

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2019-001068

**RECEIVED**  
SEP 03 2019  
SC Court of Appeals

The State.....Appellant,

v.

Tyler J. Evans.....Respondent.

RETURN TO RESPONDENT'S MOTION TO DISMISS

Pursuant to South Carolina Appellate Court Rule 240(e), the State of South Carolina ("Appellant") submits the following Return in response to the Motion to Dismiss filed by Tyler J. Evans ("Respondent").


On June 28, 2019, Appellant filed its Notice of Appeal with the South Carolina Court of Appeals ("the Court") seeking relief from a final order issued by The Honorable Brian M. Gibbons of the Dorchester County Court of Common Pleas. The Court subsequently issued its initial letter acknowledging receipt of the appeal on July 10, 2019. On August 9, 2019, Appellant moved the Court for permission to file the transcript of the proceeding below out of time. Subsequently, in a motion dated August 22, 2019, Respondent filed a motion arguing that this appeal should be dismissed pursuant to South Carolina Appellate Court Rules 208 and 209. Specifically, Respondent asserts that

Appellant's initial brief and designations to be included in the Record on Appeal have not been timely filed with the Court. Respondent's motion was received by Appellant on August 26, 2019.

In response, Appellant argues that a transcript of the oral argument heard before Judge Gibbons is essential to this appeal to prove Appellant preserved specific issues of law for review by this Court. Appellant acknowledges that it had a duty to order the transcript within ten (10) days of service of its Notice of Appeal, or no later than July 8, 2019, and that it failed to do so. Rule 207(a)(1), SCACR. This delay was inadvertent and unintentional. Insofar as the underlying criminal charges giving rise to this appeal were dismissed, Respondent has not suffered any prejudice as a result of this technicality.

Based upon the foregoing, Appellant requests that Respondent's Motion to Dismiss be denied. Appellant is awaiting a ruling on its Motion to Order Transcript Out of Time and prays that its motion be considered by the Court.

August 30, 2019

  
Teckla S. Henderson, Assistant General Counsel  
SC Bar No.: 78705  
Email: [TecklaHenderson@scdps.gov](mailto:TecklaHenderson@scdps.gov)  
Marcus K. Gore, General Counsel  
SC Bar No.: 73647  
Email: [MarcusGore@scdps.gov](mailto:MarcusGore@scdps.gov)  
South Carolina Department of Public Safety  
Office of General Counsel  
Post Office Box 1993  
Blythewood, South Carolina 29016  
(803) 896 -7965  
Attorneys for Appellant

Other Counsel of Record:  
Tara L. Frost, Esquire  
Post Office Box 1986  
Summerville, South Carolina 29483  
(843) 419 - 6653  
Attorney for Respondent

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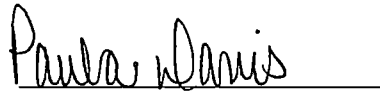
The State.....Appellant,

v.

Tyler J. Evans.....Respondent.

**PROOF OF SERVICE**

I do hereby certify that I have served the Return to Respondent's Motion to Dismiss in the above-captioned action, by depositing it in the United States Mail, postage prepaid, on this 30<sup>th</sup> day of August, 2019, addressed to the Honorable Jenny Abbott Kitchings, Clerk of the Court of Appeals of South Carolina, Post Office Box 11629, Columbia, South Carolina 29211.



Paula Davis, Paralegal  
Office of General Counsel  
South Carolina Department of Public Safety

Blythewood, South Carolina  
August 30, 2019

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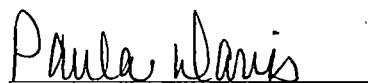
The State.....Appellant,

v.

Tyler J. Evans.....Respondent.

PROOF OF SERVICE

I do hereby certify that I have served the Return to Respondent's Motion to Dismiss in the above-captioned action on Tyler J. Evans by depositing it in the United States Mail, postage prepaid, on this 30<sup>th</sup> day of August, 2019, addressed to his attorney of record, Tara L. Frost, Post Office Box 1986, Summerville, South Carolina 29483.



Paula Davis, Paralegal  
Office of General Counsel  
South Carolina Department of Public Safety

Blythewood, South Carolina  
August 30, 2019



## South Carolina Department of Public Safety

OFFICE OF GENERAL COUNSEL

P.O. Box 1993 • Blythewood, S.C. 29016  
Tel: (803) 896-7965 • Fax: (803) 896-7967

August 30, 2019

**RECEIVED**

SEP 08 2019

**SC Court of Appeals**

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

RE: The State of South Carolina, Appellant v. Tyler J. Evans, Respondent  
Appellate Case No.: 2019-001068

Dear Ms. Kitchings:

Enclosed for filing is a Return to Respondent's Motion to Dismiss in the above case. Also enclosed is the proof of service of the same on Respondent's counsel.

Please do not hesitate to contact me, should you have any questions or concerns.

Very truly yours,

Teckla S. Henderson,  
Assistant General Counsel

cc: Tara L. Frost, Esquire  
Post Office Box 1986  
Summerville, South Carolina 29483  
(843) 419 - 6653  
Attorney for Respondent

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S. C. Department of Public Safety  
Office of General Counsel  
Attn: Paralegal  
P. O. Box 1993  
Blythewood, SC 29016

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