

RECEIVED

Dec 10 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
R. Kirk Griffin, Circuit Court Judge

THE STATE,

Respondent,

vs.

MICHAEL ANTHONTY MCNEIL,

Appellant.

Appellate Case No. 2021-000933

**MOTION TO STRIKE RECORD ON APPEAL
AS PREMATURE PURSUANT TO RULES
208, 209, AND 210 SCACR**

Respondent now moves for this Court to strike the record on appeal filed by Appellant on or about November 23, 2021 because it was filed prematurely, and prior to the time for Respondent to file its Initial Brief and Designation of Matter.

I.

Appellant filed and served his initial brief of respondent on November 11, 2021. By Respondents calculations, pursuant to Rules 208 and 209, Respondent's initial brief and designation of matter is due on December 13, 2021. Appellant filed, on November 23, 2021, a Record on Appeal prior to Respondent completing the initial brief and designation of matter. Respondent is prejudiced because Respondent, after careful review of the case, may find it

important to designate additional matter beyond what was designated by Appellant.

II.

Respondent has contacted opposing counsel's office about its concerns that the record on appeal was filed prematurely, but has not received a response. Accordingly, to protect the rights of the State of South Carolina, undersigned counsel now moves to have the aforementioned filing struck to allow the opportunity for Respondent to make its contribution to the designation of matter.

III.

Additionally, Respondent moves to hold all timelines in abeyance while this Court rules on the motion.

IV.

WHEREFORE, Respondent prays that this Court strike the Record on Appeal and allow the State the opportunity to prepare its designation of matter in accordance with appellate court rules and procedure.

[Signature block follows on next page]

Respectfully submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General
Bar # 68571

BY: 

DAVID SPENCER

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

December 10, 2021

RECEIVED
Dec 10 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Charleston County
The Honorable R. Kirk Griffin, Circuit Court Judge

Appellate Case No: 2021-000933

THE STATE,

Respondent,

v.

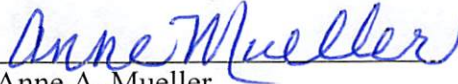
MICHAEL ANTHONY McNEIL,

Appellant.

PROOF OF SERVICE

I, Anne Mueller, certify that I have served the within Motion To Strike Record On Appeal As Premature Pursuant To Rules 208, 209, and 210 SCACR on Tommy Thomas, Esquire, counsel of record for the Appellant, by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.
This 10th day of December, 2018.


Anne A. Mueller
Legal Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

From: [Anne Mueller](#)
To: ["thomaslaw@me.com"](mailto:thomaslaw@me.com)
Cc: ["jackie@paroleme.com"](mailto:jackie@paroleme.com); [David Spencer](#); [William Blitch \(wblitch@scag.gov\)](mailto:wblitch@scag.gov); [Anne Mueller](#)
Bcc: [Victim Services](#)
Subject: The State v. Michael Anthony McNeil, 2021-000933
Date: Friday, December 10, 2021 2:30:00 PM
Attachments: [image001.png](#)
[McNeil Michael - 2021-000933 - Motion To Strike Record On Appeal As Premature \(02844336xD2C78\).PDF](#)

Good afternoon, Mr. Thomas.

Attached to this email is a copy of the State's Motion To Strike Record On Appeal As Premature Pursuant To Rules 208, 209, and 210 SCACR in the above matter. We will be filing this motion with the Court electronically later today.

As a courtesy, please confirm your receipt of this email and the attachment by return email. Thank you for your cooperation.

Sincerely,

Anne Mueller, Legal Assistant to Senior Assistant Attorney General David Spencer

Anne A. Mueller, Legal Assistant
Office of the South Carolina Attorney General
Criminal Appeals Division • Office 803-734-3922 • scag.gov



This email, which includes any attachments, is considered confidential and may be legally privileged. If you have received it in error, please notify the sender immediately by reply email and then delete this message from your system. Please do not copy it, use it for any purposes, or disclose its contents to any other person. This email is subject to FOIA requests. Thank you for your cooperation.