

RECEIVED

Jul 23 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DALE SMITH

APPELLANT

APPELLATE CASE NO. 2024-001014

MOTION TO DISMISS APPEAL
WITHOUT PREJUDICE

Undersigned counsel respectfully requests this Court dismiss the above-referenced appeal **without prejudice**. In support of this motion counsel submits the following:

1. Appellant was indicted at the June 2023 term of the Richland County Grand Jury for the offense of domestic violence of a high and aggravated nature (DVHAN).
2. Appellant appeared before the Honorable G.D. Morgan, Jr., on June 6, 2024, to plead guilty. Katherine Myers represented appellant. Theresa N. Johns was the assistant solicitor prosecuting for the state.
3. At the guilty plea hearing, the state agreed to allow appellant to plead to the lesser charge of to domestic violence, first degree. Judge Morgan sentenced appellant to a term of ten years'

imprisonment.

4. Defense counsel timely filed a notice of intent to appeal on June 14, 2024.

5. On July 31, 2024, this Court issued an Order dismissing the appeal for failure to provide a sufficient guilty plea explanation.

6. Defense counsel filed a motion with the plea court to reconsider the sentence on August 6, 2024. See Exhibit A (Motion for Reconsideration filed August 6, 2024)

7. On August 22, 2024, defense counsel filed a motion to reinstate the appeal. This Court granted the motion and reinstated the appeal by order September 30, 2024.

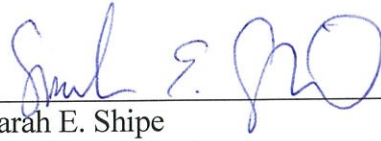
8. On October 21, 2024, defense counsel filed a guilty plea explanation pursuant to Rule 203(d)(1)(B)(iv), SCACR, stating the August 6, 2024, motion to reconsider sentence was denied.

9. Undersigned counsel believes the August 6, 2024, motion for reconsideration has not been ruled upon. Therefore, the post-trial motion is still pending.

10. Opposing counsel, Senior Assistant Deputy Attorney General, Mark Farthing, has no objection to this motion to dismiss without prejudice.

WHEREFORE, undersigned counsel respectfully requests this Court dismiss appellant's current appeal **without prejudice** to allow Judge Morgan to rule on appellant's motion for reconsideration. Once Judge Morgan has ruled upon appellant's motion, appellant may then refile a notice of appeal with this Court and go forward with his direct appeal at that time. While this motion is pending, counsel respectfully requests this Court hold the timelines for filing his initial brief of appellant and designation of matter in abeyance.

Respectfully submitted,



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 23rd day of July, 2025.

EXHIBIT

A

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS

Warrant Number: 2022A4010204317

The State of South Carolina,)
)
 vs.)
)
 Dale Leonard Smith Jr.,)
)
 Defendant.)

MOTION TO RECONSIDER

2024 AUG -6 PM 2:50
JEANNETTE W. McBRIDE
C.C.P., G.S., & F.C.
RICHLAND COUNTY
FILED

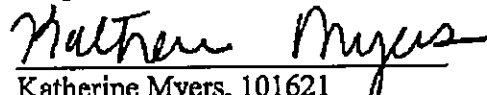
Now into court comes Dale Leonard Smith Jr., through his attorney, Katherine Myers, and moves that this Court conduct an in-person hearing to reconsider and reduce Mr. Smith's Domestic Violence 1st degree in the above-captioned case.

In support, Counsel states:

1. On June 06, 2024, Mr. Smith Jr. appeared before the Honorable G.D. Morgan and was sentenced to 10 years which was the maximum sentence for the charge of Domestic Violence in the 1st degree with credit for 260 days served.
2. The Defendant believes the judge did not consider that he has no priors for DV;
3. Or that the victim's version of events changed multiple times.
4. The Defendant believes the judge should not have considered the statements of the SC AG's office regarding general statistics as they unfairly bolstered the witnesses' credibility;
5. Nor the negative statements of the victim's brother who was not present on the day in question and did not reside with the couple.

WHEREFORE, Mr. Smith Jr. respectfully asks the Court that a hearing be held to reconsider his sentence.

Respectfully submitted,


Katherine Myers, 101621
Attorney for Defendant
P.O. Box 192
Columbia, SC 29202
(803) 765-2592

This 6 day of August, 2024.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Warrant Number(s): 2022A4010204317

The State of South Carolina,)

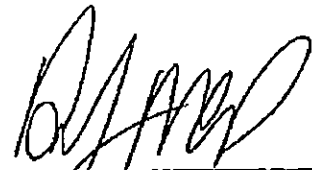
vs.)

CERTIFICATE OF SERVICE

Dale Leonard Smith Jr.,)
Defendant.)

RICHLAND COUNTY
FILED
2024 AUG -6 PM 2:59
JANETTE W. McPHERSON
C.C.P. G.S. F.C.

I certify that on this date I served the Motion to Reconsider in the above-captioned case on the State of South Carolina by delivering it copies of these documents to the State attorney of record, Theresa Johns, by hand delivering said copies to The Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, Third Floor, 1701 Main Street, Columbia, South Carolina 29201, and leaving them with a clerk or other person of authority at said office.



DiJahne McPherson
Paralegal
Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina
This 6 day of August, 2024.

RECEIVED

Jul 23 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

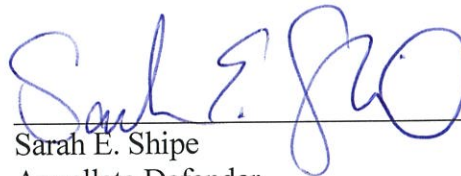
DALE SMITH

APPELLANT

APPELLATE CASE NO. 2024-001014

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Hold in Abeyance in the above referenced case has been served on Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 23rd day of July, 2025.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

Leverett, Scott

From: Leverett, Scott
Sent: Wednesday, July 23, 2025 2:36 PM
To: Mark Farthing
Cc: Caroline Collins; Shipe, Sarah
Subject: 2024-001014 - State v. Dale Smith - Motion to Dismiss without Prejudice
Attachments: 2024-001014 - State v. Dale Smith - Motion to Dismiss without Prejudice.pdf

Dear Mr. Farthing,

Attached please find a copy of the Motion to Dismiss without Prejudice in the above referenced case that is being filed today with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Sarah Shipe
Appellate Defense