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Jun 08 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable R. Scott Sprouse, Circuit Court Judge

JORGE RODRIGUEZ

PETITIONER,

V.

THE STATE,

RESPONDENT

Appellate Case No. 2025-001507

RETURN TO MOTION TO WITHDRAW APPEAL

On May 15, 2026, this Court received petitioner's *pro se* request to abandon his appeal. By letter and email dated May 29, 2026, this Court forwarded petitioner's request to abandon his appeal to the undersigned and requested a response within ten days. Undersigned counsel would show the following:

1) On June 15, 2020, Petitioner was indicted by a Spartanburg County grand jury for attempted murder and possession of a weapon during the commission of a violent crime (2020-GS-42-4148). On October 11, 2022, his case was called to trial before the Honorable J. Mark Hayes, II, and a jury. The jury found Petitioner not guilty of attempted murder but guilty of the lesser-included offense of assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime. Judge Hayes imposed a sentence of twenty (20) years'

imprisonment, suspended upon the service of ten years, followed by probation for ABHAN and five (5) years' imprisonment for the firearm charge to run concurrently.

2) Petitioner did not pursue direct appeal. On May 26, 2023, Petitioner filed a *pro se* application for Post-Conviction Relief. The state filed its Return to the application for PCR on April 18, 2024. On February 18, 2025, an evidentiary hearing was convened before the Honorable R. Scott Sprouse. Petitioner was represented by Rodney W. Richey, Esquire. By order filed April 16, 2025, Judge Sprouse denied and dismissed the application for post-conviction relief. On July 28, 2025, PCR counsel timely filed a notice of appeal.

3) On September 30, 2025, undersigned counsel filed a petition for writ of certiorari with the Supreme Court raising two issues of arguable merit; 1.) that the PCR court erred in finding that trial counsel articulated a reasonable strategy for failing to interview Petitioner's mother, the key witness; and 2.) that the PCR court erred in finding that Petitioner knowingly waived his right to direct appeal. The state made its return on January 13, 2026. On February 4, 2026, this case was then transferred to this Court.

4) Prior to the filing of the request to abandon his appeal, the case status in this Court was "Ready to be Considered."

5) On May 28, 2026, based on the correspondence Petitioner submitted to this Court and to the undersigned, a legal call was initiated with Petitioner to discuss his request and the disadvantages of withdrawing his appeal. Petitioner was advised against abandoning his appeal to pursue successive PCR action. At the conclusion of the legal call, undersigned counsel informed Petitioner that materials for withdrawing his appeal would be mailed to him that day and that if he wished to follow through with withdrawing his appeal, he would need to sign a drop affidavit before a notary

and forward the affidavit to the undersigned for filing with this Court. To date, the undersigned has not received returned correspondence from Petitioner.

6) It is the opinion of undersigned counsel that abandoning this appeal to pursue successive PCR would be misguided for various reasons including:

a. Abandoning this appeal will permanently foreclose Petitioner's ability to seek state post-conviction relief and belated direct appeal and may also foreclose his ability to seek federal *habeas corpus* relief, as the law only entitles a person to one single state PCR action, except in rare circumstances which do not apply to Petitioner.

b. Undersigned counsel has represented Appellant since August of 2025 and has explained the scope of post-conviction relief to Petitioner on more than one occasion.

7) Undersigned counsel takes no position on Petitioner's *pro se* request to withdraw the appeal.

WHEREFORE, undersigned counsel respectfully requests that this Court (1) accept this return; (2) hold this appeal in abeyance for thirty (30) days pending returned correspondence from Petitioner regarding his desire to proceed with or withdraw his appeal after receiving the advice of counsel; and (3) grant Petitioner such relief as the Court deems proper in its sound discretion.

Respectfully submitted,



W. Chandler Norville
Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of June, 2026.

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Appellate Case No. 2025-001507

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Return to Motion to Withdraw the Appeal in the above referenced case has been served upon opposing counsel, J. Mark Farthing, Esquire at the primary e-mail address listed in the Attorney information System (AIS); and on Jorge Rodriguez, #389273, at Evans Correctional Institution, 610 Highway 9 West, Bennettsville, SC 29512, this 8th day of June, 2026.



W. Chandler Norville
Appellate Defender

ATTORNEY FOR PETITIONER

Warren, Kaylynn

From: Warren, Kaylynn
Sent: Monday, June 8, 2026 11:08 AM
To: Mark Farthing
Cc: Norville, Chandler; Caroline Collins
Subject: 2025-001507 Jorge Rodriguez v. The State
Attachments: 2025-001507 Jorge Rodriguez v. The State Return to Motion to Withdraw Appeal.pdf

Good Morning,

Attached for service in the above-referenced case is a Return to Motion to Withdraw Appeal which will be filed today, June 8, 2026, with the Court of Appeals via email filing.

Respectfully,

Kaylynn

Kaylynn Warren

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

(803) 734-1330

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