

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

RECEIVED

DEC 10 2018

SC Court of Appeals

Appellate Case No. 2018-001684

The State,..... Respondent,

v.

Michael Cliff Eubanks,..... Appellant.

**Petition to Hold Briefing Deadlines in Abeyance Until Solicitor and Court
Administration Provide More Information**

Michael Cliff Eubanks petitions this Court to hold the briefing deadlines in abeyance until the Eighth Circuit Solicitor's Office and South Carolina Court Administration respond to Freedom of Information Act requests regarding the court reporter from Mr. Eubanks' trial preparing the trial transcript while employed by the Eighth Circuit Solicitor's Office, the same office that prosecuted Mr. Eubanks. This motion is based on the following grounds:

- 1) From July 31, 2018 to August 3, 2018, the Eighth Circuit Solicitor's Office prosecuted Mr. Eubanks before the Honorable Frank R. Addy, Jr. and a jury for first-degree criminal sexual conduct with a minor, second-degree criminal sexual conduct with a minor, and third-degree criminal sexual conduct with a minor. The jurors convicted Mr. Eubanks as charged. Judge Addy sentenced Mr. Eubanks to twenty-five years imprisonment for first-degree criminal sexual conduct with a minor, a concurrent sentence of fifteen years

for third-degree criminal sexual conduct with a minor, and a consecutive sentence of fifteen years for second-degree criminal sexual conduct with a minor, suspended on the service of forty-five days, with probation for five years.

2) Tara Scott was the court reporter.

3) On August 17, 2018, while the new trial motion was still pending, Rauch Wise, who was Mr. Eubanks' trial counsel, requested the court reporter produce a transcript. A copy of the request is attached. Appendix ("A.") at 1-2.

4) On October 17, 2018, Mr. Wise inquired about the status of the transcript. A. 8. On October 18, 2018, the court reporter responded and anticipated having the transcript completed by October 29, 2018. A. 8.

5) On October 26, 2018, the court reporter wrote counsel and stated the transcript would "likely" be complete by Wednesday, October 31, 2018 or Thursday, November 1, 2018. The court reporter further stated, "Because I've gone over my allotted 60 days, I have also filed a request for an extension with Court Administration." A. 6. By letter October 30, 2018, undersigned counsel updated this Court regarding the status of the transcript. Undersigned counsel never received a copy of the extension approval.

6) On November 28, 2018, the court reporter responded to an inquiry from one of Mr. Eubank's relatives. The court reporter stated:

I resigned from my position as a court reporter at the end of October. Prior to my resignation I was given permission by court administration to continue producing transcripts as the requests come in just like normal. Not knowing the policy of their IT department though, I did not make a backup of all my email contacts for transcript requests. The day after my resignation I immediately lost access to my tscott@sccourts.org email and all of that information was deleted from the system. I also lost access to all of my lists of requests. Unfortunately, I have had to wait until I am contacted, like you did, to be able to then get those transcripts completed and out to the people who ordered them.

A. 9.

7) Undersigned counsel learned the court reporter had accepted a position as a Victims' Advocate with the Eighth Circuit Solicitor's Office. On November 26, 2018, undersigned counsel wrote the court reporter and inquired, "Do you know how this transcript will be handled now as you technically cannot certify it anymore?" A. 5. Later, on November 26, 2018, the Court reporter provided a copy of the transcript. A. 5. The court reporter again stated Court Administration approved her continuing to produce transcripts. Although confirming her certifications are current, the court reporter did not address the conflict created by her preparing this transcript while employed by the office that prosecuted Mr. Eubanks.

8) By letter dated November 27, 2018, undersigned counsel informed this Court:

On November 26, 2018, I received the trial transcript. The court reporter, however, became a Victims' Advocate with the Eighth Circuit Solicitor's Office while this transcript request was still pending, meaning the certification that she does not have an "interest to any party" is not accurate.

