

BILL NETTLES
— ATTORNEY AT LAW —

Fran Trapp
Attorney at Law
fran@billnettleslaw.com

John Delgado
Attorney at Law
jdd@billnettleslaw.com

March 5, 2018

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

RECEIVED

MAR 05 2018

SC Court of Appeals

Re: The State v. Deante Dominic-Ali Wittich
Appellate Case No. 2016-000732

Dear Ms. Kitchings,

I am attempting to comply with your letter of February 13th regarding the above referenced case, State v. Deante Dominic-Ali Wittich. Your February 13th letter required me to file four bound copies of an Anders Brief, one unbound copy of the record on Appeal and four bound copies of the record on appeal.

I had hoped that my no-merit brief which specifically refers and incorporates Anders v. California, 386 U.S. 738, which I filed with the court would suffice. It is my remembrance that I had specific advice from the Office of Appellate Defense that it could be handled in that fashion. I will, of course, now do as you request.

On October 1st, 2017, I moved my practice from Bluestein, Nichols, Thompson and Delgado on Taylor Street, Columbia, and became a partner in the firm of Bill Nettles on Lincoln Street, Columbia. In moving out of Bluestein Nichols I moved an inordinate number of files to an off-site storage. Included in that move apparently was the Wittich file. I have search the storage site unsuccessfully for the Wittich file. I was able to find, however, some 1400 pages of discovery in a Wittich supplemental file that I had copied to send to the client now serving his time in the South Carolina Department of Corrections.

In this supplemental file I did find correspondence to and from your court about the Wittich appeal:

1-May 11th, 2016, letter from Ben Aplin noting reception of the Notice of Appeal that I filed on the client's case.

2-June 2nd, 2016, letter from your office noting a deficiency in my Notice of Appeal.

3-June 7th, 2016, letter from my office enclosing the proof of service

4-July 20th, 2016, letter from my office to Melissa Singletary, the court reporter, requesting a copy of the Wittich sentencing hearing.

5-July 28th, 2016, a letter from your office noting a deficiency in the proof of service.

6-August 3rd, 2016, letter from my office enclosing a corrected proof of service.

7-August 5th, 2016, email thread from my paralegal, Morgan Yarborough, showing our efforts in getting the sentencing hearing transcribed and a return email from Ms. Singletary noting that it was placed in the mail.

8-August 9th, 2016, a letter from your office requiring that I show I had ordered the sentencing hearing or the appeal would be dismissed.

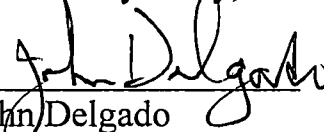
9-August 15th, 2016, letter to your office documenting the specific and repeated attempts we had made in obtaining the sentencing hearing from the court reporter.

Please find a copy of this correspondence. What I did not find in the Wittich supplementary file is the 15 page (or so) sentencing hearing transcript. I obviously received it, included it in my no-merit/Anders brief as I referred to it in the body of the brief. Please find a working copy of that no-merit/Anders brief.

I will continue to search the storage for the Wittich file which will contain the sentencing transcript. If that fails I will pay for another sentencing transcript from the court reporter to include in the Anders brief. For your information I did send a copy of my no-merit brief to the client with an explanation to him of my filing and alerting him to the necessity of his replying to your office should he wish to contest it.

I will do anything else the court suggests.

Yours Very Truly,


John Delgado



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 13, 2018

Request Extension

Mr. John Dennis Delgado, Esquire
2008 Lincoln Street
Columbia SC 29201

Re: The State v. Deante Dominic-Ali Wittich
Appellate Case No. 2016-000732

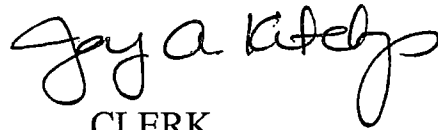
Dear Counsel:

We discovered this case during an audit of our files and upon reviewing your initial brief and petition to be relieved as counsel, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

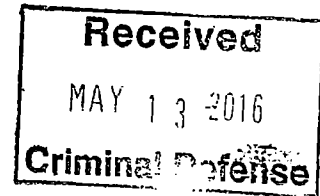
- The Court is interpreting your filing as an Anders Brief. Please see *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L.E.2d 493 (1967).
- Please provide four bound copies of the Anders Brief, along with one unbound and four bound copies of the record on appeal.

The transcript filed with the Anders Brief does not correspond with the appellant in this appeal. Therefore, it is being returned with this letter.

Very truly yours,


CLERK

cc: Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Joanna Ashlyn McDuffie, Esquire



ALAN WILSON
ATTORNEY GENERAL

May 11, 2016

John D. Delgado, Esquire
P.O. Box 7965
Columbia, South Carolina 29202

RE: The State v. Deante D. Wittich
(Richland County)

Dear Counsel:

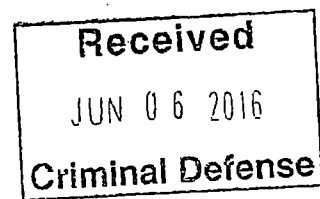
Our Office has received a Notice of Appeal in the above case. This case will be assigned to a lead attorney once the Initial Brief of Appellant and Designation of Matter are filed and served. I would appreciate you sending any correspondence pertaining to the above matter directly to me. You will be notified of lead counsel once assignment has been made.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General

JBA:ab

cc: The Honorable Daniel E. Johnson
The Honorable Jenny A. Kitchings
Ms. Trisha Allen



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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June 02, 2016

Mr. John Dennis Delgado, Esquire
1614 Taylor St.
Columbia SC 29201

Re: The State v. Deante Dominic-Ali Wittich
Appellate Case No. 2016-000732

Dear Counsel:

Upon reviewing your Notice of Appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this appeal will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Joanna Ashlyn McDuffie, Esquire
Robert Michael Dudek, Esquire



BLUESTEIN · NICHOLS · THOMPSON · DELGADO LLC
ATTORNEYS AT LAW

June 7, 2016

Ms. V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29201

Re: *State of South Carolina v. Deante Dominic-Ali Wittich*
Appellate Case No.: 2016-000732

Dear Ms. Allen:

Please find enclosed herein a *Proof Of Service* in reference to the above mentioned case.
Sorry for any inconvenience.

Should you have any questions or need additional information please don't hesitate to
ask.

Best Regards,

Morgan L. Yarborough

JDD/mlly

CC: Joanna Ashlyn McDuffie
John Benjamin Alpin
Robert Michael Dudek



BLUESTEIN · NICHOLS · THOMPSON · DELGADO LLC
ATTORNEYS AT LAW

July 20, 2016

Via US Mail

Melissa Raye Singletary
2797 State Road
Summerville, SC 29483

RE: Deante Dominic-Ali Wittich
Warrant No.: # 2013A021603174

Dear Ms. Singletary:

On March 30, 2016, there was a guilty plea hearing, in front of the Honorable Judge Cothran, for the above mentioned case. We would like to purchase a transcript of this sentencing hearing. Please contact myself or Mr. Delgado, at your earliest convenience, in order to finalize payment.

Thanks for your help and should you have any questions or need additional information, please do not hesitate to contact our office.

Yours very truly,

Morgan L. Yarborough

/mly



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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FAX: (803) 734-1839
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July 28, 2016

Mr. John Dennis Delgado, Esquire
1614 Taylor St.
Columbia SC 29201

**CRIMINAL DEFENSE
RECEIVED**

7/29/16

Re: The State v. Deante Dominic-Ali Wittich
Appellate Case No. 2016-000732

Dear Counsel:

Upon reviewing your proof of service of the Notice of Appeal, which was received June 9, 2016, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter of this appeal will be dismissed:

- The proof of service does not apparently contain the date the notice of appeal was originally served. The notice of appeal refers to the date of March 30, 2016. The proof of service states the notice of appeal was served on June 7, 2016.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Joanna Ashlyn McDuffie, Esquire
Robert Michael Dudek, Esquire



BLUESTEIN · NICHOLS · THOMPSON · DELGADO LLC
ATTORNEYS AT LAW

August 3, 2016

Ms. V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29201

*Re: State of South Carolina v. Deante Dominic-Ali Wittich
Appellate Case No.: 2016-000732*

Dear Ms. Allen:

Please find enclosed herein a corrected *Proof Of Service* in reference to the above mentioned case. Sorry for any inconvenience.

Should you have any questions or need additional information please don't hesitate to ask.

Best Regards,

Morgan L. Yarborough

JDD/mlly

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

R. Ferrell Cothran, Jr., Circuit Court Judge

Appellate Case No.: 2016-000732

The State

Respondent,

v.

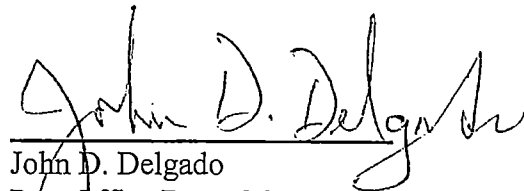
Deante Dominic Ali-Wittich

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on March 30, 2016, addressed to the prosecutor of record, Joanna Ashlyn McDuffie, 1701 Main Street, Columbia, South Carolina 29201.

August 3, 2016



John D. Delgado
Post Office Box 7965
Columbia, South Carolina 29201
(803) 779-7599
Attorney for Appellant

Morgan Yarborough

From: Singletary, Melissa R. <msingletary@sccourts.org>
Sent: Friday, August 05, 2016 9:03 AM
To: Morgan Yarborough
Subject: RE: Transcript Request

Good-morning. The transcript has been transcribed and will be placed in the mail. Have a wonderful weekend. Sorry for the delay - Melissa

From: Morgan Yarborough <MYarborough@bntdlaw.com>
Sent: Thursday, August 4, 2016 10:06 AM
To: Singletary, Melissa R.
Subject: Transcript Request

Ms. Singletary,

At your convenience, we would love a transcript from a plea hearing re: Deante Dominic - Ali Wittich; Warrant No.: 2015A21603174 that occurred in front of Judge Cothran on March 30, 2016.

Please feel free to send an invoice either by e-mail, US Mail (see address below) or fax 803-771-8097.

Should you have any questions, please don't hesitate to contact our office.

Thank you for your time.

Morgan Louise Yarborough
Law Clerk for John Delgado
Juris Doctor Candidate, May 2017

Bluestein Nichols Thompson Delgado, LLC
1614 Taylor Street
P.O. Box 7965
Columbia S.C. 29202
803-779-7599

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CRIMINAL DEFENSE  
RECEIVED  
8/15/16

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 09, 2016

Mr. John Dennis Delgado, Esquire  
1614 Taylor St.  
Columbia SC 29201

Re: The State v. Deante Dominic-Ali Wittich  
Appellate Case No. 2016-000732

Dear Counsel:

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Alan McCrory Wilson, Esquire  
John Benjamin Aplin, Esquire  
Joanna Ashlyn McDuffie, Esquire  
Robert Michael Dudek, Esquire



BLUESTEIN · NICHOLS · THOMPSON · DELGADO LLC  
ATTORNEYS AT LAW

August 15, 2016

Ms. V. Claire Allen  
Deputy Clerk of Court  
The South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

*Re: The State v. Deante Dominic Ali-Wittich  
Appellate Case No.: 2016-000732*

Dear Ms. Allen:

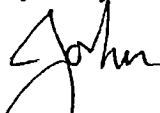
We received a letter on August 15, 2016 in reference to the above mentioned case regarding the transcript request period having expired.

On March 30, 2016 the Defendant plead guilty in front of the Honorable R. Ferrell Cothran, Jr. The very next day, April 1, 2016, we wrote to Ms. Melissa Raye Singletary, requesting the transcript. This was the same day that we filed the Notice of Intent to Appeal. We never heard from Ms. Singletary. We wrote to her on July 20, 2016, again without any response. Finally, on August 4, 2016 my law clerk, called the Judge's chambers in order to ensure we had the correct mailing address. We did. Judge Cothran's clerk gave us Ms. Singletary's e-mail and we immediately e-mailed Ms. Singletary and finally received a response.

We are sorry for any inconvenience this may have caused the court and the clerk's office, however, as you can see my office put in a good faith effort to get the transcript ordered within the ordering deadline. If you still believe we have not met the ordering deadline, then please contact our office so we can get this issue resolved.

Should you have any questions or need additional information, please don't hesitate to contact our office.

Very Truly Yours,



John Delgado

## STATEMENT OF ISSUE ON APPEAL

Was the guilty plea rendered involuntary when the judge filed to consider in imposing sentence that the youthful defendant disagreed with aspects of the factual recitation by the State in establishing the offense charged?

[new page]

## STATEMENT OF THE CASE

The defendant, Deante Dominic-Ali Wittich, was originally indicted by the Richland County Grand Jury for Murder; pursuant to a negotiated plea the defendant was allowed to plead guilty on March 30<sup>th</sup>, 2016 before the Honorable Ferrell Cothran to the charge of Voluntary Manslaughter with a recommendation of sentence between seventeen and twenty five years. Judge Cothran sentenced Wittich to twenty years. Because the defendant did not make his objection to the sentence known to defense counsel within the allowed statutory period, a timely notice of intent to appeal was not initiated. As a result the undersigned requests that the court consider this matter out of time.

