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S.C. SUPREME COURT

South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

TONNYA K. KOHN
STATE COURT ADMINISTRATOR

KARAMA BAILEY
DEPUTY DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0269
EMAIL: kbailey@sccourts.org

June 4, 2021

Mr. John Garvin, #355509
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, SC 29472

Dear Mr. Garvin:

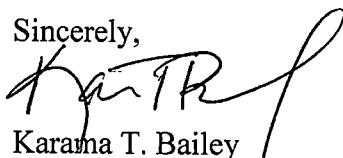
I am writing in response to your letter received by this office on May 14, 2021, in which you are challenging the accuracy of the transcript of your PCR hearing held on July 19, 2019 and continued on July 31, 2019. In response to your challenge, I completed a review of the audio and transcript. Upon my listening to the audio while simultaneously comparing it to the transcript, I found the following errors:

ERRORS FOUND		
PAGE #	LINE #	CHANGE(S) TO BE MADE
23	6	Assistance misspelled
24	13	"first" should be "Frederick"
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49	2	"Constitutional" should be "Constitution"
60	13	Add "It was filed when?" before the question "Is that the one that you filed on July the 5 th ?"
64	11	"judge" charge should be "jury" charge
94	8	"appears" should be "abused"
97	21	Add "He'll bring the bag to you." after line 21
111	19	Add "brief". Sentence should say "This is your <u>brief</u> ..."
115	10	"inn" should be "in"
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144	17	Add "earlier" after "stated"
149	13	"traction answer" should be "transaction"
170	2	"That's" should be "Let's"

170	15	Should be "They're human beings" instead of "They're going to be"
176	3	Add "It would have been." Before "Let me go back."
176	12	"I your" should be "Your"
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195	11	"Esquire" should be "conspire"
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196	16	"That's" should be "What's"
205	3	Remove "basically"
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227	2	"Other" should be "those"
291	10	"expert" should be "expect"
292	1	"expected" should be "expect that"
292	17	"as Unk" should be "as an uncle"
296	13	Add "it" at the end of the line.

Please note that though the errors were not substantive, Linda Moffitt, the court reporter, is being asked to make the corrections and to send the corrected transcript back to you and to the opposing counsel.

Sincerely,



Karana T. Bailey
Deputy Director, Court Reporting/Court Interpreting
South Carolina Court Administration
SC Judicial Branch

cc: Johnny E. James, Asst. Attorney General
Linda Moffitt, Court Reporter

John Garvin - #355509
Lieber Correction Institution
136 Wilborn Ave.
Ridgeville, S.C. 29472

May 6, 2021

Attn: Ms. Karama Bailey, Deputy Director, Court Reporting/Court Interpreting
South Carolina Court Administration
1220 Senate Street, Suite No.: 200
Columbia, S.C. 29201

RE: John Garvin v. State, Appellate Case No.: 2020-001418, Requesting
to Listen to Audio Recording and to See Stone Notes

Dear Ms. Bailey,

I write this letter in regard to challenging the accuracy of Court Reporter, Linda D. Mottitt's transcription of my July 19th, and July 31st, 2019, Post-Conviction Relief (PCR) hearing that was transcribed by her.

I also give you permission to discuss the results of your finding with my brother, Bernard Garvin, as to Linda D. Mottitt's transcription of the PCR transcript in question. Please contact him by phone no.: 609-617-6790 or by e-mail: bgarvin071@gmail.com.

Respectfully,
John Garvin

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**SOUTH CAROLINA
COURT ADMINISTRATION**

EXHIBIT

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John Garvin
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472

2021 JUL -6 PM 3:36
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

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ATTN: Hon. Amy Cox, Clerk of Court
Spartanburg County Court of Common Pleas
180 Magnolia Street, 2nd Floor, Suite # 500
Spartanburg, S.C. 29306

RE: John Garvin v. State, Appellate Case No.: 2020-001418, Motion for Request to Listen to Audio Recordings and to Read Steno Notes

Dear Hon. Cox:

Enclosed with this letter is a Motion for Request to Listen to Audio Recording and to Read Steno Notes with supporting affidavits and Memorandum of Law and a Proof of Service that is to be filed in the South Carolina Supreme Court.

By copy of this letter, I am informing the Respondent; Chief Admin, Judge, J. Derham Cole and Hon. Daniel E. Shearouse, Clerk of The South Carolina Supreme Court.

I thank you for your cooperation and assistance in this matter.

Dated: June 29, 2021

Respectfully,

John Garvin, #355509, Pro-se

JG/

Enclosures

cc: Hon. Daniel E. Shearouse, Clerk of S.C. Supreme Court
J. Derham Cole, Chief Admin. Judge
William H. Ray, Asst. Att'y. General

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT
))
John Garvin,) NOTICE AND MOTION FOR REQUEST TO
Petitioner,) LISTEN TO AUDIO RECORDINGS AND TO
) READ STENO NOTES, PURSUANT TO
v.) SOUTH CAROLINA COURT REPORTERS
) MANUAL § XIII(B)(C)
State of South Carolina,)
Respondent.)
_____) CASE NO.: 2015-CP-42-04699

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CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

To: Mr. William H. Ray, Asst. Att’y. General, Attorney for Respondent.

YOU WILL PLEASE TAKE NOTICE, that upon the affidavit of John Garvin, sworn to on the 24th day of June, 2021, proceeding as pro-se and can be heard, will move before the Honorable Justices of the South Carolina Supreme Court, for an Order granting this Motion for Request to Listen to Audio Recordings and to Read Steno Notes in this matter, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C). As grounds for this Motion, Petitioner would state the following: That he has challenged the accuracy of the July 19, and the July 31, 2019, PCR transcript, pursuant to the South Carolina Court Reporter Manual § XIII (B)(C). The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court reporting/Court interpreting of the South Carolina Court administration. Petitioner hereby objects to her review and findings of the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt’s transcript errors as a whole. Further review of the PCR audio recordings is needed and will show that there are far more errors in the PCR transcript than she is actually reporting and that there are several inconsistencies in her finding that don’t coordinate to the actual page number of the errors that she is stating that’s in her review. I make this request to listen to the Audio Recordings for further review of the PCR transcript pursuant to the South Carolina Court Reporters Manual § XIII (B)(C).

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	SEVENTH JUDICIAL CIRCUIT
John Garvin,)
Petitioner,) AFFIDAVIT IN SUPPORT OF JOHN GARVIN'S
v.) MOTION FOR REQUEST TO LISTEN TO AUDIO
State of South Carolina,) RECORDINGS AND TO READ STENO NOTES,
Respondent.) PURSUANT TO SOUTH CAROLINA COURT
) REPORTERS MANUAL § XIII(B)(C)
)
) CASE NO.: 2015-CP-42-04699

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I, John Garvin, being first duly sworn, deposes and says:

1. I am the Petitioner in the above – entitled action proceeding as pro-se and makes this affidavit in support of my Motion for Request to Listen to Audio Recordings and to Read Steno Notes, pursuant to South Carolina Court Reporters Manual § XIII(B)(C).
2. Petitioner states that he wrote Court Reporter, Linda D. Moffitt, about challenging the accuracy of his PCR transcript. Whereas, she would refer him to get in contact with Karama T. Bailey, Deputy Director, Court Reporter/Court Interpreting at the Office of South Carolina Court Administration.
3. On March 23, 2021, Petitioner would write a letter to the Presiding Judge of that PCR hearing, J. Derham Cole, who is now the Chief Administration Judge, for the Spartanburg County Court of Common Pleas, about a request to listen to the PCR audio recordings. Whereas, Judge Cole, has fail to even respond to Petitioner's request.
4. On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about his desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question.
5. Petitioner states that he has challenged the accuracy of Court Reporter, Linda D. Moffitt's, transcription of his July 19, and July 31, 2019, PCR Motion hearing and evidentiary hearing, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.
6. The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration.
7. On June 4, 2021, Karama T. Baily, made her review and findings of errors within the PCR transcript. On June 15, 2021, Petitioner received from her, her finding of errors via Lieber Correctional Institution internal mail staff.