9) On November 28, 2018, undersigned counsel requested the Eighth Circuit Solicitor provide information about the court reporter's application for the position and dates of the interview(s), job offer, and acceptance of the job. A. 10.

10) On November 29, 2018, undersigned counsel wrote Court Administration requesting a copy of the extension to November 16, 2018, the court reporter's resignation letter, whether the court reporter disclosed the conflict of interest, the approval to continue preparing transcripts, and the policy that allows the court reporter to continue preparing transcripts after beginning new employment. A. 3.

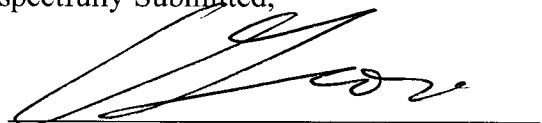
11) The information requested from the Solicitor and Court Administration is needed to determine the date the court reporter obtained an interest in employment with the Eighth Circuit Solicitor's Office. Once this information is obtained, undersigned counsel anticipates petitioning this Court to require an independent review of the transcript to confirm its accuracy. The ultimate goal is for this Court, Mr. Eubanks, Mr. Eubanks' family, and the general public to have confidence in the transcript.

12) Undersigned counsel has communicated with Ben Aplin of the South Carolina Attorney General's Office who does not oppose the request to hold the briefing deadlines in abeyance.

Therefore, Mr. Eubanks respectfully requests this Court hold the briefing deadlines in abeyance until the Eighth Circuit Solicitor's Office and South Carolina Court Administration respond to Freedom of Information Act requests regarding the court reporter from Mr. Eubanks' trial preparing the trial transcript while employed by the Eighth Circuit Solicitor's Office

Respectfully Submitted,

By



E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Michael Cliff Eubanks

December 6, 2018
Greenwood, South Carolina

LAW OFFICE OF
C. RAUCH WISE

Attorney & Counselor at Law
305 Main Street
Greenwood, SC 29646
e-mail rauchwise@gmail.com

C. Rauch Wise

Telephone
(864) 229-5010
Facsimile
(864) 229-2665

August 17, 2018

tscott@sccourts.org
Tara T. Scott
1849 Stevenson Rd.
Abbeville, SC 29620

Re: State vs. Michael C. Eubanks
Case No. 2017GS3001294, 3010100574, 2018GS3001205

Dear Ms. Scott:

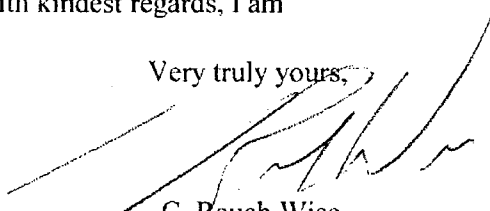
On July 31, 2018 to August 3, 2018, the trial in the case above referenced was tried before the Honorable Frank Addy, Jr, Circuit Court Judge, in Laurens County. My records indicate that you were the court reporter for this case.

I request that you provide me with a transcript of the entire trial, including the jury selection and closing arguments.

Please let me know the estimated charge for this transcript so that I can obtain the funds to cover this request. I agree to pay the per page charge for this transcript, as provided by Rule 607, SCACR.

With kindest regards, I am

Very truly yours,



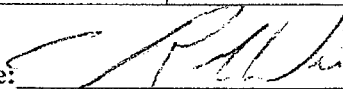
C. Rauch Wise

CRW/slt

Transcript Request Form

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter and to South Carolina Court Administration at transcripts@sccourts.org. Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
Full Name C. Rauch Wise	Phone Number 864-229-5010	Email Address rauchwise@gmail.com	
Mailing Address 305 Main Street	City Greenwood	State SC	Zip Code 29646
Transcript Information			
Docket Number 2017GS3001294, 2018GS3001205, 2017A3010100574	Case Caption (i.e. State v. John Doe or Smith v. Smith) State v Michael C. Eubanks		
Presiding Judge Frank R. Addy Jr.	Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>	County Laurens	
Date(s) of Proceeding July 31, 2018 to August 3, 2018	Expedited Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Copy Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

