

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Lexington County
The Honorable William P. Keesley Circuit Court Judge

JUL 20 2012

S.C. Supreme Court

Case No. 2010-CP-32-0953

STATE OF SOUTH CAROLINA, PETITIONER,

v.

RICHARD ALLEN GRAY, #299522,RESPONDENT.

MOTION TO WITHDRAW STATE’S APPEAL

Petitioner, by and through undersigned counsel, would respectfully show unto this Court:

1. Respondent was indicted at the April 2007 term of the Lexington County Grand Jury for Criminal Sexual Conduct with a Minor – 1st Degree (2007-GS-32-1038). He appeared in the Lexington County Court of General Sessions on October 29, 2007, before the Honorable R. Knox McMahan and a jury. He was represented by Arie Bax, Esquire and Sally Henry, Esquire at trial. On October 31, 2007, the jury found Respondent guilty of the charge as indicted and he was sentenced by Judge McMahan to confinement for a period of life without parole.

2. A timely Notice of Appeal was filed on Respondent’s behalf. In an unpublished opinion, the South Carolina Court of Appeals affirmed the conviction and sentence pursuant to Anders v. California, 386 U.S. 738 (1967). State v. Gray, 2010-UP-125 (S.C. Ct. App. filed February 11, 2010).

3. Respondent thereafter filed an application for post-conviction relief (PCR) on March 2, 2010 (2010-CP-32-0953). An evidentiary hearing into the matter was convened on December 1, 2010 at the Lexington County Courthouse. The Respondent was present and was represented by Anna Good, Esquire. Petitioner was represented by A. West Lee of the South Carolina Attorney General's Office. By order dated June 8, 2012, and filed June 11, 2012, the Honorable William P. Keesley granted Respondent's application, vacating the prior conviction and sentence, and remanding the matter to the Lexington County Court of General Sessions for a new trial on the charge.

4. Petitioner filed a timely Notice of Appeal on July 17, 2012, and requested a transcript of the PCR hearing for the record on appeal. The appeal is currently pending before this Court.

5. Upon further review of the Order entered by the Honorable William P. Keesley, on June 11, 2012, Petitioner sees no meritorious grounds for its PCR appeal and, therefore, respectfully requests permission from this Court to voluntarily withdraw it.


WHEREFORE, the State moves for dismissal of its appeal and for remand of the current matter to the Lexington County Court of General Sessions where the Eleventh Circuit Solicitor's Office will take whatever action it deems appropriate pursuant the PCR Court's prior order.

Respectfully submitted,

ALAN WILSON
Attorney General

KAELON E. MAY
Assistant Attorney General
SC Bar No. 80469

By:


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

July 20, 2012

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THE STATE OF SOUTH CAROLINA,

PETITIONER.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the **Motion to Withdraw State's Appeal** has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

Anna R. Good, Esquire
1720 Main St., Ste. 303
Columbia, SC 29201

This 20th Day of July, 2012.



Lena Pelishenko
LEGAL ASSISTANT
Office of the Attorney General