8. Petitioner hereby objects to her review and findings of errors within the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt's transcript errors as a whole.
9. Further review of the Audio Recordings of the PCR hearing, will show that there are far more errors in the PCR transcript than Ms. Bailey is actually reporting and that there are several inconsistencies in her finding that don't coordinate with the page number of the errors that Ms. Bailey is claiming to have found.
10. Ms. Bailey's report and finding state that there are thirty (30) errors that she found within the PCR transcript, but eighteen (18) of those errors was not where she stated it would be, thus, several inconsistencies within Ms. Bailey's finding that don't coordinate with the actual page number and the numbered line of the errors that she is stating. (See Exhibit - A).
11. There are still over ninety-two (92) errors within the transcribed portions of the PCR transcript, by Court Reporter, Linda D. Moffitt, that are distorted and omits questions that was asked by Petitioner of witnesses, Scott D. Robinson, Esquire; Asst. Solicitor, James E. Hunter; and SLED Agent, Ashley Asbill, that's not presented in the transcript that are substantial and significant alterations and omissions to the testimony giving by the aforementioned witnesses at the PCR hearing.
12. The omissions distort the facts within, Court Reporter, Linda D. Moffitt's, transcription of the PCR hearing transcript and deprives me of a statutory right to produce witnesses and proofs in my favor, pursuant to S.C. Code Ann. § 17-23-60, her transcript errors, specifically prejudices my ability to perfect my appeal and to prove that my constitutional rights were violated on the issues that I presented at my PCR hearing.
13. The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing and further review of the PCR transcript is needed due to the inconsistencies of Karama T. Bailey's report and finding. (See Exhibit - A).

ERRORS WITHIN PCR TRANSCRIPT

Page #	Line #	Change(s) that need to be Made
12	5	"the" should be "to"
15	20	"impartial" should be "partial"
16	13	"was" should be "is"
16	24	"Social" should be "socially"
21	19	Remove "this"
22	13	"was" should be "is"

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23	6	Assistance misspelled
24	13	Add "was false" after "that"
24	13	"first" should be "Fredrick"
25	7	"was" should be "is"
25	8	"a" should be "the"
27	13	Add "an" before "extrajudicial"
27	20	"extrigent" should be "extrinsic"
37	16	"actually" should be "adequately"
37	23	"before my trial" should be "for my appeal"
46	8	"convenient" should be "color"
47	9, 10	Remove "- - excuse me - - State grand jury procedures"
47	21	Add "year" before "2012"
47	22	"17" should be "170"
48	7	"2013" should be "2012"
48	17	"causal" should be "cause of"
49	2	"constitutional" should be "constitution"
49	6	"a" should be "above are"
49	7	"permissibly" should be "impermissibly"
49	11	"the prior" should be "deprived"
49	13	Remove "they"
49	24	"2013" should be "2012"
60	13	Add "It was filed?" before the question "Is that the one you filed on July 5 th ?"
61	23	"voluntary" should be "involuntary"
64	2	"voluntary" should be "involuntary"
64	11	"judge" should be "jury"
64	25	"boasting" should be "bolstering"
68	20	"2016" should be "2013"
71	1	Add "complaint." after "that"

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71	12	"with him" should be "against them both"
71	13	"hab [sic]" should be "district court"
74	6	"April" should be "August"
74	11	"April" should be "August"
74	16	Add "appear at" before "that"
75	23	"in" should be "at"
76	23	"presidicial" should be "prejudicial"
78	25	"they" should be "it"
81	19	"there" should be "that"
84	10	"at" should be "under"
84	10	"and" should be "as"
84	13	Add "my case" after "try"
84	14	"That's as" should be "That"
86	1	"a" should be "the"
87	21	"Beck v. Abraham" should be "Brecht v. Abrahamson, 507 U.S. 619"
90	23	"provided" should be "proved"
91	10	"a" should be "the"
92	14	"cure" should be "colloquy"
94	8	"appears" should be "abused"
101	19	"me" should be "him"
117	14	"your" should be "the"
117	20	"if" should be "is"
125	19	"noticed" should be "notified"
127		A question that was asked and the answer is missing from the transcript.
128	25, 1-2	The question that was asked is distorted.
129	15 - 19	The question that was asked is being distorted and is missing Counsel Robinson's answer.
133	5 - 7	The question that was asked is being distorted.
135	22	"it's not" should be "it is"

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 AMY W. COX

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143		The question that was asked and the answer is missing from the transcript.
150	6	“traction” should be “transaction”
160	14	Add “meaningful” before “adversarial testing”
160	17	Add “meaningful” before “adversarial testing”
160	25	Misspelled “astringent” should be “extrinsic”
162	12	Misspelled “astringent” should be “extrinsic”
163	4	Misspelled “astringent” should be “extrinsic”
196	14	Misspelled “astringent” should be “extrinsic”
196	13	“Esquire” should be “conspire”
196	14	“and” should be “for the”
196	15	“subort - - force” should be “submit suborn”
196	22	“Howso” should be “How so”
197	19	“That’s” should be “what’s”
199	13	“isn’t” should be “is”
201	2	“what” should be “that”
213	4	Add “Rule – 60(b)(2)(3)(4) and S.C. Code Ann. § 17-27-20(A)(4) after “under”
214	14	“he gave” should be “he is”
215	10	“astringent” should be “extrinsic”
220	2	“knew me and that I was” should be “knows me as”
236	24 - 25	This is not what Agent As I’ll Stated on the record.
237	17	Add “him” before “my”
239	12	Add “last” before “name”
239	13	Add “and” before “with”
240	9	“The Court:” should be “Mr. James:”
240	12	“The Applicant:” should be “Mr. James:”
286	8	“Perez” should be “him”
293	18	“knee me as Unk” should be “knows me as an Uncle”
295	18	Add “it” after “write”

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SPARTANBURG COUNTY
AMY W. COX



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

TONNYA K. KOHN
STATE COURT ADMINISTRATOR

KARAMA BAILEY
DEPUTY DIRECTOR

1220 SENATE STREET, SUITE 200
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TELEPHONE: (803) 734-1800
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EMAIL: kbailey@sccourts.org

June 4, 2021

Mr. John Garvin, #355509
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, SC 29472

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PARTANBURG COUNTY
AMY W. COX

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Dear Mr. Garvin:

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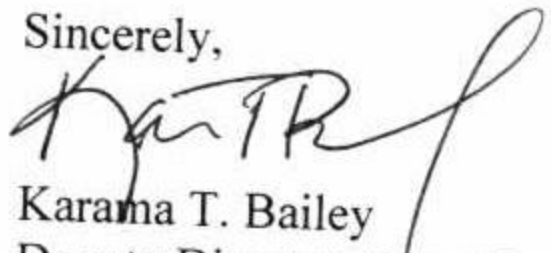
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296	13	Add "it" at the end of the line.

