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March 24, 2022

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Via Email Only

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Billy Larson v. South Carolina Department of Corrections
Appellate Case Number: 2022-000279
Civil Action Number: 2019-CP-20-0241
Claim Number: D1087
Our File Number: 103.20513

Dear Ms. Kitchings:

The purpose of this letter is to confirm that the Respondent-Appellant South Carolina Department of Corrections ("SCDC") is not required under Rule 205 and Rule 207(a)(1), SCACR, to order the transcripts of the trial and motion hearings needed for this appeal and cross-appeal.

By way of background, the Appellant-Respondent Billy Larson filed a Notice of Appeal on March 9, 2022. Although the Respondent-Appellant SCDC believes that the Notice of Appeal was prematurely filed due to a Rule 59(e) motion that is still pending in the Circuit Court, the Respondent-Appellant SCDC filed its Notice of Cross-Appeal on March 14, 2022, to ensure it was not waiving any appellate rights should the Appellant-Respondent now withdraw the motion pending below without receiving an adjudication.

With there being multiple appeals filed, Rule 205, SCACR, governs the duties and responsibilities of the parties and designates Larson as the "primary appellant." Rule 205 states: "Where more than one party serves a notice of appeal, the party whose notice of appeal is first received by the appellate court shall be designated as the primary appellant and shall be responsible for performing all duties required of the appellant under Rules 207 and 210."

According to Rule 207(a)(1), Larson, as the "primary appellant" is required to have ordered the necessary transcripts of the trial and motion hearings in the court below within ten days after service of the Notice of Appeal, which deadline was March 21, 2022. Counsel for SCDC has not, to date, been copied on any correspondence with Court Administration or any court reporters, including any Transcript Request Forms, as to any transcript requests as may have been made. The Court of Appeals' docket similarly does not include any such correspondence or Transcript

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Request Forms. Moreover, a request to Larson's counsel made on this date for such documentation has not been responded to as yet. Therefore, counsel for SCDC does not know whether all necessary transcripts have been requested within the ten day deadline.

Counsel for SCDC is providing this notice to the Court to confirm that SCDC is not the "primary appellant" as it interprets Rule 205 and, therefore, has no responsibility to order transcripts as required by Rule 207(a)(1) in order to perfect its appellate rights. SCDC does not waive its right to pursue its appeal rights even if Larson, as the "primary appellant," failed to meet the requirements of Rule 207(a)(1), which is currently unclear based on the lack of information about transcript requests in the record and as explained above.

If you have any questions, please advise.

Sincerely,

LINDEMANN & DAVIS, P.A.



Andrew F. Lindemann

AFL/

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