Requestor's Signature: 
(Typed name will serve as signature)

Date: 8/17/2018

Note: If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only			
Full Name _____	Date Received _____	Email Address _____	
Notice of Estimate to Requestor Party Date: _____ Number of Pages: _____ Estimated Amount _____			
Mailing Address for Payment _____	City _____	State _____	Zip Code _____

The Grose Law Firm, LLC
404 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groselawfirm.com
Web: GroseLawFirm.com

November 29, 2018

Ms. Desiree Allen
Manager, Court Reporting and Court Interpreters
Calhoun Building
1220 Senate Street, Suite 200
Columbia, SC 29201-3739

Re: *State of South Carolina v. Michael Cliff Eubanks*
Appellate Case No. 2018-001684

Dear Ms. Allen:

Enclosed please find my email correspondence between me, Rauch Wise and Tara Scott from October 17 to November 26, 2018, Ms. Scott's email to one of Mr. Eubanks' relatives, and my letter to Solicitor David Stumbo dated November 28, 2018.

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10, *et. seq.*, please provide Ms. Scott's application for an extension to November 16, 2018 to prepare this transcript, documentation showing the extension was granted, Ms. Scott's resignation as a court reporter, and documentation granting Ms. Scott permission to continue preparing transcripts. Your response should also include any information showing Ms. Scott disclosed she had accepted employment as a Victims' Advocate for the Eighth Circuit Solicitor's Office. This request does not seek any information about salary or personal identification information, such as date of birth, social security number, or home address.

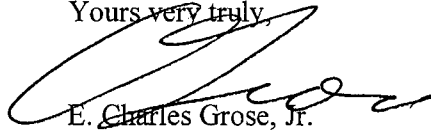
Additionally, please provide a copy of the policy or procedure allowing a court reporter to continue preparing transcripts after resigning as a court reporter. The only policy and procedure I am familiar with is found at page 13 in Section X (Return of Records and Equipment) of the Court Reporter Manual, as approved August 16, 2011, amended March 1, 2017, and updated May 1, 2018 (found at <https://www.sccourts.org/courtreporter/CourtReporterManual.pdf> (last viewed November 29, 2018)).

I agree to pay the cost of obtaining this information; however, if the cost exceeds \$50.00, please contact me for prior authorization.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,

A handwritten signature in cursive script, appearing to read "E. Charles Grose, Jr.", written in black ink.

E. Charles Grose, Jr.

cc: Mr. Cliff Eubanks
J. Benjamin Aplin, Esquire

Subject: Re: Michael Eubanks
Date: Monday, November 26, 2018 at 10:57:56 PM Eastern Standard Time
From: Tara Scott
To: Charles Grose
Attachments: State of SC v Michael Cliff Eubanks Trial.pdf

Charles,

Good evening. Attached is the transcript of the trial of the State of SC v Michael Cliff Eubanks. Please let me know if I should address the invoice to you or Rauch and I'll send it back.

Also attached are my most sincere apologies for not being able to provide this transcript sooner. If you need anything from me explaining the delay or why there was not an extension filed even though one was requested by me, I will do my best to provide something. I can only assume that the time of my separation from the State coincided with my filing the extension. That, and the fact that producing an 800 page transcript is quite the part-time job. But I digress....

Not sure how it works between you and Rauch, and I don't need to, but will you please make sure that he gets this if he needs it as I do not have any contacts from before.

Concerning your question earlier... My credentials (CVR) as a certified court reporter are still in good standing with all entities, my national certification is up to date, and as I actually took the trial record can still certify the transcript. It's my understanding that the only time I could not certify is if I were not present ie. transcribing audio. Court Administration has given me permission to continue to produce transcripts of any record I took as an official. Does that answer your question?

Let me know if you need further.