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Please note that though the errors were not substantive, Linda Moffitt, the court reporter, is being asked to make the corrections and to send the corrected transcript back to you and to the opposing counsel.

Sincerely,



Karama T. Bailey
 Deputy Director, Court Reporting/Court Interpreting
 South Carolina Court Administration
 SC Judicial Branch

cc: Johnny E. James, Asst. Attorney General
 Linda Moffitt, Court Reporter

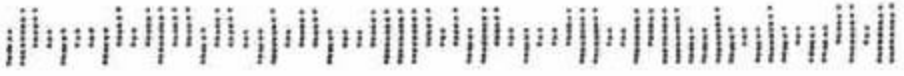
South Carolina Court Administration
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Mr. John Garvin, #355509
Lieber Correctional Institution
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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
))
John Garvin,)
) Petitioner,) MEMORANDUM OF LAW IN SUPPORT OF
)) MOTION FOR REQUEST TO LISTEN TO AUDIO
)) RECORDING AND TO READ STENO NOTES,
v.)) PURSUANT TO SOUTH CAROLINA COURT
)) REPORTERS MANUAL § XIII(B)(C)
State of South Carolina,)
) Respondent.)
))
)) CASE NO.: 2015-CP-42-04699

Petitioner, John Garvin, proceeding as pro-se, makes this Memorandum of Law in Support of his Motion for Request to Listen to Audio Recording and to Read Steno Notes, pursuant the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR. A challenge to the accuracy of Court Reporter, Linda D. Moffitt’s, transcription of Petitioner’s Post-Conviction Relief (PCR) motion and evidentiary hearing held on the 19th and the 31st July, 2019, was made. Whereas, Petitioner hereby objects to the review and findings of that PCR transcript, made by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration, on May 4, 2021.

FACTS OF THE CASE

The Petitioner adopts the Facts of the Case as stated in his Memorandum of Law in Support of his Motion for Access to Disciplinary Information, his Motion for Request to Listen to Audio Recordings and to Read Steno Notes, and his Motion to Supplement the Record, that was submitted to this Court by Petitioner as if set forth at length herein. The Petitioner, however, reserves the right to supplement the Facts of the Case in Legal Argument, infra.

STANDARD OF REVIEW

“In any proceeding which has been transcribed, the court shall retain the primary and backup tapes which have been transcribed for a period of at least one (1) year after the original

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transcript is sent to the requesting party, to allow any party to challenge the accuracy of the transcription.” See Rule-607(i), SCACR.

“[A] Court reporter[] shall [only] grant [a] request to listen to audio recordings or to read steno notes [upon] [a] requestor [having] received written authorization from the presiding judge or, in his/her absence, the Chief judge for administrative purposes in that circuit.” “Rule 607(i), SCACR governs the retention of tapes.... When there is a challenge to the accuracy of a transcript, the court reporter will respond to the challenger in writing. The court reporter will then review the record and report the findings in writing to the challenger with a copy to all parties and Court administration. Any inaccuracies will be corrected and the pages forwarded to the Challenger at no cost.... [Any] [f]urther review of the record maybe permitted by the presiding judge upon written request with good cause shown. See South Carolina Court Reporters Manual § XIII(B)(C).

ARGUMENT

I.

THIS COURT SHOULD GRANT PETITIONER'S MOTION FOR REQUEST TO LISTEN TO AUDIO RECORDINGS AND READ STENO NOTES, PURSUANT TO SOUTH CAROLINA COURT REPORTERS MANUAL § XIII(B)(C) AND RULE – 607(i), SCACR AND RULE – 607(i), SCACR

Under the Court Reporter Act (CRA), a certified transcript “shall be deemed prima facie a correct statement of the testimony taken and proceedings had.” See 28 U.S.C. § 753(b). The Court Reporter Act requires a complete transcript of trial proceedings, and there is no doubt that “[a] criminal defendant has a right to a meaningful appeal based on a complete transcript.” See *United States v. Huggins*, 191 F.3d 532, 536 (4th Cir. 1999).

South Carolina Appellate Court Rules require court reporters to retain primary and backup tapes from circuit courts for five years after the proceedings and specifically allow “any party to challenge the accuracy of the transcription.” Rule – 607(i), SCACR; *Barnes v. Thueme*, No. 5:13-2349-RMG, 2013 WL 5781711, at *4 (D.S.C. Oct. 25, 2013). In any proceeding that has been

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SOUTH CAROLINA

transcribed, the court reporter must retain the primary and backup tapes for a period of at least one (1) year after the original transcript is sent to the requesting party to allow any party to challenge the accuracy of the transcription. See Rule – 607(i), SCACR. If no challenge is received by the court reporter within that period, the tapes may be reused or destroyed. *Id.*

Rule – 607(i), SCACR, allows any party the right to challenge the accuracy of a court reporters transcription of any court proceeding that the court reporter has transcribed within a period of at least one (1) year after the original transcript is sent to the requesting party. “[A] court may correct mistakes or clerical errors by its own process to make it conform to the record.” quoting *Ex parte South Carolina Dept. of Revenue*, 350 S.C. 404, 566 S.E.2d 196 (S.C. App. 2002); also see *Ex parte Strom*, 343 S.C. 257, 539 S.E.2d 699 (S.C. 200) (A “clerical error” in judgments, orders or other parts of the record arising from oversight or omission, may be corrected by the court at any time, there is a mistake or omission by a clerk, counsel, judge, [court reporter or printer, which is not the result of exercise of judicial function.)).

Here in this case, on the 19th and the 31st of July, 2019, a Post-Conviction relief motion and evidentiary hearing was held at the Spartanburg County Courthouse to address the outstanding motions and issues filed by Petitioner, John Garvin. At that hearing Circuit Court Judge, J. Derham Cole, heard and ruled on Petitioner’s pro-se motions and issues within his PCR application.

The Court Reporter, Linda D. Moffitt, transcribed the July 19, and the July 31, 2019, motion and evidentiary PCR hearing transcript on June 16, 2020, at the request of the Respondent’s Attorney, Johnny E. James, Jr., Asst. Att’y. General. The Petitioner states that upon receiving the PCR hearing transcript on February 8, 2021, from Appellant Defense via Lieber Correctional Institution’s internal mail staff. That the transcript was not a complete full accurate account of what transpired in court at that PCR hearing.

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Petitioner states that he wrote the Court Reporter, Linda D. Moffitt, about challenging the accuracy of the PCR transcript on March 18, 2021. Whereas, she would refer him to get in contact with Karama T. Bailey, Deputy Director, Court Reporter/Court Interpreting at the Office of South Carolina Court Administration on April 4, 2021.

On March 23, 2021, Petitioner would write a letter to the Presiding Judge of that PCR hearing, J. Derham Cole, who is now the Chief Administration Judge, for the Spartanburg County Court of Common Pleas, about a request to listen to the PCR audio recordings. Whereas, Judge Cole, has fail to even respond to Petitioner's request. On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about Petitioner's desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question.

On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about his desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question. Petitioner states that he has challenged the accuracy of Court Reporter, Linda D. Moffitt's, transcription of his July 19, and July 31, 2019, PCR Motion hearing and evidentiary hearing, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.

The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration. On June 4, 2021, Karama T. Baily, made her review and findings of errors within the PCR transcript. On June 15, 2021, Petitioner received from her, her finding of errors via Lieber Correctional Institution internal mail staff. (See Exhibit – A).

Petitioner hereby objects to her review and findings of errors within the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt's transcript errors as

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a whole. Insomuch as, further review of the Audio Recordings of the PCR hearing, will show that there are far more errors in the PCR transcript than Ms. Bailey is actually reporting and that there are several inconsistencies in her finding that don't coordinate with the page number of the errors that Ms. Bailey is claiming to have found.

Ms. Bailey's report and finding state that there are thirty (30) errors that she found within the PCR transcript, but eighteen (18) of those errors was not where she stated it would be, thus, several inconsistencies within Ms. Bailey's finding that don't coordinate with the actual page number and the numbered line of the errors that she is stating. (See Exhibit – A). Petitioner states that there are still over ninety-two (92) errors within the transcribed portions of the PCR transcript, by Court Reporter, Linda D. Moffitt, that are distorted and omits questions that was asked by Petitioner of witnesses, Scott D. Robinson, Esquire; Asst. Solicitor, James E. Hunter; and SLED Agent, Ashley Asbill, that's not presented in the transcript that are substantial and significant alterations and omissions to the testimony giving by the aforementioned witnesses at the PCR hearing.

The omissions distort the facts within, Court Reporter, Linda D. Moffitt's, transcription of the PCR hearing transcript and deprives me of a statutory right to produce witnesses and proofs in my favor, pursuant to S.C. Code Ann. § 17-23-60, her transcript errors, specifically prejudices my ability to perfect my appeal and to prove that my constitutional rights were violated on the issues that I presented at my PCR hearing.

The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing and further review of the PCR transcript is needed due to the inconsistencies of Karama T. Bailey's report and finding. (See Exhibit – A). Petitioner states that on page 127, line 13 – 15, right after Counsel Robinson admitted

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that he failed to appear, Petitioner asked him a question about, was his failure to appear, be considered negligence on his part for failing to appear at Petitioner's October 25, 2012, preliminary hearing. Whereas, Counsel Robinson admitted on record that he was negligent for failing to appear. And on page 143, line 1 – 2, right after Counsel Robinson admitted that there was a meeting in the Judge's chambers, he was asked what was talked about in the Judge's chamber between himself, Asst. Solicitor, James E. Hunter and Judge McIntosh.

Petitioner has simultaneously presented this motion before the Spartanburg County Court of Common Pleas before the presiding judge, J. Durham Cole, of that PCR hearing and before the Supreme Court of South Carolina. The Petitioner makes this Motion for Request to Listen to Audio Recordings and to Read Steno Notes, with good cause to correct the transcript errors and any such deficiency within the July 19, and July 31, 2019, PCR hearing transcript.

The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing:

ERRORS WITHIN PCR TRANSCRIPT

Page #	Line #	Change(s) That Need To Be Made
12	5	"the" should be "to"
15	20	"impartial" should be "partial"
16	13	"was" should be "is"
16	24	"Social" should be "socially"
21	19	Remove "this"
22	13	"was" should be "is"
23	6	Assistance misspelled
24	13	Add "was false" after "that"
24	13	"first" should be "Fredrick"
25	7	"was" should be "is"
25	8	"a" should be "the"
27	13	Add "an" before "extrajudicial"
27	20	"extrigent" should be "extrinsic"
37	16	"actually" should be "adequately"
37	23	"before my trial" should be "for my appeal"
46	8	"convenient" should be "color"
47	9, 10	Remove "- - excuse me - - State grand jury procedures"

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 AMY W. COX

47	21	Add "year" before "2012"
47	22	"17" should be "170"
48	7	"2013" should be "2012"
48	17	"causal" should be "cause of"
49	2	"constitutional" should be "constitution"
49	6	"a" should be "above are"
49	7	"permissibly" should be "impermissibly"
49	11	"the prior" should be "deprived"
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49	24	"2013" should be "2012"
60	13	Add "It was filed?" before the question "Is that the one you filed on July 5 th ?"
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71	12	"with him" should be "against them both"
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75	23	"in" should be "at"
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81	19	"there" should be "that"
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84	13	Add "my case" after "try"
84	14	"That's as" should be "That"
86	1	"a" should be "the"
87	21	"Beck v. Abraham" should be "Brecht v. Abrahamson, 507 U.S. 619"
90	23	"provided" should be "proved"
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94	8	"appears" should be "abused"
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117	14	"your" should be "the"
117	20	"if" should be "is"
125	19	"noticed" should be "notified"
127		A question that was asked and the answer is missing from the transcript.
128	25, 1-2	The question that was asked is distorted.
129	15-19	The question that was asked is being distorted and is missing Counsel Robinson's answer.

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133	5-7	The question that was asked is being distorted.
135	22	"it's not" should be "it is"
143		The question that was asked and the answer is missing from the transcript.
150	6	"traction" should be "transaction"
160	14	Add "meaningful" before "adversarial testing"
160	17	Add "meaningful" before "adversarial testing"
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196	22	"Howso" should be "How so"
197	19	"That's" should be "what's"
199	13	"isn't" should be "is"
201	2	"what" should be "that"
213	4	Add "Rule – 60(b)(2)(3)(4) and S.C. Code Ann. § 17-27-20(A)(4)" after "under"
214	14	"he gave" should be "he is"
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293	18	"knee me as Unk" should be "knows me as an Uncle"
295	18	Add "it" after "write"
299	1	"till" should be "until"

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 SPARTANBURG COUNTY
 AMY M COX

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A copy of the Court reporters primary and back up audio recording are needed to correct the PCR transcript errors as mentioned above. This request to receive a copy of the primary and backup tapes is according to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.

Moreover, the South Carolina Court Reporters Manual Petitioner to seek further review of the record with permission from the presiding judge upon a written request with good cause shown. And being that the presiding judge has failed to even respond to Petitioner's request. Petitioner seeks permission from this Honorable Court.

CONCLUSION

For the reasons set out above with good cause shown, Petitioner respectfully request that this Honorable Court grants this Motion for Request to Listen to Audio Recordings and to Read Steno Notes.

DATED: June 29, 2021
Ridgeville, South Carolina

Respectfully Submitted,

John Garvin, # 355509, Pro-se.

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SPARTANBURG COUNTY
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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

John Garvin,
Petitioner,

v.

State of South Carolina,
Respondent.

PROOF OF SERVICE

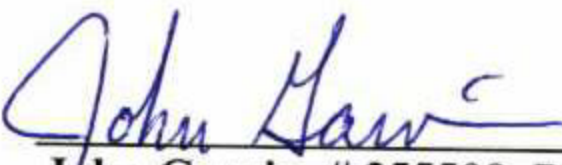
CASE NO.: 2015-CP-42-04699

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I, John Garvin, certify that I have serve a **NOTICE AND MOTION FOR REQUEST TO LISTEN TO AUDIO RECORDINGS AND TO READ STENO NOTES** with Supporting Affidavit and Memorandum of Law on the Court by via e-mail to suptfilings@sccourts.org, williamray@scag.gov, JCOLESC@sccourt.org, and acox@spartanburgcounty.org to be delivered on June 29, 2021, to the Hon. Daniel E. Shearouse, Clerk of S.C. Supreme Court; to Mr. William H. Ray, Asst. Att'y. General; and also delivered First Class Mail to the Hon. J. Derham Cole, Chief Admin. Judge, P.O. Box # 1744, Spartanburg, S.C., 29304-1744 ; and to the Hon. Amy Cox, Spartanburg County Clerk of Court, 180 Magnolia St., 2nd Floor, Suite # 500, Spartanburg, S.C. 29306.

DATED: June 29, 2021


John Garvin, # 355509, Pro-se.
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472

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Jul 01 2021

S.C. SUPREME COURT

From: [Bernard Garvin](#)
To: [Supreme Court Filings](#)
Cc: williamray@scag.gov; [Cole, J. Derham Secretary \(Sue Pardue\)](#); [Cox, Amy W.](#)
Subject: Filing of Motion for Request to Listen to Audio Recordings
Date: Thursday, July 1, 2021 11:36:39 AM
Attachments: [1625149709181_staples_scan.pdf](#)

Dear Hon. Clerk Shearouse:

I send you this e-mail in regards to my brother, John Garvin, who is trying to file the attached Motion for Request to Listen to Audio Recordings and makes this Motion in regards to his objection to Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting, review and findings of the July 19 and July 31, 2019, PCR transcript that was transcribed by Linda D. Moffitt.

I am informing the Respondent, William H. Ray, Asst. Att'y. Gen.; The presiding PCR Judge, J Derham Cole, and The Hon. Amy Cox, Clerk of Spartanburg County Court of Common Pleas of my brother's filing of this Motion.

Respectfully,
Bernard Garvin assisting John Garvin

John Garvin
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472

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Jul 01 2021

S.C. SUPREME COURT

ATTN: Hon. Daniel E. Shearouse, Clerk
The South Carolina Supreme Court
1231 Gervais Street
Columbia, S.C. 29201

RE: John Garvin v. State, 2020-001418, Motion for Request to Listen to Audio Recordings and to Read Steno Notes, pursuant to Rule – 607(i), SCACR


Dear Hon. Clerk Shearouse:

Enclosed with this letter is a Motion for Request to Listen to Audio Recordings and to Read Steno Notes with supporting affidavits and Memorandum of Law and a Proof of Service that is to be filed in the South Carolina Supreme Court.

By copy of this letter, I am informing the Respondent, the Hon. J. Derham Cole, Chief Admin. Judge, and the Hon. Amy W. Cox, Spartanburg County Clerk of Court, of my filing of this motion.

I thank you for your cooperation and assistance in this matter.

Dated: June 29, 2021


Respectfully,
John Garvin, # 355509, Pro-se.

JG/bg

Enclosure

cc: William H. Ray, Asst. Att'y. General
Hon. J. Derham Cole, Chief Admin. Judge
Hon. Amy Cox, Spartanburg County Clerk of Court

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Jul 01 2021

S.C. SUPREME COURT

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**FROM SPARTANBURG COUNTY
Court of Common pleas
J. Derham Cole, Circuit Court**

Case No. 2020-001418

John Garvin..... Petitioner-Appellant,

v.

The State of South Carolina..... Respondent-Appellee.

**NOTICE AND MOTION FOR REQUEST TO LISTEN TO
AUDIO RECORDINGS AND TO READ STENO NOTES, PURSUANT
TO SOUTH CAROLINA COURT REPORTERS MANUAL § XIII (B)(C)**


To: Mr. William H. Ray, Asst. Att’y. General, Attorney for Respondent.

YOU WILL PLEASE TAKE NOTICE, that upon the affidavit of John Garvin, sworn to on the 24th day of June, 2021, proceeding as pro-se and can be heard, will move before the Honorable Justices of the South Carolina Supreme Court, for an Order granting this Motion for Request to Listen to Audio Recordings and to Read Steno Notes in this matter, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C). As grounds for this Motion, Petitioner would state the following: That he has challenged the accuracy of the July 19, and the July 31, 2019, PCR transcript, pursuant to the South Carolina Court Reporter Manual § XIII (B)(C). The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court reporting/Court interpreting of the South Carolina Court administration. Petitioner hereby objects to her review and findings

of the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt's transcript errors as a whole. Further review of the PCR audio recordings is needed and will show that there are far more errors in the PCR transcript than she is actually reporting and that there are several inconsistencies in her finding that don't coordinate to the actual page number of the errors that she is stating that's in her review. I make this request to listen to the Audio Recordings for further review of the PCR transcript pursuant to the South Carolina Court Reporters Manual § XIII (B)(C).

Petitioner's Motion for Request to Listen to Audio Recordings and to Read Steno Notes is made and based on this notice and Motion, the affidavit of John Garvin, and memorandum of law in support of this Motion, copies of which are served with this notice, and on the pleadings, papers, records, and files in this action.

DATED: June 29, 2021


John Garvin, # 355509, Pro-se.
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Jul 01 2021

FROM SPARTANBURG COUNTY
Court of Common pleas
J. Derham Cole, Circuit Court

S.C. SUPREME COURT

Case No. 2020-001418

John Garvin..... Petitioner-Appellant,

v.

The State of South Carolina..... Respondent-Appellee.

**AFFIDAVIT IN SUPPORT OF JOHN GARVIN'S
MOTION FOR REQUEST TO LISTEN TO AUDIO
RECORDINGS AND TO READ STENO NOTES, PURSUANT TO
SOUTH CAROLINA COURT REPORTERS MANUAL § XIII (B)(C)**

I, John Garvin, being first duly sworn, deposes and says:

1. I am the Petitioner in the above – entitled action proceeding as pro-se and makes this affidavit in support of my Motion for Request to Listen to Audio Recordings and to Read Steno Notes, pursuant to South Carolina Court Reporters Manual § XIII(B)(C).
2. Petitioner states that he wrote Court Reporter, Linda D. Moffitt, about challenging the accuracy of his PCR transcript. Whereas, she would refer him to get in contact with Karama T. Bailey, Deputy Director, Court Reporter/Court Interpreting at the Office of South Carolina Court Administration.
3. On March 23, 2021, Petitioner would write a letter to the Presiding Judge of that PCR hearing, J. Derham Cole, who is now the Chief Administration Judge, for the Spartanburg County Court of Common Pleas, about a request to listen to the PCR audio recordings. Whereas, Judge Cole, has fail to even respond to Petitioner's request.
4. On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about his desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question.

5. Petitioner states that he has challenged the accuracy of Court Reporter, Linda D. Moffitt's, transcription of his July 19, and July 31, 2019, PCR Motion hearing and evidentiary hearing, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.
6. The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration.
7. On June 4, 2021, Karama T. Baily, made her review and findings of errors within the PCR transcript. On June 15, 2021, Petitioner received from her, her finding of errors via Lieber Correctional Institution internal mail staff.
8. Petitioner hereby objects to her review and findings of errors within the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt's transcript errors as a whole.
9. Further review of the Audio Recordings of the PCR hearing, will show that there are far more errors in the PCR transcript than Ms. Bailey is actually reporting and that there are several inconsistencies in her finding that don't coordinate with the page number of the errors that Ms. Bailey is claiming to have found.
10. Ms. Bailey's report and finding state that there are thirty (30) errors that she found within the PCR transcript, but eighteen (18) of those errors was not where she stated it would be, thus, several inconsistencies within Ms. Bailey's finding that don't coordinate with the actual page number and the numbered line of the errors that she is stating. (See Exhibit – A).
11. There are still over ninety-two (92) errors within the transcribed portions of the PCR transcript, by Court Reporter, Linda D. Moffitt, that are distorted and omits questions that was asked by Petitioner of witnesses, Scott D. Robinson, Esquire; Asst. Solicitor, James E. Hunter; and SLED Agent, Ashley Asbill, that's not presented in the transcript that are substantial and significant alterations and omissions to the testimony giving by the aforementioned witnesses at the PCR hearing.
12. The omissions distort the facts within, Court Reporter, Linda D. Moffitt's, transcription of the PCR hearing transcript and deprives me of a statutory right to produce witnesses and proofs in my favor, pursuant to S.C. Code Ann. § 17-23-60, her transcript errors, specifically prejudices my ability to perfect my appeal and to prove that my constitutional rights were violated on the issues that I presented at my PCR hearing.
13. The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing and further review of the PCR transcript is needed due to the inconsistencies of Karama T. Bailey's report and finding. (See Exhibit – A).

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24	13	“first” should be “Fredrick”
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295	18	Add "it" after "write"
299	1	"till" should be "until"

14. On page 127, line 13 – 15, right after Counsel Robinson admitted that he failed to appear, Petitioner asked him a question about, was his failure to appear, would that be considered negligence on his part for failing to appear at Petitioner's October 25, 2012, preliminary hearing. Whereas, Counsel Robinson admitted on record that he was negligent for failing to appear.
15. On page 143, line 1 – 2, right after Counsel Robinson admitted that there was a meeting in the Judge's chambers, he was asked what was talked about in the Judge's chamber between himself, Asst. Solicitor, James E. Hunter and Judge McIntosh.
16. Petitioner has simultaneously presented this motion before the Spartanburg County Court of Common Pleas before the presiding judge, J. Durham Cole, of that PCR hearing and before the Supreme Court of South Carolina.
17. The Petitioner makes this Motion for Request to Listen to Audio Recordings and to Read Steno Notes, to correct the transcript errors and any such deficiency within the July 19, and July 31, 2019, PCR hearing transcript.

WHEREFORE, based upon the forgoing the Petitioner prays that the Court grants his Motion for Request to Listen to Audio Recordings and to Read Steno Notes, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C), and Rule – 607(i), SCACR and due administration of justice. Executed on this 29th day of June, 2021.


John Garvin, # 355509, Pro-se.
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472

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S.C. SUPREME COURT

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
J. Derham Cole, Circuit Court Judge**

Case No. 2020-001418

John Garvin..... Petitioner-Appellant,

v.

The State of South Carolina..... Respondent-Appellee.

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR REQUEST TO LISTEN TO AUDIO
RECORDING AND TO READ STENO NOTES, PURSUANT TO
SOUTH CAROLINA COURT REPORTERS MANUAL § XIII(B)(C)**

Petitioner, John Garvin, proceeding as pro-se, makes this Memorandum of Law in Support of his Motion for Request to Listen to Audio Recording and to Read Steno Notes, pursuant the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR. A challenge to the accuracy of Court Reporter, Linda D. Moffitt’s, transcription of Petitioner’s Post-Conviction Relief (PCR) motion and evidentiary hearing held on the 19th and the 31st July, 2019, was made. Whereas, Petitioner hereby objects to the review and findings of that PCR transcript, made by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration, on May 4, 2021.

FACTS OF THE CASE

The Petitioner adopts the Facts of the Case as stated in his Memorandum of Law in Support of his Motion for Access to Disciplinary Information, his Motion for Request to Listen to Audio Recordings and to Read Steno Notes, and his Motion to Supplement the Record, that was submitted to this Court by Petitioner as if set forth at length herein. The Petitioner, however, reserves the right to supplement the Facts of the Case in Legal Argument, *infra*.

STANDARD OF REVIEW

“In any proceeding which has been transcribed, the court shall retain the primary and backup tapes which have been transcribed for a period of at least one (1) year after the original transcript is sent to the requesting party, to allow any party to challenge the accuracy of the transcription.” See Rule-607(i), SCACR.

“[A] Court reporter[] shall [only] grant [a] request to listen to audio recordings or to read steno notes [upon] [a] requestor [having] received written authorization from the presiding judge or, in his/her absence, the Chief judge for administrative purposes in that circuit.” “Rule 607(i), SCACR governs the retention of tapes.... When there is a challenge to the accuracy of a transcript, the court reporter will respond to the challenger in writing. The court reporter will then review the record and report the findings in writing to the challenger with a copy to all parties and Court administration. Any inaccuracies will be corrected and the pages forwarded to the Challenger at no cost.... [Any] [f]urther review of the record maybe permitted by the presiding judge upon written request with good cause shown. See South Carolina Court Reporters Manual § XIII(B)(C).

ARGUMENT

I.

THIS COURT SHOULD GRANT PETITIONER'S MOTION FOR REQUEST TO LISTEN TO AUDIO RECORDINGS AND READ STENO NOTES, PURSUANT SOUTH CAROLINA COURT REPORTERS MANUAL § XIII(B)(C) AND RULE – 60(a), SCRCR AND RULE – 607(i), SCACR

Under the Court Reporter Act (CRA), a certified transcript “shall be deemed prima facie a correct statement of the testimony taken and proceedings had.” See 28 U.S.C. § 753(b). The Court Reporter Act requires a complete transcript of trial proceedings, and there is no doubt that “[a] criminal defendant has a right to a meaningful appeal based on a complete transcript.” See *United States v. Huggins*, 191 F.3d 532, 536 (4th Cir. 1999).

South Carolina Appellate Court Rules require court reporters to retain primary and backup tapes from circuit courts for five years after the proceedings and specifically allow “any party to challenge the accuracy of the transcription.” Rule – 607(i), SCACR; *Barnes v. Thueme*, No. 5:13-2349-RMG, 2013 WL 5781711, at *4 (D.S.C. Oct. 25, 2013). In any proceeding that has been transcribed, the court reporter must retain the primary and backup tapes for a period of at least one (1) year after the original transcript is sent to the requesting party to allow any party to challenge the accuracy of the transcription. See Rule – 607(i), SCACR. If no challenge is received by the court reporter within that period, the tapes may be reused or destroyed. *Id.*

Rule – 607(i), SCACR, allows any party the right to challenge the accuracy of a court reporters transcription of any court proceeding that the court reporter has transcribed within a period of at least one (1) year after the original transcript is sent to the requesting party. “[A] court may correct mistakes or clerical errors by its own process to make it conform to the record.” quoting *Ex parte South Carolina Dept. of Revenue*, 350 S.C. 404, 566 S.E.2d 196 (S.C. App. 2002); also see *Ex parte Strom*, 343 S.C. 257, 539 S.E.2d 699 (S.C. 200) (A “clerical error” in judgments, orders or other parts of the record arising from oversight or omission, may be corrected

by the court at any time, there is a mistake or omission by a clerk, counsel, judge, [court reporter], or printer, which is not the result of exercise of judicial function.)).

