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SC Court of Appeals

**From:** [TDSLAW](#)  
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**Cc:** ["Sharon Capers"](#); ["Anne M. Williams"](#); ["William Blitch"](#); [tdslaw@shurlinglaw.com](mailto:tdslaw@shurlinglaw.com)  
**Subject:** State v. Aaron McKensie Capers; Appellate Case No. 2019-000511  
**Date:** Monday, August 30, 2021 8:11:33 PM

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**Attention: Christina Sineath.**

On August 12, 2021, I received the transcript of the second post-trial motion hearing in this case held on February 16, 2021, prepared and delivered by Court Reporter Penny Johnson. Inasmuch as the original court reporter had retired since the date of this hearing, I had to process this request through the system Court Administration has in place for requests for transcripts from retired court reporters. The request itself was delayed due to the fact that the State filed a Petition to Dismiss the appeal from the order issued denying all his post-trial motions. Given the fact that the appeal would not have been going forward on the rulings on those if the State's Petition had been granted, I advised the Court that I would not order the transcript until the Court's ruling on the State's Petition. I ordered the transcript once that ruling was made. While I felt certain the Petition to Dismiss would not be granted, since the Court of Appeals retained jurisdiction when the case was remained for a hearing on the Post-trial motions, I did not wish to incur additional expenses that might have been for naught had my opinion on the State's Petition not proven accurate. The transcript was ordered following the Court's Order denying the Motion to Dismiss.

This transcript was delivered while I was out sick three times off and on over a two week period with a stomach bug that my staff and I kept passing around. I apologize for my delay in notifying the Court of its arrival. I understand that my time limits for this appeal will run from when I should have received it which was August 12, 2021. I have therefore calendared the due date for this appeal for September 11, 2021, I was baffled when I received a Court Order granting my extension request and extending the deadline for this brief until September 7, 2021. Then I saw that Sharon Capers, Esquire had made the request. While Attorney Capers filed the NOA on behalf of her son, I took the case over shortly thereafter and am the sole Counsel of Record for this Direct Appeal. At the time I was hired by her ex-husband, she made it clear that she

wanted me to take the case over.

Thereafter, Appellant's family decided not to hire me to represent him on his then pending post-trial motions. I did agree to take care of requesting that the direct appeal be stayed pending a hearing and rulings on those motions. If you recall, there was an earlier letter sent by the Court setting the deadline for filing this brief based upon the assumption that all the necessary transcripts had been ordered and received after I received the transcript of the *first* hearing held in connection with these motions. At that time I called the Court and spoke with you about the fact that Attorney Capers had been granted leave by Judge Dennis to hire a psychiatrist to evaluate Aaron Capers. The record was held open for Judge Dennis to receive and review the report from that evaluation. I am fairly certain I addressed this chronology in a subsequent status letter. At that time I had no idea whether Judge Dennis would agree to hold a second hearing on these motions. I appeared just as likely to me that he might rule solely based on the matter heard at the first hearing and any written reports submitted by the expert hired by Attorney Capers; Dr. Donna Maddox.

I subsequently found out that a *second* hearing had been held on the post-trial motions and I discovered that Judge Dennis had issued an order denying them all. I quickly requested a copy of that order from Attorney Capers. As it turned out, I was first copied on that Order by Deputy Solicitor Anne Williams and received a copy from her first. Thereafter, I copied the Court on my request for a transcript of that proceeding. At this time, I would ask that my deadline for filing the Initial Brief of Appellant be run from August 12, 2021, which would make the due date for the Initial Brief of Appellant, *September 11, 2021*. I have no idea why Attorney Capers filed her extension request and I apologize for the confusion it caused. I do know that she was aware that the transcript was being ordered because I told her myself. It appears that she emailed me while I was out sick and was concerned that I was missing a filing date based on the due date set in the earlier letter that was sent from the Court based on my receipt of a transcript of the first hearing on the post-trial motions. Hopefully everything is straight now. Thank you for your kind assistance and patience in this matter,

*Tara D. Shurling*

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