Sincerely,
Tara



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On Mon, Nov 26, 2018 at 2:00 PM Charles Grose <charles@groselawfirm.com> wrote:

Congratulations on your new job.

Do you know how this transcript will be handled now as you technically cannot certify it anymore?
Thanks for any guidance you can provide.

Best,

Charles

E. Charles Grose, Jr.

The Grose Law Firm, LLC

404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: Charles Grose <charles@groselawfirm.com>
Date: Friday, October 26, 2018 at 11:35 PM
To: "Scott, Tara T." <tscott@sccourts.org>
Subject: Re: Michael Eubanks

No worries. Thanks for the update.

Get [Outlook for iOS](#)

From: Scott, Tara T. <tscott@sccourts.org>
Sent: Friday, October 26, 2018 11:24:47 PM
To: Charles Grose
Subject: Re: Michael Eubanks

Charles,
(Hope this doesn't disturb you at this hour)
I am writing to let you know that despite my best laid plans and efforts this week I've had to accept the fact that I am not going to be able to fulfill my Monday deadline. Realistically, it will likely be Wednesday Oct 31st or Thursday of next week before it's completed. Because I've gone over my allowed 60 days I have also filed a request for an extension with Court Administration. They should send a copy of that to you and to the Court of Appeals, but I will forward one to you also when I get it. It will indicate that I have until November 16th to complete the transcript, but it won't take that long.
I apologize for the delay and any inconvenience this causes.
Please know that I am working diligently to get it completed.
Tara

Tara T. Scott, CVR
Official Court Reporter
Eighth Judicial Circuit
tscott@sccourts.org
1849 Stevenson Road
Abbeville, SC 29620
(864) 992-9544

From: Charles Grose <charles@groselawfirm.com>
Sent: Monday, October 22, 2018 5:30 PM
To: Scott, Tara T.; Rauch Wise
Subject: Re: Michael Eubanks

Sorry for the slow response. I was working outside the office all day Friday and most of today. Yes, please send me the invoice. Your timetable suits me. I just needed to know what to tell the Court of Appeals.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

-----Original Message-----

From: "Scott, Tara T." <tscott@sccourts.org>
Date: Friday, October 19, 2018 at 8:02 PM
To: "C. Rauch Wise" <rauchwise@gmail.com>
Cc: Charles Grose <charles@groselawfirm.com>
Subject: Re: Michael Eubanks

Thank you.

When I get a little closer to completion I will send Charles an email and let him know the cost of the transcript. I will also send him the invoice unless you tell me otherwise.

Tara

Tara T. Scott, CVR
Official Court Reporter
Eighth Judicial Circuit
tscott@sccourts.org
1849 Stevenson Road
Abbeville, SC 29620
(864) 992-9544

From: Rauch Wise <rauchwise@gmail.com>
Sent: Thursday, October 18, 2018 5:58 PM
To: Scott, Tara T.; Charles Grose
Subject: Re: Michael Eubanks

Charles Grose is going to be handling the appeal. He has the money in his escrow account for you.

Rauch

On 10/18/2018 2:13 PM, Scott, Tara T. wrote:

> Hey, Rauch.

> I'm working on it right now.

> I had another week long trial requested the day before that I have been tied up with, but just finished it up. I can have it to you within the next week/week and a half, unless you need me to put a rush on that for a deadline. (Normal rate, of course, since it was ordered the last day of July). If I get it to you by Monday October 29, 2018 will that work?

> Tara

>

>

> Tara T. Scott, CVR

> Official Court Reporter

> Eighth Judicial Circuit

> tscott@sccourts.org

> 1849 Stevenson Road

> Abbeville, SC 29620

> (864) 992-9544

>

>

>

> From: Rauch Wise <rauchwise@gmail.com>

> Sent: Wednesday, October 17, 2018 3:34 PM

> To: Scott, Tara T.

> Subject: Michael Eubanks

>

> Do you know when the transcript will be completed?

