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Sep 09 2020
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Marvin H. Dukes, III, Master in Equity and Special Circuit Court
Appellate Case Tracking No. 2018-002225

Joseph C. Sun,

Appellant,

v.

The State,

Respondent.

**MOTION TO DISMISS OR IN ALTERNATIVE
REQUIRE APPELLANT TO ORDER TRANSCRIPT**

Respondent, through its undersigned counsel, would respectfully show as follows:

The State received notice of Appellant's service and filing of the Initial Brief of Appellant and other documents only from the Court. A review of the various documents filed with the Court seems to indicate he has been serving all filings on an incorrect address: 5 Calendar Court, Suite 202, P.O. Box 6923, Columbia, SC 29260. This appears to be the address of Lindemann, Davis & Hughes, P.A., a private firm. The correct address for service to the South Carolina Attorney General's Office is either 1000 Assembly Street, Rembert Dennis Building, Columbia, SC 29201 or P.O. Box 11549 Columbia, SC 29211. Because service of various documents has not been properly completed, the State asks this Court to dismiss the appeal. See Rule 262(b), SCACR

(“Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address”).

Further, it appears based on a review of the Appellate Case Management System that Appellant filed a letter on or about May 20, 2019, indicating he did not intend to order the transcripts of various hearings which have taken place in this case. A review of our records indicates this Office never received the letter, and the undersigned’s assumption is that it went to the incorrect address listed above.

Additionally, pursuant to Rule 207(a)(1), SCACR: “ Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below.” As evidenced by a review of the Appellate Case Management System, the State never agreed in writing or otherwise to allow the appeal to proceed without the transcripts from the circuit court.¹ The State believes all transcripts of the appeal and other hearings in circuit court are necessary to a proper consideration of this appeal because they would serve as the only means of verifying whether arguments raised on appeal are preserved for review on appeal. As a result, the State asks this Court to require Appellant to obtain all relevant transcripts from the circuit court.

WHEREFORE, Respondent prays that the Court dismiss this appeal for improper service of process. In the alternative, the State asks the Court to require Appellant to obtain all circuit court transcripts; extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date which Appellant demonstrates

¹ It appears audio recordings of the magistrate court trial was made a portion of the Magistrate’s Return so there does not appear to be a written transcript of the trial.

he has obtained all relevant transcripts; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General



By: _____
William M. Blich, Jr.
S.C. Bar No: 15608

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ATTORNEYS FOR RESPONDENT

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PROOF OF SERVICE

I, Caroline Collins, certify that I have served Motion to Dismiss or in Alternative Require Appellant to Order Transcript on Appellant by depositing a copy of the same for delivery addressed to:

Joseph C. Sun
Post Office Box 2543
Bluffton, South Carolina 29910

I further certify that all parties required by Rule to be served have been served.

This 9th day of September, 2020.



Caroline Collins
Administrative Coordinator
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

September 9, 2020

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SC Court of Appeals

Joseph C. Sun
Post Office Box 2543
Bluffton, South Carolina 29910

RE: Joseph C. Sun v. State
Appellate Case Tracking No. 2018-002225

Dear Mr. Sun:

I am enclosing copies of the Motion to Dismiss or in Alternative Require Appellant to Order Transcript in the above-referenced case.

If you have any questions concerning this matter, please contact me.

Sincerely,

William M. Blich, Jr.
Senior Assistant Deputy Attorney General
S.C. Bar No. 15608

Enclosures