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May 26 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Aiken County
The Honorable Clifton B. Newman, Circuit Court Judge
Appellate Case Number 2019-001400

The State of South Carolina,

Appellant,

vs.

Herbert E. Pray, III,

Respondent.

MOTION TO ACCEPT COPY IN LIEU OF EXHIBIT

Appellant, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

Appellant designated a dash cam video of the incident scene in this DUI case for consideration on appeal. After discussion with the magistrate and circuit court clerks of court, no copy of the exhibit can be located. The video was discussed at both the magistrate court and circuit court, and as a result is properly considered for the Record on Appeal. See Rule 210(c), SCACR.

II.

The State has obtained a copy of the video file from the Solicitor's Office. Appellant believes this is a true and accurate copy of the video as presented to both the magistrate and circuit court. The State believes this is the only means of obtaining the video as neither the magistrate nor circuit court clerks have a copy available. Appellant provided a copy to Respondent's counsel,

who viewed the video, and indicates it is a true and accurate copy. Further, Respondent's counsel consented to the copy's inclusion in the Record in lieu of the original exhibit.

III.

The State believes it would be appropriate for this Court to accept the copy of the video provided by the Solicitor's Office in lieu of the Exhibit considered at the hearing. Upon granting this motion, the State will provide within ten days a copy of the video Exhibit to the Court for inclusion in the Record on Appeal.

WHEREFORE, Appellant prays that the Court allow substitution of a copy of the video in lieu of the original Exhibit; give the State ten days to provide a copy of the Exhibit; 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.
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PROOF OF SERVICE

I, Caroline Collins, certify that I have served the Motion to Accept Copy in Lieu of Exhibit on Respondent's counsel of record, Robert I. Sussman, by email to the primary email address provided in the Attorney Information Service (AIS).

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

This 26th day of May, 2021.



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

Caroline Collins

From: Caroline Collins
Sent: Wednesday, May 26, 2021 10:33 AM
To: robert@sussman-law.com
Cc: William Blich
Subject: The State v. Herbert E. Pray, III (2019-001400)
Attachments: PRAY Herbert - Motion to Accept Copy in Lieu of Exhibit - 2019-001400 (02588182xD2C78).PDF

Good Morning Mr. Sussman,

Attached please find a Motion to Accept Copy in Lieu of Exhibit in The State v. Herbert E. Pray, III (2019-001400). This motion will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to confirm receipt of this email.

Thank you!

Caroline Collins

Administrative Coordinator
South Carolina Attorney General's Office
P: (803) 734-3723