[new page]

## ARGUMENT

The guilty plea was rendered involuntary when the youthful defendant disagreed with some of the underlying factual basis for the charge as proposed by the State; the court insufficiently inquired of the defendant as to these matters especially where it was revealed that the defendant had learning disabilities.

Deante Wittich entered a guilty plea to voluntary manslaughter, a violent and most serious offense under South Carolina law. During the guilty plea it was shown that the client, sixteen and a half years old at the time of the offense in September, 2013, had been evaluated some two years before that, that is the age of fourteen, by the Richland County Family Court as functioning much below his chronological age in reading and math comprehension. "...Deante was evaluated and shown to be reading comprehension level of second grade. His age equivalency at that time reading was a seven year old. His numerical or mathematic comprehension was that of a fourth grader, the age equivalence of a nine year old."

When the defendant was asked if he agreed with the State's factual recitation, he disagreed. (Tr. p 3, lines 2-8). While the court did make an inquiry of the defendant as to the disagreements the colloquy was superficial and failed to comply with due process in that further explanation would have revealed that the defendant was not fully aware of the consequences of his plea. (Tr. p.3, lines 13-22)

The Due Process Clause requires that guilty pleas must be entered into voluntarily, knowingly and intelligently by defendants. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969). As noted by the court in Pittman v. State, 337 S.C. 597, 524 S.E. 2d 623 (1999), "In addition to the requirements of Boykin, a defendant entering into a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman at 624, citing State v. Hood, 275 S.C. 392, 271 S.E.2d 602 (1980); Dover v. State, 304 S.C. 433, 405 S.E. 2d 391 (1991). Under the circumstances made known to the court, the judge failed to establish that Wittich knowingly and intelligently entered a plea of guilty when the defendant showed incomprehension of the matters charged against him.

[new page]

### CONCLUSION

Based on the above argument, Wittich's sentence and conviction should be reversed and the case remanded for trial.

Respectfully Submitted,

---

Attorney for the Appellant

January 17<sup>th</sup>, 2017

[new page]

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Richland County  
Ferrell Cothran, Circuit Court Judge

---

THE STATE,

RESPONDENT

v.

DEANTE DOMINICH ALI-WITTICH,

APPELLANT

---

PETITION TO BE RELIEVED AS COUNSEL

---

Counsel for Deante Dommich Ali-Wittich states:

1-He represents the Appellant, Deante Dommich Ali-Wittich.

2-He has reviewed the record of appellant's guilty plea on March 30<sup>th</sup>, 2016, held before Circuit Court Judge Ferrell Cothran, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

3- He, has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, (1967) briefed the arguable legal issue which arose during the course of the proceeding.

WHEREFORE, he asks the court to relieve him as counsel for Deante Wittich.

Respectfully Submitted,

---

John Delgado  
Attorney for the Appellant

This 17<sup>th</sup> day of January, 2017.

[new page]

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Richland County  
Ferrell Cothran, Circuit Court Judge

---

THE STATE,

RESPONDENT

v.

DEANTE DOMINICH ALI-WITTICH,

APPELLANT

---

DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL

---

Appellant proposes the following be included in the Record on Appeal:

(1) Guilty Plea Transcript

I certify that this designation contains no matter which is irrelevant to this appeal.

---

John Delgado, SC Bar # 1621  
Attorney for the Appellant  
1614 Taylor Street  
Columbia, South Carolina 29201  
(803) 779-7599

January 17<sup>th</sup>, 2017

[new page]

Two different certificates of Service: one to the client at Lee Correctionation Institution, Bishopville, and the other to Salley W. Elliott, Esq., Rembert Dennis Building, Room 519, 1000 Assemble Street, Columbia, 29201

**BILL NETTLES**  
— ATTORNEY AT LAW —

2008 LINCOLN STREET | COLUMBIA, SOUTH CAROLINA 29201  
TEL: 803.814.2826 | JDD@BILLNETTLES.LAW.COM

**RECEIVED**

MAR 05 2018

SC Court of Appeals

*Jerry Abbott Kitching*  
*Clute*  
*S. C. Court of Appeals*

**JOHN DELGADO**  
803.814.2826