

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM YORK COUNTY  
John C. Hayes, III, Circuit Court Judge

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Appellate Case No. 2016-002556  
Opinion No. 8710  
(filed January 15, 2020)

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**RECEIVED**  
**Nov 03 2020**  
**SC Court of Appeals**

Russell Shane Carter, ..... Respondent-Appellant,

v.

Bruce Bryant, as Representative for the  
Office of the York County Sheriff, ..... Appellant-Respondent.

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**MOTION FOR COSTS ON APPEAL**

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The Appellant-Respondent Bruce Bryant, as Representative for the Office of the York County Sheriff, moves this Court, pursuant to Rule 222(d), SCACR, to tax costs on appeal in the amount of \$6,359.80 against the Respondent-Appellant Russell Shane Carter.

The requested costs on appeal are set forth in the Statement of Costs on Appeal which is filed herewith.

LINDEMANN & DAVIS, P.A.

BY: s/ Andrew F. Lindemann

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*Counsel for Appellant-Respondent  
Bruce Bryant, as Representative for the  
Office of the York County Sheriff*

November 3, 2020

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**MEMORANDUM IN SUPPORT OF  
MOTION FOR COSTS ON APPEAL**

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By published opinion filed January 15, 2020, the South Carolina Court of Appeals affirmed in part and reversed in part the lower court’s rulings. The net result was a reversal of the final judgment that had been entered in favor of the Respondent-Appellant Russell Shane Carter (“Carter”). The Court ruled in favor of the Appellant-Respondent Bruce Bryant (“Sheriff Bryant”) on all issues decided in these cross-appeals.

Specifically, Carter appealed the directed verdict in the Sheriff's favor on his false arrest claim and the exclusion of his expert witness. This Court affirmed those rulings. Thus, Sheriff Bryant prevailed on all issues raised by the cross-appeal.

On the malicious prosecution claim, the Sheriff raised a number of different grounds. This Court found it necessary to only reach one issue -- whether "the trial court should have granted him a judgment notwithstanding the verdict (JNOV) on Carter's malicious prosecution claim because the only reasonable inference from the evidence was that there was probable cause to arrest Carter." Slip Op. at 2. After reviewing the evidence presented, this Court held that "the trial court erred in denying Bryant JNOV on Carter's malicious prosecution claim because the only reasonable inference from the record is that probable cause supported the warrant for Carter's arrest." Slip Op. at 14. This Court further stated: "Because our reversal of the trial court's denial of Bryant's motion for JNOV is dispositive of Bryant's appeal, we do not address Bryant's remaining issues on appeal." Slip Op. at 14.

Rule 222(a), SCACR, provides that "[w]hen a judgment is reversed, costs shall be taxed against the respondent unless the court orders otherwise." *See*, Rule 222(a), SCACR. Sheriff Bryant submits that he qualifies as a prevailing party in this appeal. Therefore, as a prevailing party on appeal, Sheriff Bryant is entitled to an award of costs on appeal in accordance with Rule 222(b), SCACR, which includes the \$100 filing fee, the costs of printing his Final Appellant's Brief, Final Respondent's Brief, Final Reply Brief, 2-volume Record on Appeal, and the costs

for the trial transcript. Sheriff Bryant is also entitled to attorneys' fees in the amount of \$2,500.00, which is an amount set by order of the Supreme Court.

The filing of this motion is timely. Carter petitioned for a writ of certiorari. The Supreme Court denied that petition by Order filed October 19, 2020. While the Remittitur has not yet been issued, it is clear that Carter has no further appellate options and this Court's decision is now final.

As a result, Sheriff Bryant moves this Court, pursuant to Rule 222(d), SCACR, for costs on appeal in the amount of \$6,359.80. The requested costs on appeal are set forth in the Statement of Costs on Appeal, which is also filed herewith.

Respectfully submitted,

LINDEMANN & DAVIS, P.A.

BY: s/ Andrew F. Lindemann

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*Counsel for Appellant-Respondent  
Bruce Bryant, as Representative for the  
Office of the York County Sheriff*

November 3, 2020

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**CERTIFICATE OF SERVICE**

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In accordance with Section (g)(3) of the Supreme Court’s Order RE: Operation of the Appellate Courts During the Coronavirus Emergency (As Amended May 29, 2020), the undersigned employee of Lindemann & Davis, P.A., counsel for the Appellant-Respondent Bruce Bryant, does hereby certify that service of the **Motion for Costs on Appeal, Memorandum in Support of Motion for Costs on Appeal**, and the **Statement of Costs on Appeal** was made upon all counsel of record by email only this the 3rd day of November 2020:

J. Christopher Mills, Esquire  
Email: [chris@chrismillslaw.com](mailto:chris@chrismillslaw.com)

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*s/ Andrew F. Lindemann*

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November 3, 2020

Of Counsel

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Via Email Only

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Email: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**RECEIVED**  
**Nov 03 2020**  
**SC Court of Appeals**

RE: Russell Shane Carter v. Bruce Bryant, as Representative for the Office of the York County Sheriff  
Appellate Case Number: 2016-002556  
Civil Action Number: 2014-CP-46-1307  
Claim Number: 58922  
Our File Number: 103.9486

Dear Ms. Kitchings:

In accordance with Section (c)(5) of the Supreme Court's Order RE: Operation of the Appellate Courts During the Coronavirus Emergency (As Amended May 29, 2020), please find enclosed for filing the **Motion for Costs on Appeal, Memorandum in Support of Motion for Costs on Appeal**, and the **Statement of Costs on Appeal** in the above referenced matter. In accordance with Section (g)(3) of this same order, I am hereby serving copies on all counsel of record by email only. The \$50.00 filing fee will be mailed to the Court under separate cover.

If you have any questions, please advise.

Sincerely,

LINDEMANN & DAVIS, P.A.

Andrew F. Lindemann

AFL/jmb  
Enclosures

cc: J. Christopher Mills, Esquire (w/ Enclosures, Via Email Only)  
Alex T. Postic, Esquire (w/ Enclosures, Via Email Only)  
Robert D. Garfield, Esquire (w/ Enclosures, Via Email Only)