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APR 06 2018

S.C. SUPREME COURT

TARA DAWN SHURLING, PA

Attorney and Counselor at Law

3614 Landmark Drive

Suite A

Columbia, South Carolina 29204

(803) 738-8622

(Fax) (803) 738-1600

E-Mail: tdslaw@shurlinglaw.com

April 5, 2018

The Honorable Renee Elvis
Clerk of Court, Horry County
P.O. Box 677
Conway, SC 29528

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APR 09 2018

SC Court of Appeals

RE: State of South Carolina v. David Harold Campbell
2016-GS-26-00536; 2017-GS-26-00942

Dear Ms. Elvis:

Enclosed please find an original and one copy of my Motion for Authorization to Review Backup Tapes of Trial Proceedings in the above reference case. If you would be so kind as to have a member of your staff file the original and return the clocked copy to me in the enclosed self-addressed stamped envelope, I would be most grateful. Thank you for your time and consideration in this matter. I remain,

Sincerely,

A handwritten signature in cursive script that reads "Tara Dawn Shurling".

Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sg
Enclosure

cc: The Honorable Daniel E. Shearouse, Clerk of Supreme Court (w/enclosure) ✓
J. Benjamin Alpin, Senior Assistant Deputy Attorney General (w/enclosure)
Desiree Allen, Court Administration (w/enclosure)
Kay Richardson, Circuit Court Reporter (w/enclosure)
David Harold Campbell, #265686 (w/enclosure)
Jynere Friday (w/enclosure)

Reporter's back up audio recordings be put in the possession of Desiree Allen, Court Reporter Manager, South Carolina

Administration Court so that Counsel could personally listen to them and compare them with the trial transcript provided. When Counsel had not heard anything in response to this request, she wrote the Court Reporter on February 7, 2018, and inquired as to whether the backup recordings had been delivered to Desiree Allen at Court Administration for her review. In response to that inquiry, Counsel received a letter from court reporter Richardson dated February 13, 2018 advising that she had "reviewed the record, including the pretrial motion portion, and found that no portion was left out. Therefore, the transcript as prepared is accurate." **See, Attached letter dated February 13, 2018.**

Appellate Counsel subsequently provided the two trial attorneys in this matter, Morgan O. Martin and Russell B. Long, copies of the relevant portions of the trial transcript, and I asked that they review these excerpts from the transcript and advise Counsel of their opinion concerning their accuracy and completeness. Attorney Long subsequently advised Counsel that, to the best of his recollection, the record appeared to be complete. The portions of the trial record in dispute address a matter that was primarily argued co-counsel, Attorney Martin. Earlier this week, Counsel received a phone message from Attorney Martin and was able to have a lengthy telephone conference with him concerning this matter yesterday; April 4, 2018. Attorney Martin indicated that he concurs with Appellate Counsel's belief that at least one portion of the trial record appears to be inaccurate in that it does not properly reflect a Motion for a Mistrial made by him on page 248 of the trial transcript. In addition, Attorney Martin has reviewed with Counsel portions of the trial record that potentially support Defendant's assertion that a motion, discussion, and a trial court ruling, addressing the same subject matter as the



subsequent Mistrial Motion is missing from the pre-trial Motion section of this trial record. Attorney Martin has retrieved his trial file and has reviewed his trial notes. Counselor herein is advised by Attorney Martin that his notes from the pretrial hearing include his hand written references to a Motion to Dismiss and a Motion to Suppress. His notes , however, are limited and do not clearly indicate whether notes show his *intention* to make these motions or, whether his notes were intended to document that he did so. Furthermore, Attorney Martin has indicated that he has no clear recollection of what specific Motions were made during that proceeding, with the exception of his Motion to Dismiss based upon his position that his Client was unlawfully arrested inside the city limits of Myrtle Beach by officers from the Horry County Police Department where the State presented no clear authority for the State's claimed that this law enforcement agency had jurisdiction inside the city limits of Myrtle Beach. Attorney Martin has advised Counsel that he would have to hear to audio backup times to refresh his recollection concerning what exact issues he raised during the pre-trial motion portion of the trial. Furthermore, Appellate Counsel submits that trial counsel's notes are not particularly helpful inasmuch as there were actually two separate suppression issues mentioned before the Court, one involving a recording made by the arresting officer's patrol car camera and another dealing with potential testimony concerning an unrelated narcotics investigation that was ongoing at the time the Horry County Police Officers allegedly observed the Defendant commit a traffic violation and called in a uniformed officer and a marked patrol car to make a traffic stop.