Here in this case, on the 19th and the 31st of July, 2019, a Post-Conviction relief motion and evidentiary hearing was held at the Spartanburg County Courthouse to address the outstanding motions and issues filed by Petitioner, John Garvin. At that hearing Circuit Court Judge, J. Derham Cole, heard and ruled on Petitioner's pro-se motions and issues within his PCR application.

The Court Reporter, Linda D. Moffitt, transcribed the July 19, and the July 31, 2019, motion and evidentiary PCR hearing transcript on June 16, 2020, at the request of the Respondent's Attorney, Johnny E. James, Jr., Asst. Att'y. General. The Petitioner states that upon receiving the PCR hearing transcript on February 8, 2021, from Appellant Defense via Lieber Correctional Institution's internal mail staff. That the transcript was not a complete full accurate account of what transpired in court at that PCR hearing.

Petitioner states that he wrote the Court Reporter, Linda D. Moffitt, about challenging the accuracy of the PCR transcript on March 18, 2021. Whereas, she would refer him to get in contact with Karama T. Bailey, Deputy Director, Court Reporter/Court Interpreting at the Office of South Carolina Court Administration on April 4, 2021.

On March 23, 2021, Petitioner would write a letter to the Presiding Judge of that PCR hearing, J. Derham Cole, who is now the Chief Administration Judge, for the Spartanburg County Court of Common Pleas, about a request to listen to the PCR audio recordings. Whereas, Judge Cole, has fail to even respond to Petitioner's request. On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about Petitioner's desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question.

On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about his desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question. Petitioner states that he has challenged the accuracy of Court Reporter, Linda D. Moffitt's, transcription of his July 19, and July 31, 2019, PCR Motion hearing and evidentiary hearing, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.

The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration. On June 4, 2021, Karama T. Baily, made her review and findings of errors within the PCR transcript. On June 15, 2021, Petitioner received from her, her finding of errors via Lieber Correctional Institution internal mail staff. (See Exhibit – A).

Petitioner hereby objects to her review and findings of errors within the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt's transcript errors as a whole. Insomuch as, further review of the Audio Recordings of the PCR hearing, will show that there are far more errors in the PCR transcript then Ms. Bailey is actually reporting and that there are several inconsistencies in her finding that don't coordinate with the page number of the errors that Ms. Bailey is claiming to have found.

Ms. Bailey's report and finding state that there are thirty (30) errors that she found within the PCR transcript, but eighteen (18) of those errors was not where she stated it would be, thus, several inconsistencies within Ms. Bailey's finding that don't coordinate with the actual page number and the numbered line of the errors that she is stating. (See Exhibit – A). Petitioner states that there are still over ninety-two (92) errors within the transcribed portions of the PCR transcript, by Court Reporter, Linda D. Moffitt, that are distorted and omits questions that was asked by

Petitioner of witnesses, Scott D. Robinson, Esquire; Asst. Solicitor, James E. Hunter; and SLED Agent, Ashley Asbill, that's not presented in the transcript that are substantial and significant alterations and omissions to the testimony giving by the aforementioned witnesses at the PCR hearing.

The omissions distort the facts within, Court Reporter, Linda D. Moffitt's, transcription of the PCR hearing transcript and deprives me of a statutory right to produce witnesses and proofs in my favor, pursuant to S.C. Code Ann. § 17-23-60, her transcript errors, specifically prejudices my ability to perfect my appeal and to prove that my constitutional rights were violated on the issues that I presented at my PCR hearing.

The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing and further review of the PCR transcript is needed due to the inconsistencies of Karama T. Bailey's report and finding. (See Exhibit – A). Petitioner states that on page 127, line 13 – 15, right after Counsel Robinson admitted that he failed to appear, Petitioner asked him a question about, was his failure to appear, be considered negligence on his part for failing to appear at Petitioner's October 25, 2012, preliminary hearing. Whereas, Counsel Robinson admitted on record that he was negligent for failing to appear. And on page 143, line 1 – 2, right after Counsel Robinson admitted that there was a meeting in the Judge's chambers, he was asked what was talked about in the Judge's chamber between himself, Asst. Solicitor, James E. Hunter and Judge McIntosh.

Petitioner has simultaneously presented this motion before the Spartanburg County Court of Common Pleas before the presiding judge, J. Durham Cole, of that PCR hearing and before the Supreme Court of South Carolina. The Petitioner makes this Motion for Request to Listen to Audio

Recordings and to Read Steno Notes, with good cause to correct the transcript errors and any such deficiency within the July 19, and July 31, 2019, PCR hearing transcript.

The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing:

ERRORS WITHIN PCR TRANSCRIPT

Page #	Line #	Change(s) That Need To Be Made
12	5	“the” should be “to”
15	20	“impartial” should be “partial”
16	13	“was” should be “is”
16	24	“Social” should be “socially”
21	19	Remove “this”
22	13	“was” should be “is”
23	6	Assistance misspelled
24	13	Add “was false” after “that”
24	13	“first” should be “Fredrick”
25	7	“was” should be “is”
25	8	“a” should be “the”
27	13	Add “an” before “extrajudicial”
27	20	“extrigent” should be “extrinsic”
37	16	“actually” should be “adequately”
37	23	“before my trial” should be “for my appeal”
46	8	“convenient” should be “color”
47	9, 10	Remove “ - - excuse me - - State grand jury procedures”
47	21	Add “year” before “2012”
47	22	“17” should be “170”
48	7	“2013” should be “2012”
48	17	“causal” should be “cause of”
49	2	“constitutional” should be “constitution”
49	6	“a” should be “above are”
49	7	“permissibly” should be “impermissibly”
49	11	“the prior” should be “deprived”
49	13	Remove “they”
49	24	“2013” should be “2012”
60	13	Add “It was filed?” before the question “Is that the one you filed on July 5 th ?”
61	23	“voluntary” should be “involuntary”
64	2	“voluntary” should be “involuntary”
64	11	“judge” should be “jury”
64	25	“boasting” should be “bolstering”
68	20	“2016” should be “2013”

71	1	Add "complaint." After "that"
71	12	"with him" should be "against them both"
71	13	"hab [sic]" should be "district court"
74	6	"April" should be "August"
74	11	"April" should be "August"
74	16	Add "appear at" before "that"
75	23	"in" should be "at"
76	23	"presidicial" should be "prejudicial"
78	25	"they" should be "it"
81	19	"there" should be "that"
84	10	"at" should be "under"
84	10	"and" should be "as"
84	13	Add "my case" after "try"
84	14	"That's as" should be "That"
86	1	"a" should be "the"
87	21	"Beck v. Abraham" should be "Brecht v. Abrahamson, 507 U.S. 619"
90	23	"provided" should be "proved"
91	10	"a" should be "the"
92	14	"cure" should be "colloquy"
94	8	"appears" should be "abused"
101	19	"me" should be "him"
117	14	"your" should be "the"
117	20	"if" should be "is"
125	19	"noticed" should be "notified"
127		A question that was asked and the answer is missing from the transcript.
128	25, 1-2	The question that was asked is distorted.
129	15-19	The question that was asked is being distorted and is missing Counsel Robinson's answer.
133	5-7	The question that was asked is being distorted.
135	22	"it's not" should be "it is"
143		The question that was asked and the answer is missing from the transcript.
150	6	"traction" should be "transaction"
160	14	Add "meaningful" before "adversarial testing"
160	17	Add "meaningful" before "adversarial testing"
160	25	Misspelled "astringent" should be "extrinsic"
162	12	Misspelled "astringent" should be "extrinsic"
163	4	Misspelled "astringent" should be "extrinsic"
196	14	Misspelled "astringent" should be "extrinsic"
196	13	"Esquire" should be "conspire"
196	14	"and" should be "for the"
196	15	"subort - - force" should be "submit suborn"
196	22	"Howso" should be "How so"
197	19	"That's" should be "what's"
199	13	"isn't" should be "is"

