

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Newberry County
Eugene C. Griffith, Jr., Circuit Court Judge
Appellate case Tracking No. 2012-212643

The State,

Appellant,

v.

Woodrow Mozee

Respondent.

**MOTION TO HOLD APPEAL IN ABEYANCE PENDING
TRANSPORTATION OF VIDEOTAPE AND DVD**

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

I.

The Initial Brief of Appellant and Designation of Matter are due to be served and filed on October 22, 2012. Counsel for Appellant determined a copy of the videotape and DVD currently on file with the Newberry County Clerk of Court, which are central to Appellant's issue on appeal regarding whether the trial court erred in dismissing the charges of DUI and an ABC violation, need to be transported to the Court. In addition to the present motion to hold the appeal in abeyance, the State is also filing a proposed transportation order for the Court to have the videotape and DVD transported from Newberry County to the Court.

II.

The State asks the appeal be held in abeyance pending the time required for the videotape and DVD to be transported from Newberry County to the Court of Appeals. The State asks the Court to allow thirty days from the date the videotape and DVD are transported to the Court for the State to serve and file its Initial Brief of Appellant.

III.

This request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The State submits the videotape and DVD are central and necessary to a proper determination of the issue on appeal, and therefore, it is to the benefit of both parties and the Court for it to be transported. I therefore request the Court grant the order to transport the videotape and DVD to the Court from the Newberry County Clerk of Court, hold the appeal in abeyance pending transportation of the videotape and DVD, and allow the State thirty days from the date the Court of Appeals receives the videotape and DVD to serve and file its Initial Brief of Appellant.

WHEREFORE, Respondent prays that the Court grant the accompanying Transportation Order to transport to the Court of Appeals the videotape and DVD currently on file with the Newberry Clerk of Court; hold the appeal in abeyance pending the transportation of the videotape and DVD to the Court; and provide the State thirty days from the date the videotape and DVD are received to serve and file its Initial Brief of Appellant.

Respectfully submitted,

ALAN WILSON
Attorney General

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ATTORNEYS FOR APPELLANT

October 22, 2012

Granted.
V. Claire Allen
Deputy Clerk
1/18/13

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PROOF OF SERVICE

I, ELLEN R. DuBOIS, certify that I have served the within Motion to Hold Appeal in Abeyance Pending Transportation of Videotape and DVD on Respondent by depositing copies of the same in the United States mail, postage prepaid, addressed to:

Pete G. Diamaduros, Esquire
White, Diamaduros & Diamaduros
Post Office Box 643
Union, South Carolina 29379

I further certify that all parties required by Rule to be served have been served.
This 22nd day of October, 2012

Ellen R. DuBois

ELLEN R. DuBOIS
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