE, the undersigned counsel requests this Court assign a new judge to oversee the reconstruction of the missing portions of Appellant's trial transcript.

Respectfully submitted,

  
\_\_\_\_\_  
Susan B. Hackett  
Appellate Defender

Attorney for Appellant

This 22nd day of January, 2018.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Sumter County

W. Jeffrey Young, Circuit Court Judge

**RECEIVED**  
JAN 22 2018  
SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

MICHAEL SPANN,

APPELLANT.

CERTIFICATE OF SERVICE

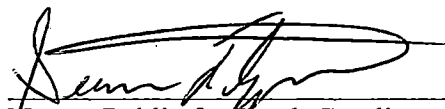
The undersigned attorney hereby certifies that a true copy of the motion for appointment of a judge in the above referenced case has been served upon opposing counsel, J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, Mr. William Jason Corbett, Esquire, at 215 N. Harvin Street, Sumter, SC 29150 and Michael A. Spann, #307775, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 22nd day of January, 2018.



Susan B. Hackett  
Appellate Defender

Attorney for Appellant

SUBSCRIBED AND SWORN TO before me  
this 22nd day of January, 2018.



(L.S.)  
Notary Public for South Carolina  
My Commission Expires: October 30, 2022.



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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, Acting Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender  
Joseph L. Savitz, III, Senior Appellate Defender

January 22, 2018

RECEIVED  
JAN 22 2018  
SC Court of Appeals

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

Re: State v. Michael Spann, Appellate Case No. 2015-002317

Dear Ms. Kitchings,

Please find enclosed the original and six copies of appellant's motion for appointment of a judge in the above-captioned case.

Thank you for your assistance in this matter.

Sincerely,

Susan B. Hackett  
Appellate Defender

SBH/smf

Enclosure

cc: J. Benjamin Aplin, Esquire  
William Jason Corbett, Esquire  
Michael Spann #307775