

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM Horry COUNTY
Court of General Sessions
The Honorable Thomas Anthony Russo, Circuit Court Judge

Appellate Case No. 2017-001229

RECEIVED
JAN 28 2019
SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

DAVID HAROLD CAMPBELL,

APPELLANT.

**APPELLANT'S THIRD PETITION TO EXTEND STAY
AND DEADLINE FOR BRIEFING**

In Appellant's first Petition to Extend the Stay previously issued in this appeal, she requested that she be given thirty (30) days to complete the review of the backup recordings from Appellant's trial and that she be given an additional thirty (30) days from the completion of that review to prepare and submit the Initial Brief of Appellant. At that time Appellant remained resolute in his belief that one ruling by the lower court is missing from both the backup recordings and the trial transcript provided by the Court Reporter. In addition, he believed that a *Motion for a Mistrial* made by his trial counsel fails to appear in the transcript provided by the Court Reporter, and inexplicably appears in the backup recordings and the trial transcript as an *Objection*. Counsel was subsequently able to play Petitioner the back-up recording from his trial.

A second Petition to Stay this direct appeal was filed on August 20, 2018. That motion was granted. Counsel for the Appellant sent the Court a status report by way of correspondence

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State v. David Campbell
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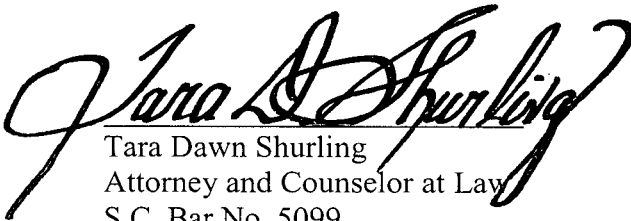
to the Honorable Jenny A. Kitchings, Clerk of Court, South Carolina Court of Appeals on January 3, 2019. Appellant now asks that this matter be stayed once again. In support of that Petition, Appellant would show the following. Counsel for Appellant received the report from Verden Forensics concerning their review of the audio backup recordings of this trial on December 24, 2018. Her Office was closed at that time for the Christmas and New Year's holidays. Counsel's first opportunity to review the report was January 2, 2019, when her office opened back up after the Christmas break. Following a telephone conference with the audio expert from Verden Forensics, I waited again to receive further communication from him. I subsequently received an email from Mr. Giammarrusco indicating that he was not willing to go any further with this analysis. I am attaching copies of his report and subsequent e-mail.

My client is most displeased with the decision of Verden Forensics, and specifically with their decision to decline any further involvement in this matter. He is dissatisfied with their position in light of their admission that they did not perform a "*full authenticity examination*" of these recordings. For that reason, he has instructed me to seek a continued stay of his direct appeal, and leave of Court from Judge Russo, to get a second opinion from another expert. In addition, he wishes to ask Judge Russo's permission to have the new expert examine the *original* audio records for a reliable final decision on the authenticity of the record in this matter. Counsel understands that any such grant of access would entail the expert coming to Court Administration, in Columbia, S.C., and having the original digital audio records played for him and examined by him on site. Counsel is willing to make herself available to be present during such an examination of the recordings by a second expert if necessary. At this time, Appellant

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asks that this Court stay this appeal for an additional sixty (60) days. During that time, Appellant proposes to seek an Order from Judge Russo, granting Appellant access to the original digital recording by a second expert who would be expressly contracted for a *“full authenticity examination”* and report. I have contacted opposing counsel, J. Benjamin Aplin, Senior Assistant Attorney General, concerning this matter today. He advises that he stands by the position he took in his Response to the earlier status report sent by Counsel for Appellant on January 3, 2019. Specifically, he advises that he does not object to the direct appeal being stayed further as requested by Appellant for the purpose of allowing Judge Russo to decide, in his discretion, the issue of whether or not Appellant will be permitted to obtain a second opinion from another expert.

Respectfully submitted,



Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
(803)738-8622
(803)738-1600 FAX

ATTORNEY FOR APPELLANT

January 23, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
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The Honorable Thomas Anthony Russo, Circuit Court Judge

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CERTIFICATE OF SERVICE

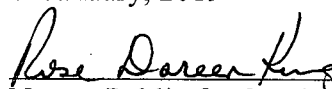
The undersigned attorney hereby certifies that a copy of the Third Petition to Extend Stay in the above-entitled case has been served upon opposing counsel by email with hardcopy deposited in the U.S. Mail, postage prepaid, this 23rd day of January, 2019 addressed as follows:

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
Office of the Attorney General
P o Box 11549
Columbia, SC 29211


Tara Dawn Shurling
Attorney and Counselor at Law
S. C. Bar No. 5099

ATTORNEY FOR APPELLANT

SWORN TO BEFORE me this 23 day
of January, 2019

 (L.S.)
Notary Public for South Carolina
My Commission Expires: May 27, 2025

LAW OFFICE OF



TARA DAWN SHURLING, PA

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January 23, 2019

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

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SC Court of Appeals

Re: State of South Carolina v. David Harold Campbell
Appellate Case No. 2017-001229

Dear Ms. Kitchings:

My apologizes to the Court for my delay in getting this Petition to your office for filing. I had hoped I would be able to supply the Court with the name of the expert my client wishes to use for a second opinion, however he has not yet been able to supply me that information. I will be sure to advise him that he needs to identify the expert witness from whom he plans to get a second opinion sometime in the immediate future should this Petition be granted. I enclose for filing an original and seven (7) copies of this Third Petition for Stay. I would appreciate having the extra copy clocked and returned to me in the enclosed envelope. Thank you very much for your kind assistance, As always, I remain,

Yours sincerely,

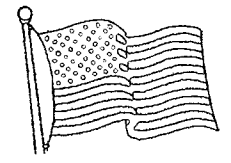
A handwritten signature in cursive script that reads "Tara Dawn Shurling".
Tara Dawn Shurling
Attorney and Counselor at Law


TDS/sag

cc: The Honorable Thomas A. Russo, Presiding Circuit Court Judge
The Honorable Renee Elvis, Clerk of Court, Horry County
J. Benjamin Aplin, Senior Assistant Deputy Attorney General
Desiree Allen, Court Administration
Kay Richardson, Circuit Court Reporter
David Harold Campbell, #265686
Jynere Friday



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TARA DAWN SHURLING
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TO:

The Honorable Jenny A. Kitchings
 Clerk, S.C. Court of Appeals
 P.O. Box 11629
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