

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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DEC 04 2018

SC Court of Appeals

Appeal from Horry County
The Honorable R. Markley Dennis, Circuit Court Judge
Appellate Case No. 2017-001876

The State,

Respondent,

v.

Sidney St. Clair Moorer,

Appellant.

**MOTION TO STRIKE ITEMS FROM DESIGNATION OF MATTER;
HOLD APPEAL IN ABEYANCE; AND REQUIRE AN AMENDED
INITIAL BRIEF OF APPELLANT AND DESIGNATION OF MATTER**

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

1. The only issue the Appellant raises on appeal is whether the circuit court erred in denying his directed verdict motion. The State hereby moves to strike the items listed at (3) in the Appellant's Designation of Matter. These exhibits appear to have been marked for identification during the trial but were never admitted into evidence (See, Tr.p. 4). Therefore, the designated exhibits were not before the circuit court for consideration in ruling on Appellant's directed verdict motion and may not be included in the Record on Appeal (Rule 210(c) SCACR.

2. The State also requested a copy of Interview of the Appellant (DVD), but the undersigned has not yet received it. The State believes the actual video is necessary since it is

critical evidence that was properly considered by the circuit court in addressing Appellant's motion for directed verdict.

3. Based on these two reasons, the State requests that all deadlines in this matter be held in abeyance pending resolution of this motion. The State further requests that Appellant be required to file an Amended Initial Brief and Designation of Matter removing all references to these exhibits.

4. The undersigned certifies she has advised opposing counsel regarding the substance of this motion.

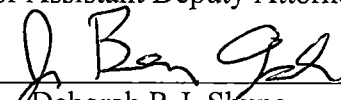
WHEREFORE, the State submits that the Relief requested herein should be granted.

Respectfully submitted,

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

BY


for Deborah R.J. Shupe
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

December 4, 2018

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PROOF OF SERVICE

I, Sally Ellison, certify I served the Motion to Strike Items From Designation of Matter, Hold Appeal in Abeyance; and Require an Amended Initial Brief of Appellant and Designation of Matter, by depositing a copy of same in the United States mail, postage prepaid, addressed to:

Susan B. Hackett, Esquire
Assistant Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.

This 4th day of December, 2018.



SALLY ELLISON
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

December 4, 2018

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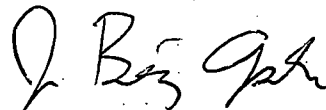
The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State v. Timothy Sidney St. Clair Moorer
Appellate Case No. 2017-001876

Dear Ms. Kitchings:

Enclosed are the original and seven (7) copies of a Motion to Strike Items From Designation of Matter; Hold Appeal in Abeyance; and Require an Amended Initial Brief of Appellant and Designation of Matter, with proof of service, for filing in the above-referenced appeal.

Sincerely,


Deborah R.J. Shupe

Senior Assistant Deputy Attorney General

Enclosures

cc: Susan B. Hackett, Assistant Appellant Defender
Victim Advocacy Division