

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM HORRY COUNTY

Steven H. John, Circuit Court Judge

Appellate Case No. 2017-002553

**RECEIVED**  
JUN 10 2019  
SC Court of Appeals

The State, ..... Respondent,

v.

Tommy Lee Benton, ..... Appellant.

**APPELLANT’S MOTION TO SUPPLEMENT  
DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 212(b), of the South Carolina Appellate Court Rules (SCACR), Appellant Tommy Lee Benton moves to supplement his Designation of Matter to be Included in the Record on Appeal dated October 8, 2018 and Supplemental Designation of Matter to be Included in Record on Appeal dated April 25, 2019. In support thereof, Appellant states as follows:

1. In the course of reviewing materials in preparation to assemble his final briefs in this matter, Appellant discovered that certain materials inadvertently were not included in his filed Designations of Matter. These materials are:

- a. Trial Transcript, dated December 8, 2017, pages: 31-32, 51-52, and 89-90;
- and

b. Mutual Reciprocal Disclosure Request & Notice of Intent to Impeach by Evidence of a Conviction, April 1, 2016.

2. These matters were cited in Appellant's Initial Brief and Initial Reply Brief, but were either incorrectly identified in the briefs and designation (the trial transcript) or inadvertently omitted from Appellant's prior designations (Mutual Reciprocal Disclosure Request).

3. The State has consented to including these materials in the Record on Appeal through a supplemental designation.

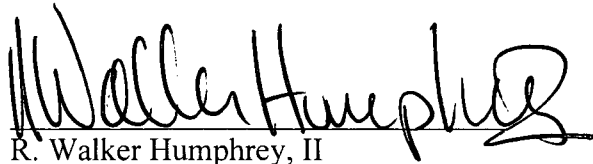
4. In light of the State's consent, hoping ensure this oversight does not extend any existing deadlines in this case, and prior to this Court's request for this motion in lieu of a filed supplemental designation, these materials were included in the Record on Appeal filed with this Court on May 23, 2019. As a result, no appendix is necessary if the Court grants this motion.

5. Pursuant to Rule 209, SCACR, the undersigned counsel for the Appellant certifies that the foregoing supplemental designations contain no matter which is irrelevant to this appeal.

WHEREFORE, Appellant respectfully requests that this Court grant this motion and allow him to supplement his Designations of Matter to include the Trial Transcript, dated December 8, 2017, pages 31-32, 51-52, and 89-90, and the Mutual Reciprocal Disclosure Request & Notice of Intent to Impeach by Evidence of a Conviction, April 1, 2016.

[Signature page follows]

Respectfully submitted,



R. Walker Humphrey, II

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Robert M. Dudek

Chief Appellate Defender

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**ON INDIGENT DEFENSE**

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Attorneys for Appellant

Charleston, South Carolina  
June 5, 2019

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**Proof of Service**

This is to certify that I, a paralegal with the law firm Willoughby & Hoefler, P.A., have caused to be served this day one (1) copy of the **Motion to Supplement Designation of Matter to be Included in the Record on Appeal** by depositing the same in the U.S. Mail to the following:

Robert M. Dudek  
Chief Appellate Defender  
South Carolina Commission on Indigent Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201

Donald J. Zelenka  
Melody J. Brown  
South Carolina Attorney General's Office  
1000 Assembly Street  
Columbia, S.C. 29201

  
Breanna Karns

Columbia, South Carolina  
This 5th day of June 2019

**WILLOUGHBY & HOEFER, P.A.**  
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June 5, 2019

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings  
Clerk of Court, Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

Re: *The State v. Tommy Lee Benton*  
Appellate Case No. 2017-002553

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SC Court of Appeals

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Appellant Tommy Lee Benton's **Motion to Supplement Designation of Matter to be Included in the Record on Appeal**, along with a Certificate of Service. Please file-stamp the extra copy and return it via the enclosed return envelope.

Thank you for your time and consideration. If you have any questions or if you need any additional information, please do not hesitate to contact me.

With kindest regards, I am

Sincerely yours,

WILLOUGHBY & HOEFER, P.A.



R. Walker Humphrey, II

Enclosures

cc: Robert M. Dudek, Esquire  
Melody J. Brown, Esquire



**WILLOUGHBY & HOEFER, P.A.**

133 River Landing Drive, Suite 200  
Charleston, SC 29492

TO:

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

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