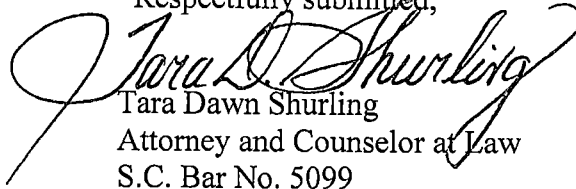
In light of the above, Defendant now requests this Honorable Court's order directing Circuit Court Reporter, Kay H. Richardson, to make her backup audio recordings of this trial available to appellate counsel for her review. Additionally, Defendant would request that Court Reporter Richardson be directed to supply Appellate Counsel a copy of the audio backup from

A handwritten signature in black ink, appearing to be the initials 'JOS' or similar, located at the bottom center of the page.

this trial so that Appellate Counsel can review the audio backup with Defendant, who is incarcerated and Trial Counsel. Appellate Counsel submits that such a review is necessary to insure this record is in fact accurate and complete inasmuch as Appellate Counsel was not present at this trial and would be less able than Defendant and his Trial Counsel, to discern any portions of the backup recordings which might be difficult to hear and understand.

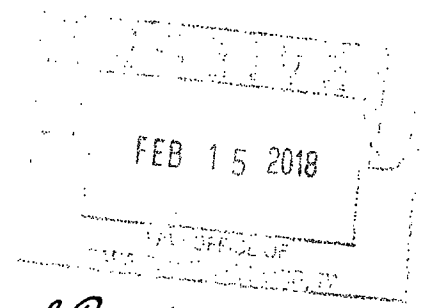
Appellate Counsel would note that she has been an appellate lawyer for 39 years and has requested access to backup recordings of proceedings in fewer than a dozen cases over her entire career. She submits, as an officer of the court, that she does not make this request lightly or for purposes of delay. Counsel asserts that she would not be making this request if she did not believe there was some evidence to suggest that at least a portion of this transcript might not be totally accurate and/or complete. Defendant submits that he should be able to have a direct appeal based upon a record he feels confident is accurate and complete. Furthermore, Defendant submits that affording Appellate Counsel the opportunity to review the backup recordings from his trial in no way prejudices Respondent. If the transcript is found to be accurate, the appeal can then move forward without any prejudice to Respondent. Appellate Counsel intends to file a Motion to Stay the direct appeal that has been filed in this case until such time as the questions about the trial record have been resolved.

Respectfully submitted,


Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
(803)738-8622
(803)738-1600 FAX

ATTORNEY FOR DEFENDANT



State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Kay H. Richardson
Court Reporter

Post Office Box 282
Aynor, South Carolina 29511
E-MAIL: krichardson@sccourts.org

February 13, 2018

Tara Dawn Shurling, Esquire
3614 Landmark Drive – Suite A
Columbia, SC 29204

Re: State v David Harold Campbell
2017-GS-26-00942

Dear Ms. Shurling:

I am sorry for not responding to your January 3 email in a timelier manner. I was unsure of how to respond until I was contacted by Desiree Allen at Court Administration when she received a copy of your February 7, 2018 letter. I am responding to the email from January 3, 2018, and the letter dated February 7, 2018.

