



ALAN WILSON
ATTORNEY GENERAL

April 17, 2018

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APR 18 2018

SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. David Harold Campbell
Appellate Case No: 2017-001229

Dear Ms. Kitchings:

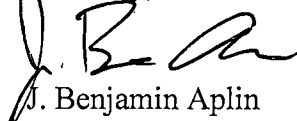
Respondent (the State) is in receipt of Appellant's April 9, 2018, Motion to Stay Direct Appeal in the above entitled case. The State has no objection to the request to stay this appeal pending resolution of Appellant's underlying "Motion for Authorization to Review Backup Tapes of Trial Proceeding" from his jury trial held May 15-18, 2017.

In regard to the merits of the motion to review the backup tapes, the State takes no position regarding the request and leaves the matter to the Court's sound discretion; however, it would make the following observations. First, it appears Appellant's motion may have been improperly filed in the Horry County Court of General Sessions when it should have been filed in this Court. The Appellate Court Rules provide: "The transcript shall be prepared in the manner prescribed by the Court Reporters Manual published by the Office of Court Administration." Rule 606(c), SCARC. The Court Reporter Manual sets forth the procedure for challenging the accuracy of a transcript including the court reporter's obligation to review the record, report the findings in writing to the challenger, and correct any inaccuracies at no cost. S.C. Court Reporter Manual 19-20 (Approved August 16, 2011, & Amended March 1, 2017). It goes on to state: "Further review of the record may be permitted by the presiding judge upon written request with good cause shown." *Id.* Although the language in the manual admittedly does not make it entirely clear, it appears the trial judge would have ceased being "the presiding judge" after the conviction and sentence were entered and the notice of appeal was served and filed. In addition,

the Appellate Court Rules provide that: "Upon service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal." Rule 205, SCACR. The State submits that under these provisions, this Court should determine whether further review of the record is warranted under the circumstances set forth in Appellant's motion, not the Court of General Sessions. If this is correct, the State has no objection to this Court accepting, reviewing, and determining the propriety of Appellant's motion.

Second, as conveyed by court reporter Kay H. Richardson in her February 13, 2018, letter to Ms. Shurling: "I have reviewed the record, including the pre-trial motions portion, and found that no portion was left out. Therefore, the transcript as prepared is accurate." Thus, to the extent Appellant maintains the transcript is incomplete rather than inaccurate, his complaint appears to fall more in the nature of a motion to reconstruct the record, which would not require review of the backup tapes. The State does object to reconstruction of a record that, by all accounts, is complete and not in need of reconstruction. Otherwise, as noted above, the State takes no position as to the request to review backup tapes, but it would ask that any such review be conducted solely at the Office of Court Administration, with counsel for both parties in attendance, and that no copies of those backup tapes be made or released from the custody of Court Administration.

Sincerely,



J. Benjamin Aplin
Senior Assistant Deputy Attorney General
S.C. Bar No: 8729

JBA/ab

cc: The Honorable Renee Elvis, Clerk of Court, Horry County
Tara D. Shurling, Esquire
Desiree Allen, Director of Court Administration
Kay H. Richardson, Court Reporter
Victim Advocacy Division



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