

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Beaufort County  
John C. Few, Circuit Court Judge

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Case No. 2010-GS-47-05  
Appellate Case No. 2011-204266

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STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

Phillip Singleton,

APPELLANT.

**RECEIVED**

JAN 16 2014

**SC Court of Appeals**

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MOTION FOR DISMISSAL OF APPEAL

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COMES NOW the Appellant above named, by and through the undersigned counsel, pursuant to Rule 240, SCACR, making its motion dismissal of appeal:

**I.**

The Applicant waived his right to file an appeal in his plea agreement signed on March 7, 2012 and filed with the State Grand Jury Clerk of Court on the same day. The filed Plea Agreement is attached to this Motion and also incorporated by reference.

During the actual plea, held on March 12, 2012, the plea court questioned the applicant regarding waiving his right to appeal. At that time, Applicant indicated that he was waiving his right to file an appeal willingly and freely on the record. This is the same indication he made by signing the plea agreement dated March 7, 2012. *See* plea agreement, page 3, part 7.

The Applicant's waiver of his right to file a direct appeal has been established by the record as voluntary and knowing through a colloquy between the court and Applicant at the guilty plea as well as through the plea agreement. Therefore, since the waiver of his right to file an appeal was knowingly, willingly, and voluntarily made, the Respondent requests pursuant to Spoone v. State, 379 SC 138, 665 SE2d 605 (2008) and Narciso v. State, 397 SC 24, 723 SE2d 369 (2012) that this matter be dismissed.

## II.

WHEREFORE, having made its Motion, the State requests that the Court abide by the underlying plea agreement and enforce the waiver of appeal and summarily dismiss the application for an appeal.

WHEREFORE, it is respectfully requested that this Motion be granted.

Respectfully submitted,

ALAN WILSON  
Attorney General

CARY N. GOINGS  
Assistant Attorney General

By:



ATTORNEYS FOR THE APPELLANT

January 15, 2014

P.O. Box 11549  
Columbia, S.C. 29211  
(803) 734-3737



provide truthful information to the State including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be truthful or to cooperate at any stage can cause the obligations of the State of South Carolina under this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the State under this Agreement become null and void due to the lack of truthfulness or cooperation on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offense described above; (2) any and all additional charges known to the State may be filed in the appropriate county; (3) the State may argue for a maximum sentence for the offenses to which the Defendant has pled guilty; (4) the State may use any and all information and testimony provided by the Defendant in the prosecution of the Defendant for all charges; and, (5) the State may advise the Department of Corrections of the Defendant's status as an uncooperative defendant and may accordingly recommend redesignation of the Defendant to a higher custodial level.

4. The Defendant, Mr. Singleton, further agrees to submit to polygraph examination(s) by any qualified state polygraph examiner should he be requested to do so regarding his knowledge and involvement of aforementioned shooting on November 9, 2009 and the events contained within Indictment 2010-GS-47-05. This Plea Agreement is expressly contingent upon successful completion, to the satisfaction of the State, of the polygraph examination(s).

5. The Attorneys for the State reserve the right to summarize all evidence, which would have been presented at trial to establish a factual basis for the plea.

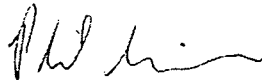
6. The Attorneys for the State agree to advise any Court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant.

7. The Defendant, Philip Singleton, agrees that as a part of the consideration for this plea he will not appeal his plea of guilty or his conviction for Criminal Conspiracy. The Defendant, Philip Singleton, acknowledges that he understands that he has a right of direct appeal of his guilty plea or sentence and that he knowingly, voluntarily and expressly waives this right of direct appeal. Additionally, the Defendant understands that he has a right to file a post conviction relief (PCR) action in this case but agrees to knowingly and voluntarily waive any post conviction relief action. Further the Defendant agrees to dismiss any previously filed appeal concerning his conviction for Criminal Conspiracy.

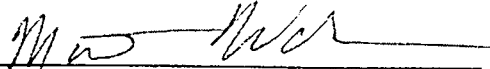
8. The Defendant, Philip Singleton, understands that the State's obligations under this Plea Agreement are expressly contingent upon the Defendant's abiding by state and federal laws, and complying with the terms and conditions of this Agreement, both before and after sentencing, and any bond executed in this case. This Agreement in no way limits or affects the Defendant's potential exposure to further prosecution by any Solicitor's Office in the State of South Carolina or the United States Attorney for conduct which is not a basis for his indictment and prosecution by the State Grand Jury of South Carolina.

9. The parties hereby agree that this Plea Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to or after this Agreement, are null and void.

3-7-12  
DATE

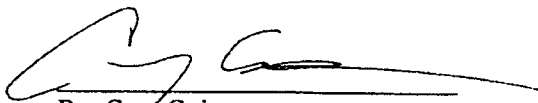
  
\_\_\_\_\_  
Philip Singleton  
Defendant

3/7/12  
DATE

  
\_\_\_\_\_  
Matthew Walker  
Attorney for Defendant

Alan Wilson  
Attorney General of South Carolina

3/7/12  
DATE

  
\_\_\_\_\_  
By: Cary Goings  
Assistant Attorney General

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Beaufort County  
John C. Few, Circuit Court Judge

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Appellate Case No. 2011-204266

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**PROOF OF SERVICE**

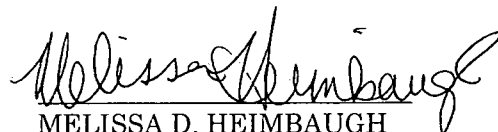
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I, MELISSA D. HEIMBAUGH, certify that I have served the within Motion for Dismissal of Appeal by depositing three copies of the same in the United States mail, postage prepaid, addressed to:

Jamie DeMint, Esq.  
DeMint Howe Law  
505 Pettigru Street  
Greenville, SC 29601

I further certify that all parties required by Rule to be served have been served.

This 15th day of January, 2014.



MELISSA D. HEIMBAUGH  
Law Clerk  
Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211



ALAN WILSON  
ATTORNEY GENERAL

Jenny Abbott Kitchings  
Clerk of Court  
The South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RE: State of South Carolina v Phillip Singleton  
Appellate Case No. 2011-204266

Dear Ms. Kitchings,

Please find enclosed the original and six copies of a Motion for Dismissal of Appeal in above the captioned case. Also attached is the Certificate of Service that the Motion was served on Appellant's Attorney.

Sincerely,

Cary N. Goings  
Assistant Attorney General

cc: Jamie DeMint

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JAN 16 2014

**SC Court of Appeals**



ALAN WILSON  
ATTORNEY GENERAL  
STATE OF SOUTH CAROLINA  
POST OFFICE BOX 11549  
COLUMBIA, SOUTH CAROLINA  
29211-1549

ATTN: STATE GRAND JURY

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JAN 16 2014

SC Court of Appeals

Jenny Abbott Kitchings  
Clerk of Court  
The South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

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