

State of South Carolina
Solicitor's Office
Fourth Judicial Circuit

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Feb 15 2024

SC Court of Appeals



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February 15, 2024

VIA ELECTRONIC MAIL

Ms. Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: State v. Michael Winters Hutson
Appeal Case No.: 2023-001025

Dear Ms. Kitchens:

Please accept this letter in lieu of a formal motion to withdraw the notice of appeal in this matter. By order filed June 14, 2023, the Honorable Michael S. Holt granted immunity from prosecution under the Protection of Persons and Property Act, S.C. Code § 16-11-410, et. seq. The State served a timely notice of appeal to preserve the right to appeal while waiting on the transcript of the immunity hearing. The appeal is presently pending.

The transcript was received in my office on December 15, 2023, though I was at that time out of the office and only became aware of this upon my return on January 2, 2023. Since that time, I have forwarded the transcript to the Attorney General's Office for consideration by their Appellate Review Committee and we have thoroughly reviewed and discussed the possibility of going forward on the appeal. However, in light of the standard of review and the particular findings made by Judge Holt when read in conjunction with the official transcript, it is the State's opinion that the appeal should not be maintained. To be sure, the relevant facts were disputed, but the trial court assessed the credibility and weight of the conflicting testimony in favor of immunity. This greatly reduced the matters that could be properly raised on appeal. Thus, the State has, after careful and detailed review, determined that withdrawal of the notice is warranted in these discrete circumstances.

I have consulted with the victim's family on this matter and reviewed these matters with them. They are naturally very disappointed but appear to understand the constraints a party faces when seeking appellate review.

Further, I have consulted with opposing counsel, John C. Bradley, Jr., Esq., who consents to this request to withdraw the notice of appeal.

Therefore, in light of the forgoing, the State respectfully requests permission to withdraw the notice of appeal. The State also respectfully requests the Court hold the briefing timeline in abeyance pending disposition of this request to withdraw, or, if the Court directs a formal motion be filed, through the filing and disposition of that motion.

Sincerely,



Kernard E. Redmond
Deputy Solicitor

Cc: Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
John C. Bradley, Jr., Esquire
Robert Michael Dudek, Esquire