

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Bamberg County
The Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case No. 2016-002046

STATE OF SOUTH CAROLINA,

Respondent,

vs.

HOMER ARTHUR JAMES,

Appellant.

MOTION TO ACCEPT EXHIBIT

RECEIVED
JUL 09 2018
SC Court of Appeals

The State, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

On March 7, 2018, this Court issued a Transportation Order in this case asking for the release and transport of State's Exhibit No. 62 (Videotape of Bank Robbery) from the Clerk of Court for Bamberg County.

II.

On Thursday, April 19, 2018, Troyeshi Brailey, a paralegal at the Office of the Attorney General traveled to the Bamberg County Courthouse to pick up the exhibits in this case. While Ms. Brailey was able to obtain State's Exhibit No. 80, she was told that the Clerk's Office did not have State's Exhibit No. 62 in its possession. State's Exhibit No. 62 was the videotape of the bank robbery and was admitted into evidence at trial without objection. See R. p. 175.

III.

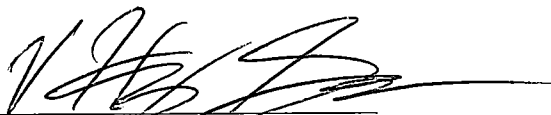
The State is thus unable to obtain any copy of State's Exhibit No. 62 from the Clerk of Court. The State has been able to obtain a copy of the video from the Solicitor's Office, which it believes is identical to the video presented to the court. The State has attached the affidavit of Deputy Solicitor David Miller. See Exhibit A. The State believes this Court should accept the video from the Solicitor's Office so that a complete record can be presented.

WHEREFORE, The State prays that the Court hold this matter in abeyance until ruling on this motion, and accept the video obtained from the Solicitor's Office in lieu of transporting the video from the Clerk of Court; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

V. HENRY GUNTER, JR.
Assistant Attorney General

BY: 

V. Henry Gunter, Jr.
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

July 9, 2018

EXHIBIT A

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Bamberg County
The Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case No. 2016-002046

THE STATE,

Respondent,

vs.

HOMER ARTHUR JAMES,

Appellant.

AFFIDAVIT

Personally appeared before me, David Warren Miller, who being duly sworn,
attests to the following:

I.

I am the Deputy Solicitor in the Second Judicial Circuit Solicitor's Office in
Bamberg County, South Carolina.

II.

I was present and served as prosecutor for the State of South Carolina during the
trial of Appellant Homer Arthur James August 9, 2014 through August 11, 2014, including
when State's Exhibit No. 62, which is a copy of a surveillance video from the Enterprise
Bank in Denmark, South Carolina on the day it was robbed, was admitted into evidence.

III.

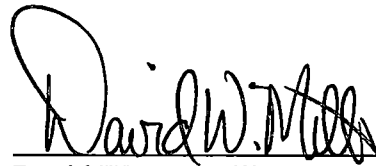
After being informed that the Clerk of Court for Bamberg County did not have a

copy of the Enterprise bank surveillance video in the case file, my office provided the Office of the Attorney General with a copy of the surveillance video which I believe to be identical to the missing State's exhibit that was introduced during Appellant's trial.

IV.

To the best of my knowledge and belief, the digital video provided to the Office of the Attorney General is a true and accurate copy of the surveillance video introduced during Appellant's trial as State's Exhibit # 62.

WHEREFORE, the undersigned hereby certifies that the above is true to the best of his knowledge and recollection. I have this day been provided a copy of this Affidavit and hereby acknowledge receipt thereof.



David Warren Miller
Deputy Solicitor, Second Judicial Circuit

SWORN to before me this 27th day of June, 2018.



Tameka Tucker

Notary Public for South Carolina

My Commission Expires: 4/4/21

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THE STATE,

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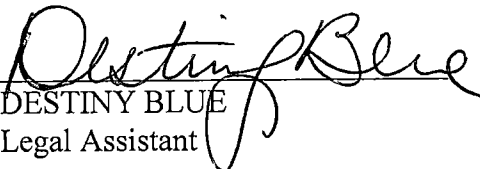
HOMER ARTHUR JAMES,

Appellant.

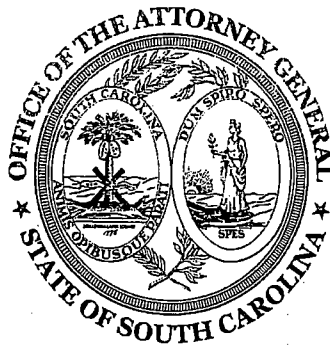
PROOF OF SERVICE

I, Destiny Blue, certify that I have served the Motion to Accept Exhibit on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to: David Alexander, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.
This 9th day of July, 2018.


DESTINY BLUE
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

July 9, 2018

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SC Court of Appeals

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

Re: The State v. Homer Arthur James
Appellate Case No: 2016-002046

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion to Accept Exhibit along with proof of service in the above-referenced case.

Sincerely,

V. Henry Gunter
Assistant Attorney General
S.C. Bar No: 102259

VHR/db
Enclosures

cc: David Alexander, Esquire
Victim Advocacy Division