

**FROM THE CIRCUIT COURT OF THE
TENTH JUDICIAL CIRCUIT IN AND FOR
POLK COUNTY, FLORIDA**

JOHNATHAN ISHMAEL ALCEGAIRE, Appellant,

vs.

STATE OF FLORIDA, Appellee.

Case No. CF16-000284-XX

Appeal No. SC19-428 (SUPPLEMENTAL RECORD)

Honorable Jalal Harb, Presiding Judge

**RECORD ON
APPEAL**

FLORIDA SUPREME COURT

08/15/2019

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INDEX TO RECORD ON APPEAL

SUPPLEMENT TO RECORD ON APPEAL (PAPERS AND PLEADINGS)

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**Indicates document contains sealed/confidential and/or redacted information*

Supreme Court of Florida

MONDAY, AUGUST 12, 2019

CASE NO.: SC19-428

Lower Tribunal No(s):
532016CF000284A000XX

JOHNATHAN I. ALCEGAIRE vs. STATE OF FLORIDA

Appellant(s)

Appellee(s)

Appellant's Unopposed Motion to Supplement the Record on Appeal (copy attached) is granted.

The trial court clerk is directed, on or before August 22, 2019, to supplement the record with Court Exhibit #1, State Exhibit #517, and State Exhibit #530, and provide copies to counsel for the parties.

***THE COVERSHEET SHALL REFLECT "SUPPLEMENTAL RECORD" AND PAGE NUMBERING SHOULD RUN CONSECUTIVELY.**

A True Copy
Test:



John A. Tomasino
Clerk, Supreme Court



cd
Served:

TIMOTHY ARTHUR FREELAND
ALICE B. COPEK

IN THE SUPREME COURT OF FLORIDA

JOHNATHAN I. ALCEGAIRE,

Appellant

v.

CASE NO. SC19-428
L.T. No.: 16-CF-000284
DEATH PENALTY CASE

STATE OF FLORIDA,

Appellee.

_____ /

UNOPPOSED MOTION TO SUPPLEMENT THE RECORD ON APPEAL

Appellant, through undersigned counsel, and pursuant to Florida Rule of Appellate Procedure 9.200(f), moves to supplement the record on appeal in this capital case, and states:

1. Appellant was convicted of first-degree murder and sentenced to death on March 8, 2019. The instant case is a direct appeal from the judgment and sentence.

2. While reviewing the extensive record on appeal and preparing the initial brief, counsel has identified omissions in the record that are critical to issues that counsel intends to pursue in this direct appeal.

3. In the State's rebuttal closing argument, the prosecutor utilized a blowup of a Google map as a demonstrative aid. Trial counsel for Appellant objected on the grounds that the aid had not been produced to counsel and was a comment about facts not in evidence. (T. 2852-57).

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4. As the State noted, the map was being utilized to rebut a key theory of Appellant's defense. (T. 2853-56).

5. Trial counsel renewed his objection and highlighted the prejudice that would ensue with the State introducing new evidence in rebuttal closing argument and, thus, the defense having no ability to address it with the jury. (T. 2857).

6. Appellant's objection was overruled. (T. 2857-58).

7. After the State had completed its rebuttal argument, trial counsel requested that the demonstrative aid be made a part of the record on appeal. The Court granted counsel's request and made the demonstrative aid a part of the record as Court Exhibit Number 1. (T. 2888-89).

8. Court Exhibit Number 1, however, is not included in the record on appeal submitted to this Court.

9. In addition, it appears the impetus for the State wishing to utilize the demonstrative aid was trial counsel's questioning of a detective about maps that the State had introduced earlier in the trial. In cross examining Detective McPherson, trial counsel utilized State Exhibit Number 530 and State Exhibit Number 517 to question the detective about the incident address and surrounding areas. (T. 2561-63).

