

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Berkeley County  
Honorable Stephanie P. McDonald, Circuit Court Judge  
Appellate Case No. 2013-001976  
\_\_\_\_\_

**RECEIVED**  
SEP 25 2015  
SC Court of Appeals

THE STATE,

Appellant,

vs.

MARCUS GREENE,

Respondent.  
\_\_\_\_\_

**MOTION TO WITHDRAW APPEAL  
DUE TO DEATH OF MARCUS GREENE**  
\_\_\_\_\_

Appellant (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

In October of 2012, the Berkeley County Grand Jury indicted Respondent Marcus Greene for third-degree criminal sexual conduct with a minor. In June of 2013, the Berkeley County Grand Jury additionally indicted Greene for assault with intent to commit first-degree criminal sexual conduct with a minor. Subsequently, Greene filed a motion seeking a bifurcated trial as to the elements of first-degree criminal sexual conduct with a minor, and the Honorable Stephanie P. McDonald conducted a pre-trial hearing on the motion in the Berkeley County Court of General Sessions on September 9, 2013. At the conclusion of the pre-trial hearing, the circuit court judge granted Greene’s motion seeking a bifurcated trial. Thereafter, on September 11,

2013, the State timely appealed from the circuit court judge's ruling, and the State's appeal is currently pending before this Court.

**II.**

On September 25, 2015, undersigned counsel for the State received notice Greene passed away during the pendency of the State's appeal. To the best of undersigned counsel's knowledge, a representative of the State has confirmed Greene's death with the Berkeley County Coroner. As a result, the State's appeal from the circuit court judge's pre-trial ruling is now moot. Cf. State v. Miller, 409 S.C. 312, 312, 762 S.E.2d 394, 394-395 (2014) (dismissing an appeal as moot subsequent to the death of Miller during the pendency of the appeal).

Accordingly, pursuant to Rule 260(c), SCRE, the State respectfully moves for this Court to withdraw the State's appeal as resolution of the appeal is no longer necessary in light of the death of Greene. See Rule 260(c), SCRE ("An appeal or other proceeding may be dismissed on motion of the appellant or petition upon such terms as may be fixed by the court.").

**WHEREFORE**, Appellant prays that this Court will withdraw the State's appeal in the case of State v. Marcus Greene, Appellate Case No. 2013-001976; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

MARK R. FARTHING  
Assistant Attorney General

By: \_\_\_\_\_

Mark R. Farthing



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(803) 734-3727

September 25, 2015

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**PROOF OF SERVICE**

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I, Anne A. Mueller, certify that I have served the within Motion to Withdraw Appeal Due To Death of Marcus Greene on Respondent by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Dudek, Esquire  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.  
This 25th day of September, 2015.



ANNE A. MUELLER

Legal Assistant

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Columbia, SC 29211  
(803) 734-3727



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SEP 25 2015  
SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

September 25, 2015

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: State v. Marcus Greene – Appellate Case No. 2013-001976

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to Withdraw Appeal Due To Death of Marcus Greene, along with proof of service, for filing in the above-referenced appeal.

Sincerely,



Mark R. Farthing  
Assistant Attorney General  
Bar No. 76901

MRF/  
Enclosures

cc: Robert M. Dudek, Esquire  
Victim Services