

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Nov 16 2020

SC Court of Appeals

Appeal from Richland County

Honorable L. Casey Manning, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH RAY GLEATON,

APPELLANT

APPELLATE CASE NO 2019-002072

Motion to Hold in Abeyance

Counsel for Kenneth Ray Gleaton respectfully requests that this case be held in abeyance until this Court rules on Appellant's motion to preserve audio recording of the trial and allow appellate counsel to obtain a copy of the audio. In support of this request, counsel shows:

1. The initial brief and designation of matter are scheduled to be served and filed today, November 16, 2020. There have been four (4) extension requests made in this case.
2. On October 28, 2020, counsel filed the motion to preserve the audio recording of the trial and allow appellate counsel to obtain a copy of the audio. The State filed a return on October 29, 2020.
3. In order to properly represent Appellant on direct appeal and determine if the mistrial and new trial motions based on the judge's "demeanor, and volume and tone when

ruling on defense objections” should be raised on direct appeal, counsel needs to obtain a copy and listen to the audio recording of the trial.

4. Counsel completed the briefing on all of the other issues to be raised on direct appeal except for the issue involving the mistrial and new trial motions discussed above.
5. Counsel respectfully requests that the time limits for filing the brief be held in abeyance until the Court rules on Appellant’s motion to preserve audio recording of the trial and allow appellate counsel to obtain a copy of the audio. If the Court grants the motion, counsel seeks an additional thirty (30) days to review the audio and, if needed, brief any potential issues.
6. Counsel contacted Senior Assistant Deputy Attorney General Melody J. Brown and she does not oppose the motion to hold the case in abeyance pending a ruling from this Court.

Respectfully submitted,

s/ Kathrine H. Hudgins
Kathrine H. Hudgins
Appellate Defender

Attorney for Appellant

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CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Motion to Hold in Abeyance in the above-referenced case have been served upon Melody J. Brown, Esquire at the primary e-mail address listed in the Attorney Information System (AIS), this 16th day of November, 2020.

s/ Kathrine H. Hudgins
Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT