

STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

FEB 29 2016

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC SUPREME COURT

The Honorable Roger L. Couch, Trial Judge
The Honorable Robert E. Hood, Post-Conviction Relief Judge

Appellate Case No. 2015-000424

David Carmichael,.....Respondent,

v.

State of South Carolina,.....Petitioner.

MOTION TO SUPPLEMENT APPENDIX

Pursuant to Rule 240, SCACR, counsel for Petitioner moves to supplement the Appendix in this case. In support of this motion, Petitioner would present the following:

1. The Richland County Grand Jury indicted Respondent for one count of Lewd Act On A Minor, two counts of Lewd Act Upon A Child. After the State called the case to trial, Respondent was found guilty. On October 11, 2012, the Honorable Roger L. Couch sentenced Respondent to a total 15 year sentence.

2. Petitioner filed an application for post-conviction relief (PCR) on April 16, 2013 and a hearing was held on September 5, 2014. In an order filed December 30, 2014, the Honorable Robert E. Hood granted relief and ordered a new trial.

4. The Appendix and the Petition for Writ of Certiorari were filed on or before September 21, 2015. The Appendix, however, does not contain indictment 2007-GS-40-3372 (“the indictment”) from the clerk of court’s records.

5. The indictment was before Judge Hood. As such, the indictment should be included in the Appendix. Opposing counsel has agreed this document is necessary and should be submitted in a Supplemental Appendix.

6. Inasmuch as the indictment is relevant and pertinent material under Rule 243(f), SCACR that should be included in the Appendix, counsel moves this Court to allow Petitioner to include the same in a Supplemental Appendix.

WHEREFORE, as the Appendix is incomplete, counsel for Petitioner requests this Court grant the motion to supplement the Appendix.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

ALAN WILSON
Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General
Bar No. 101443

PO Box 11549
Columbia, SC 29211
(803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

February 29, 2016

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2015-000424

David Carmichael,.....Petitioner,

v.

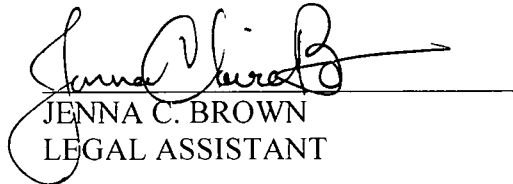
State of South Carolina,.....Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **Motion to Supplement Appendix** has been served upon the applicant by mailing two (2) copy in the United States mail, postage prepaid, addressed to Petitioner's counsel:

**Robert M. Dudek, Esquire
S.C. Commission of Indigent Defense
1330 Lady Street, Suite 401
Columbia, SC 29201**

This 29th day of February, 2016


JENNA C. BROWN
LEGAL ASSISTANT

WITNESSES

(S) B.A. METZ, RCSD

ARREST WARRANT NUMBER

I-936400

ACTION OF GRAND JURY
TRUE BILL

Date: SEP 12 2007

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2007-GS-40-3372

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007
116

THE STATE
vs.

DAVID LEE ELIJAH CARMICHAEL

Indictment for
LEWD ACT UPON CHILD

SC Code: 16-15-140
CDR Code: 2468
Class FEL/D

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.



RECEIVED

FEB 29 2016

SC SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

February 29, 2016

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: David Carmichael, #352788 v. The State of South Carolina
Appellate Case No. 2015-000424
Lower Court Case No. 2013-CP-40-02293

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of **Motion to Supplement Appendix** in the above-referenced case. By copy of this letter we are serving petitioner today.

Sincerely,

J. Clayton Mitchell
Assistant Attorney General
S.C. Bar No. 101443

JCM/jcb
Enclosures

cc: Robert M. Dudek, Esquire