By way of history, the original transcript in this matter was requested by and delivered to Appellate Defense and Bukh Law Firm on August 22, 2017. A digital copy of the transcript was delivered to you on December 19, 2017.

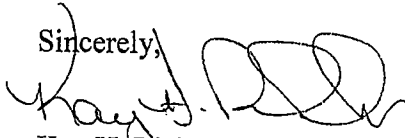
In the February 7, 2018 letter you ask if I have made arrangements to have backup tapes placed with Desiree Allen at Court Administration. I have not. When there is a challenge to the accuracy of a transcript, I have to respond to the challenger in writing. I am required to review the record and report the findings in writing to the challenger with a copy to all parties and Court Administration. Any inaccuracies have to be corrected and the pages forwarded to the challenger at no cost. I have reviewed the record, including the pre-trial motion portion, and found that no portion was left out. Therefore, the transcript as prepared is accurate.

The S.C. Court Reporter Manual states, "Further review of the record may be permitted by the presiding judge upon written request with good cause shown." If you decide to ask the presiding judge for a further review, kindly copy me on the judge's decision. The S.C. Court Reporter Manual also states, "In any proceeding which has been transcribed, the court reporter shall retain the primary and back-up tapes which have been transcribed for a period of at least one year after the original transcript is sent to the requesting party to allow any party to challenge

Tara Dawn Shurling
February 13, 2018
Page Two

the accuracy of the transcription." Therefore, these records will be preserved by me until **August 22, 2018**.

I am copying the Court of Appeals and Court Administration on this response. I do not have the address of David Harold Campbell or Jynere Friday which were copied on your letter. I would respectfully request that copies be provided to those individuals by your office, if you think it is necessary. Thank you.

Sincerely,

Kay H. Richardson
Circuit Court Reporter

CC: The Honorable Jenny A. Kitchings, Clerk, SC Court of Appeals
Desiree Allen, Court Reporter Manager, SC Court Administration
David Harold Campbell, #265686 (via Ms. Shurling)
Jynere Friday (via Ms. Shurling)

THE STATE OF SOUTH CAROLINA)
)
HORRY COUNTY)

IN THE COURT OF GENERAL SESSIONS

2016-GS-26-00536
2017-GS-26-00942

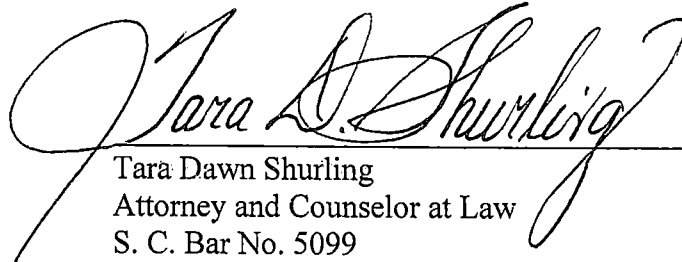
STATE OF SOUTH CAROLINA,)
)
) Plaintiff,)
 vs.)
)
)
)
) DAVID HAROLD CAMPBELL)
)
) Defendant.)
 _____)

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

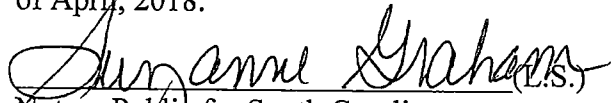
The undersigned attorney hereby certifies that a copy of the Motion for authorization to Review Backup Tapes of Trial Proceeding in the above-entitled case has been served upon opposing counsel by depositing in the U.S. Mail, postage prepaid, this 5th day of April, 2018 addressed as follows:

J. Benjamin Alpin
Senior Assistant Deputy Attorney General
Office of the Attorney General
P o Box 11549
Columbia, SC 29211


Tara Dawn Shurling
Attorney and Counselor at Law
S. C. Bar No. 5099

Attorney for Appellant

SWORN TO BEFORE me this 5th day
of April, 2018.


Notary Public for South Carolina (S.S.)
My Commission Expires: 2/28/24