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Dec 06 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2023-001718

The State of South Carolina,

Respondent,

v.

Detavious Cunningham,

Appellant.

Unopposed Motion to Amend the Notice of Appeal

Appellant moves to amend the Notice of Appeal which was filed on November 2, 2023 in this case. To support this Motion Appellant would show the following:

- 1) Appellant was called to trial on October 31, 2023 for Indictment 2022-GS-24-1428. At that time, Appellant was represented by Colie Stancil with the Eighth Circuit Public Defender. Mr. Stancil was assisted by the undersigned Counsel.
- 2) On October 31, 2023, Appellant plead guilty to 2023-GS-24-0360 a trafficking in cocaine base for a negotiated 16-year sentence. This sentence was treated as a second offense based on a 2010 conviction on 2007-GS-24-01107.
- 3) On November 2, 2023, Appellant contacted Counsel and asked for reconsideration of his sentence.
- 4) On November 2, 2023, Appellant orally moved for reconsideration of the Court's

treatment of the sentence as a second offense. Appellant argued that the Court misinterpreted S.C. Code Ann. § 44-53-470 due to his release date on 2007-GS-24-01107.

- 5) The lower court denied Appellant's motion to reconsider in an oral ruling from the bench.
- 6) Counsel then filed a Notice of Appeal but mistakenly listed 2022-GS-24-1428.
- 7) The current appeal should be limited to the sentence, conviction, and denial of motion to reconsider from 2023-GS-24-0360.
- 8) Appellant requests leave to amend the Notice of Appeal that was filed on November 2, 2023 by replacing it with the Amended Notice of Appeal which was filed on December 5, 2023.
- 9) The State does not oppose this request.

Therefore, Appellant respectfully requests that this Court amend the Notice of Appeal that was filed on November 2, 2023 by replacing it with the Amended Notice of Appeal which was filed on December 5, 2023. Additionally, Appellant requests that all deadlines in this case be held in abeyance while this motion is pending.

s/ Tristan Shaffer
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December 6, 2023

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PROOF OF SERVICE

The undersigned Counsel certifies that on December 6, 2023 the Unopposed Motion to Amend the Notice of Appeal was served on the Respondent via email.

s/ Tristan Shaffer

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Detavious Cunningham

Tristan Shaffer <tristan@shafferlawsc.com>
To: Mark Farthing <mfarthing@scag.gov>

Wed, Dec 6, 2023 at 10:00 AM

Mark,
The Clerk's Office Requested a Motion to Amend which I have attached to this email.

Tristan
[Quoted text hidden]

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Tristan M. Shaffer

 **Motion to Amend the NOA.pdf**
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