

FORM 8
LETTER TO THE APPEALS COURT CLERK
FILING REPORT OF STATUS OF TRANSCRIPT REQUEST

September 22, 2020

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

RECEIVED
Sep 25 2020
SC Court of Appeals

RE: Ex Parte: Donald L. Smith (In Re: Battersby v. Kirkman)
Appellate Case No. 2020-000070

Dear Ms. Kitchings:

In response to this Honorable Court's Letter dated September 15, 2020, Appellant submits that that the transcript for the October 2, 2015 and April 21, 2016 hearings in the underlying case, which was ordered from Ms. Vivian Cross, has not been received by Appellant.

On September 17, 2020, Appellant was informed by Ms. Cross that she encountered technical problems with the external hard drive that stored the hearings she transcribed in 2015 to 2016. Attached is the correspondence with the undersigned counsel and Ms. Cross on this matter. Appellant will inform this Honorable Court as soon as the transcript has been delivered, to determine the filing time for the Appellant's Brief.

Sincerely,

s/Donald L. Smith

Donald L. Smith, (Bar#6699)
Attorney for Appellant
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com

cc: Mr. Steven M. Krause, Esquire
Mr. J. Kirkman Moorehead, Esquire



Aisa Ford <aisaford0302@gmail.com>

LB Smith (Battersby v. Kirkman) Letter .pdf

Vivian Cross <crossv697@aol.com>

Thu, Sep 17, 2020 at 3:07 PM

To: Vivian Cross <CROSSV697@aol.com>

Cc: Don Smith <attorneydonaldsmith@gmail.com>, Aisa Ford <aisaford0302@gmail.com>

Mr. Smith:

First, let me say I have not done an extension request. I no longer have instructions on forms or where to get them or where to send them. Also, with the issue I faced I was hoping for a fast fix and unsure if I had to indicate data lost or not so held off while looking for a fix.

Battersby requests are from 2015 and 2016, the early days of external hard drive storage. When I went to transcribe requested hearings, I found the cable port of the external hard drive had either fallen out or been pushed into the drive. I could not access the data. I went to 3 computer repair places to see if data was recoverable without success. Finally I found a location where a tech thought there was a chance. He was able to break the drive open and transfer data to a new drive. Transfer time was a few days and I have now picked up the drive.

I will immediately work on the requests.

Vivian H Cross, (Retired)

Sent from my iPhone

> On Sep 17, 2020, at 1:27 AM, Vivian Cross <CROSSV697@aol.com> wrote:

>

> Don,

[Quoted text hidden]

**FORM 7
PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

RECEIVED
Sep 25 2020
SC Court of Appeals

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., All State Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

PROOF OF SERVICE

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I certify that I have served a copy of Appellant's Report of Status of Transcript Request, and Proof of Service of same, upon The Honorable Jenny Abbott Kitchings, Clerk of South Carolina Court of Appeals, through the AIS, and the Respondents, by and through their respective counsel of record, via electronic mail in the addresses as follows:

Ms. Jenny Abbott-Kitchings

ctappfilings@sccourts.org

Attorney for Respondents

Mr. Steven M. Krause, Esquire

steve@krauselaw.org

Mr. Timothy Alan Nowacki, Esquire

tim@theclardyfirm.com

Office of Court Administration

transcripts@sccourts.org

The above-mentioned documents have been served on September 22, 2020.

s/Donald L. Smith

Donald L. Smith (Bar No. : 6699)

Attorney for Appellant

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attorneydonaldsmith@gmail.com

Anderson, South Carolina
September 22, 2020.