201	2	“what” should be “that”
213	4	Add “Rule – 60(b)(2)(3)(4) and S.C. Code Ann. § 17-27-20(A)(4)” after “under”
214	14	“he gave” should be “he is”
215	10	“astringent” should be “extrinsic”
220	2	“knew me and that I was” should be “knows me as”
236	24-25	This is not what Agent As I’ll Stated on the record.
237	17	Add “him” before “my”
239	12	Add “last” before “name”
239	13	Add “and” before “with”
240	9	“The Court:” should be “Mr. James:”
240	12	“The Applicant:” should be “Mr. James:”
286	8	“Perez” should be “him”
293	18	“knee me as Unk” should be “knows me as an Uncle”
295	18	Add “it” after “write”
299	1	“till” should be “until”

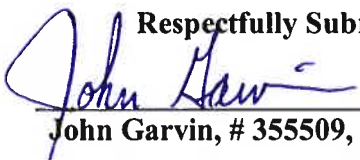
A copy of the Court reporters primary and back up audio recording are needed to correct the PCR transcript errors as mentioned above. This request to receive a copy of the primary and backup tapes is according to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.

Moreover, the South Carolina Court Reporters Manual Petitioner to seek further review of the record with permission from the presiding judge upon a written request with good cause shown. And being that the presiding judge has failed to even respond to Petitioner’s request. Petitioner seeks permission from this Honorable Court.

CONCLUSION

For the reasons set out above with good cause shown, Petitioner respectfully request that this Honorable Court grants this Motion for Request to Listen to Audio Recordings and to Read Steno Notes.

DATED: June 24, 2021
Ridgeville, South Carolina

Respectfully Submitted,

John Garvin, # 355509, Pro-se.

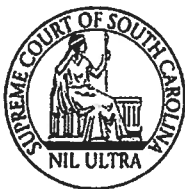
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Jul 01 2021

S.C. SUPREME COURT

EXHIBIT

A



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

TONNYA K. KOHN
STATE COURT ADMINISTRATOR

KARAMA BAILEY
DEPUTY DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0289
EMAIL: kbailey@sccourts.org

June 4, 2021

Mr. John Garvin, #355509
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, SC 29472

Dear Mr. Garvin:

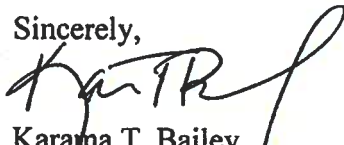
I am writing in response to your letter received by this office on May 14, 2021, in which you are challenging the accuracy of the transcript of your PCR hearing held on July 19, 2019 and continued on July 31, 2019. In response to your challenge, I completed a review of the audio and transcript. Upon my listening to the audio while simultaneously comparing it to the transcript, I found the following errors:

ERRORS FOUND		
PAGE #	LINE #	CHANGE(S) TO BE MADE
23	6	Assistance misspelled
24	13	“first” should be “Frederick”
37	16	“actually” should be “adequately”
48	7	“of 2013” should be “2012”
49	2	“Constitutional” should be “Constitution”
60	13	Add “It was filed when?” before the question “Is that the one that you filed on July the 5 th ?”
64	11	“judge” charge should be “jury” charge
94	8	“appears” should be “abused
97	21	Add “He’ll bring the bag to you.” after line 21
111	19	Add “brief”. Sentence should say “This is your <u>brief</u> ...”
115	10	“inn” should be “in”
117	11	“if” should be “is”
144	17	Add “earlier” after “stated”
149	13	“traction answer” should be “transaction”
170	2	“That’s” should be “Let’s”

170	15	Should be "They're human beings" instead of "They're going to be"
176	3	Add "It would have been." Before "Let me go back."
176	12	"lyour" should be "Your"
177	9	"diligence" should be "indulgence"
194	3	Add "is fake" after Agent Pait
195	11	"Esquire" should be "conspire"
195	19	"Howso" should be "How so"
196	16	"That's" should be "What's"
205	3	Remove "basically"
222	14	Add "know" after "not"
227	2	"Other" should be "those"
291	10	"expert" should be "expect"
292	1	"expected" should be "expect that"
292	17	"as Unk" should be "as an uncle"
296	13	Add "it" at the end of the line.

Please note that though the errors were not substantive, Linda Moffitt, the court reporter, is being asked to make the corrections and to send the corrected transcript back to you and to the opposing counsel.

Sincerely,



Karama T. Bailey
Deputy Director, Court Reporting/Court Interpreting
South Carolina Court Administration
SC Judicial Branch

cc: Johnny E. James, Asst. Attorney General
Linda Moffitt, Court Reporter

South Carolina Court Administration
1220 Senate Street, Suite 200
Columbia, South Carolina 29201-3739

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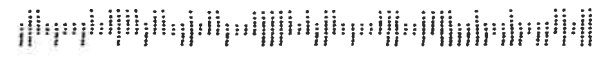
JUN 14 2021

MAIL ROOM
LIEBER C.I.

Mr. John Garvin, #355509
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, SC 29472

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THE STATE OF SOUTH CAROLINA
In The Supreme Court

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Jul 01 2021

FROM SPARTANBURG COUNTY
Court of Common pleas
J. Derham Cole, Circuit Court

S.C. SUPREME COURT

Case No. 2020-001418

John Garvin..... Petitioner-Appellant,


v.

The State of South Carolina..... Respondent-Appellee.

CERTIFICATE OF SERVICE

I, John Garvin, certify that I have serve a **NOTICE AND MOTION FOR REQUEST TO LISTEN TO AUDIO RECORDINGS AND TO READ STENO NOTES** with Supporting Affidavit and Memorandum of Law on the Court by via e-mail to suptfilings@sccourts.org, williamray@scag.gov, JCOLESC@sccourt.org, and acox@spartanburgcounty.org to be delivered on June 29, 2021, to the Hon. Daniel E. Shearouse, Clerk of S.C. Supreme Court; to Mr. William H. Ray, Asst. Att’y. General; and also delivered First Class Mail to the Hon. J. Derham Cole, Chief Admin. Judge, P.O. Box # 1744, Spartanburg, S.C., 29304-1744 ; and to the Hon. Amy Cox, Spartanburg County Clerk of Court, 180 Magnolia St., 2nd Floor, Suite # 500, Spartanburg, S.C. 29306.

DATED: June 29, 2021


John Garvin, # 355509, Pro-se.
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472