>

> Rauch

>

> ~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

Subject: Fwd: Transcript Request

Date: Wednesday, November 28, 2018 at 7:27:37 PM Eastern Standard Time

From: Jessica Reece

To: Charles Grose

----- Forwarded message -----

From: "Tara Scott" [REDACTED]
Date: Nov 25, 2018 3:15 PM
Subject: Transcript Request
To: [REDACTED]
Cc:

Good afternoon. I received your voicemail on Tuesday, but it did not give your name or the name of the Defendant and case number.

I must explain that I resigned from my position as a court reporter at the end of October. Prior to my resignation I was given permission by court administration to continue producing transcripts as the requests come in just like normal. Not knowing the policy of their IT department though, I did not make a backup of all my email contacts for transcript requests. The day after my resignation I immediately lost access to my tscott@sccourts.org email and all of that information was deleted from the system. I also lost access to all of my lists of requests. Unfortunately, I have had to wait until I am contacted, like you did, to be able to then get those transcripts completed and out to the people who ordered them.

Please provide me with the information that you originally requested the transcript with and I will get it to you as soon as I possible. If you want to, just forward the email correspondence between us, if it exists. Please understand that I have so many requests that I cannot independently remember each one of them without lots of notes and email correspondence.

I apologize for this inconvenience, but will have your transcript to you ASAP.

Thank you in advance. This is my email address for all future correspondence, and you have my personal cell phone number.

Thank you,
Tara Scott



Virus-free. www.avast.com

The Grose Law Firm, LLC

404 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groselawfirm.com
Web: GroseLawFirm.com

November 28, 2018

The Honorable David M. Stumbo
Solicitor, Eighth Circuit Solicitor's Office
PO Box 516
Greenwood, SC 29649

Re: *State of South Carolina v. Michael Cliff Eubanks*
Appellate Case No. 2018-001684

Dear Solicitor Stumbo:

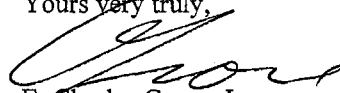
Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10, *et. seq.*, please provide the following documents and information about your employment of Tara Scott as a Victim's Advocate: announcement for the position, employment application, date of interview(s), date of the job offer, date of acceptance of job offer, and first date of employment. This request does not seek any information about salary or personal identification information, such as date of birth, social security number, or home address.

I agree to pay the cost of obtaining this information; however, if the cost exceeds \$50.00, please contact me for prior authorization.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: Mr. Cliff Eubanks
J. Benjamin Aplin, Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2018-001684

RECEIVED
DEC 10 2018
SC Court of Appeals

The State,..... Respondent,

v.

Michael Cliff Eubanks, Appellant.

Certificate of Service

I certify that I have served this pleading on the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on the date reflected below, addressed to:

J. Benjamin Aplin, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211


E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
E-mail: charles@groselawfirm.com

December 6, 2018.

The Grose Law Firm, LLC

404 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groselawfirm.com
Web: GroseLawFirm.com

December 6, 2018

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

RECEIVED
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SC Court of Appeals

Re: *State of South Carolina v. Michael Cliff Eubanks*
Appellate Case No. 2018-001684

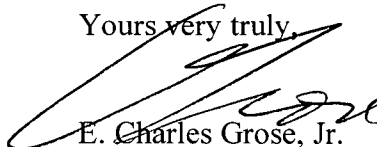
Dear Ms. Kitchings:

Enclosed please find the original and six copies of Mr. Eubanks Petition to Hold Briefing Deadlines in Abeyance Until Solicitor and Court Administration Provide More Information, along with a certificate of service.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: Mr. Cliff Eubanks
J. Benjamin Aplin, Esquire
The Honorable David M. Stumbo
Ms. Desiree Allen

The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646

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The Honorable Jenny Abbott Kitchings
Clerk of Court, S.C. Court of Appeals
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