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Sep 20 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to Pickens County
Alex Kinlaw, Jr., Post-Conviction Relief Judge
William P. Keesley, Trial Judge
Appellate Case No. 2019-000437

JUSTIN RYAN CONE,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

**MOTION TO AMEND RESPONDENT'S RETURN TO PETITIONER'S
PETITION FOR REHEARING**

On September 8, 2022, the undersigned filed with this Court Respondent's return to Petitioner's petition for rehearing. The undersigned has since noticed, upon review of the return, that it contains two typographical errors. In moving to amend the return to the petition for rehearing, the undersigned would show as follows:

1. In Respondent's amended return to the petition for rehearing, which is being filed in conjunction with this motion, the undersigned has made the following changes from the original filed on September 8:
 - a. On the first page, changed a pronoun referring to the trial court from "she" to "he"; and
 - b. On the second page, changed the phrase "Petitioner is not inaccurately characterizing" to "Petitioner is not accurately characterizing".

2. Respondent submits that it is clear from the context that the word and phrase as originally given were typographical errors and that the amendment does not alter the substance of Respondent's arguments.
3. Counsel for Petitioner notified Respondent by email today that Petitioner consents to the motion.

WHEREFORE, Respondent prays that the Court would allow Respondent to withdraw the original return to the petition for rehearing and substitute in its place the accompanying amended return to the petition for rehearing, and that the Court would consider the amended return as timely.

Respectfully submitted,

September 20, 2022

s/Taylor Zane Smith
Taylor Z. Smith
Assistant Attorney General
S.C. Bar # 103282
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3970
Attorney for Respondent

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Respondent.

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of Respondent's motion to amend the return to petition for rehearing has been served upon opposing counsel by sending to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS):

Jessica M. Saxon, Esquire
jsaxon@sccid.sc.gov

This 20th day of September, 2022.

s/Taylor Zane Smith
TAYLOR ZANE SMITH
Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

From: [Taylor Smith](#)
To: ["Saxon, Jessica"](#)
Cc: [William Corbett](#)
Subject: Motion to amend in Justine Cone's PCR appeal.
Date: Tuesday, September 20, 2022 7:45:00 PM
Attachments: [03106901.pdf](#)
[03106900.pdf](#)
[image001.png](#)

Jess,

Attached to this email are the motion to amend the State's return to the petition for rehearing and the amended return to the petition for rehearing in *Cone v. State*, 2019-000437, which I will file with the Court of Appeals by email tonight. I will attach a copy of this email to the motion when I send the email to the Court.

Thank you,
Taylor

TAYLOR SMITH, Assistant Attorney General
South Carolina Attorney General's Office
Criminal Division | Office 803-734-0904
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scag.gov



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SC Court of Appeals

September 20, 2022

The Honorable Jenny A. Kitchings
Clerk of Court, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
(via e-filing only - ctappfilings@sccourts.org)

RE: Justin R. Cone v. State of South Carolina
Appellate Case No.: 2019-000437

Dear Ms. Kitchings:

Enclosed is the State's motion to amend the return to the petition for rehearing and the amended return to the petition for rehearing in the above-referenced matter, which I am submitting for filing in your office by this email.

Sincerely,

s/Taylor Zane Smith
Taylor Z. Smith
Assistant Attorney General

TZS
Enclosures

cc: Jessica M. Saxon, Esquire (by email only)