10. State Exhibit Numbers 530 and 517 are not included in the record on appeal submitted to this Court.

11. In order to properly evaluate whether the Court erred in permitting the State's argument and use of the demonstrative aid, it is essential that Appellant and this Court be able to review and compare the exhibit with the evidence that was introduced during trial.

12. Appellant is entitled to a complete and unredacted copy of the record in order to prepare an effective brief and shall be given an opportunity to supplement an incomplete record prior to any determination of his appeal.

13. This motion is made in good faith and not for purposes of delay.

14. Counsel has consulted with Assistant Attorney General, Timothy Freeland, and he does not oppose this motion.

WHEREFORE, Appellant respectfully requests that this Court grant him leave to supplement the record with **Court Exhibit Number 1, State Exhibit Number 517, and State Exhibit Number 530.**

Respectfully submitted,

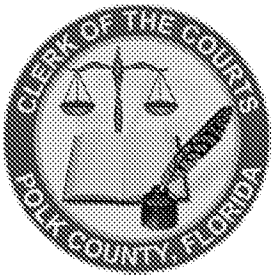
HOWARD L. "REX" DIMMIG, II
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copeklaw@gmail.com
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic mail to Assistant Attorney General, Timothy Freeland, at timothy.freeland@myfloridalegal.com, and to capapp@myfloridalegal.com on this 9th day of August, 2019.

/s/Alice B. Copek
ALICE B. COPEK



Stacy M. Butterfield

*Clerk of the Circuit Court and County Comptroller
Polk County, Florida*

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CIRCUIT CRIMINAL

CERTIFICATE OF THE CLERK

STATE OF FLORIDA

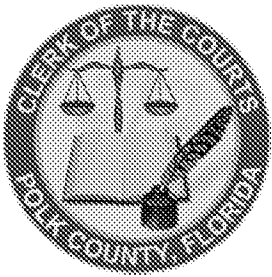
COUNTY OF POLK

I, STACY BUTTERFIELD, Clerk of the Circuit Court for the County of Polk, State of Florida, do hereby certify that the foregoing pages 3928 to 3934 inclusive contain a correct transcript of the record of the judgment in the case of State of Florida, Plaintiff, vs. JOHNATHAN ISHMAEL ALCEGAIRE, Defendant, Case No. CF16-000284-XX, and a true and correct recital and copy of all such papers and proceedings in said cause as appears from the records and files of my office that have been directed to be included in said record by the directions furnished me.

We are unable to include Court Exhibit #1, State Exhibit #517 and State Exhibit #530 as requested in the Unopposed Motion to Supplement the Record on Appeal and Supreme Court Order of August 12, 2019. These items are blow ups that are too large to copy. Additionally, State's Exhibits #499 thru #506, #509 thru #516, #518 thru #520, #577 & #578 are blow ups that are too large to copy.

Furthermore, I do hereby certify that I delivered one copy of the Record on Appeal to the Office of the Public Defender, P.O. Box 9000 – Drawer PD, Bartow, FL 33831, Attorney for the Appellant; and electronically delivered one copy of the Record on Appeal to the Office of the Attorney General, Concourse Center 4, 3507 E. Frontage Rd., Suite 200, Tampa, FL 33607-7013, Attorney for Appellee.

The Mission of the Office of Clerk of the Circuit Court is to function as a team dedicated to our customers by preparing and maintaining accurate records, furnishing assistance in an understanding and compassionate manner, and providing services with competence, professionalism, and courtesy in compliance with laws, rules and regulations.



Stacy M. Butterfield

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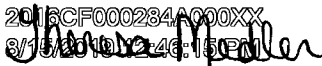
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CIRCUIT CRIMINAL

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said
Court this the 15th day of August, 2019.



STACY BUTTERFIELD, CLERK
CIRCUIT COURT, CRIMINAL DIV.
IN AND FOR POLK COUNTY, FL

By 

Theresa Medler, Deputy Clerk
theresamedler@polk-county.net

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