

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Appeal from Williamsburg County

NOV 12 2015

Honorable George C. James, Jr., Circuit Court Judge

SC Court of Appeals

ARTHUR MOSELEY,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

RETURN TO APPELLANT'S PRO SE MOTION
TO SUBSTITUTE COUNSEL

The undersigned respectfully shows the Court:

Appellant Arthur Moseley was convicted of the charge of murder on January 31, 2014 following a jury trial in which he represented himself. He was sentenced to a total of fifty years.

Appellate counsel received Mr. Moseley's case in June 2014. His case was placed in abeyance when a pretrial hearing transcript had to be requested. This additional transcript was

received September 29, 2014. Counsel filed the Initial Brief April 1, 2015. The respondent filed his Initial Brief of Respondent September 16, 2015. Appellate counsel did not file a reply brief.

The Respondent filed along with his Initial Respondent's Brief, a Motion to Seal the Initial Brief of Respondent and Attachments. Appellate counsel consented to this motion because the attachments included two mental health evaluations of Mr. Moseley which included details of his past mental health history. The ruling on this motion is pending.

Appellant Moseley lists several reasons he has requested a substitution of appellate counsel. The following is a list of those issues based on appellate counsel's best understanding:

I. Motions

- A. Appellate counsel failed to file a motion of dismissal because respondent did not file his Initial Brief of Respondent within 30 days.
- B. Appellate counsel failed to file a reply brief.
- C. Appellate counsel refused to file a "writ motion compelling the Williamsburg County Clerk to forward funds paid to her for the court reporter for the Bond Revocation Hearing Transcript." This hearing would "validate that the bench warrants were not valid" according to Appellant Moseley.
- D. Appellate counsel failed to file a motion for an appeal bond.

II. Discovery

- A. At Appellant Moseley's request, counsel sent him a copy of the bench warrants which were Court's Exhibit 3. Appellant Moseley complains that these bench warrants are incomplete.

- B. Appellate counsel failed to obtain missing discovery documents which Appellate Moseley listed as orders of continuance for the years 2007-2013; the deal that Witness Demetric Mack received for his charges; the results of Witness Lonnie Dozier's polygraph test. Both of these witnesses testified at trial.
- C. Appellate counsel did not contact Private Investigator John Davis to obtain the address of "Witness Wakouda Cooper" who did not testify at trial.

Appellant Moseley appears to misapprehend the appellate process in spite of counsel's efforts to explain. He requests documents that were not part of the record below. He appears to want appellate counsel to act as trial counsel in investigating further the case.

Black's Law Dictionary, 62 (abridged sixth ed.1991) defines an appeal as the "resort to a superior (appellate) court to review the decision of an inferior (trial) court or administrative agency. A complaint to a higher tribunal of an error or injustice committed by a lower tribunal, in which the error or injustice is sought to be corrected or reversed."

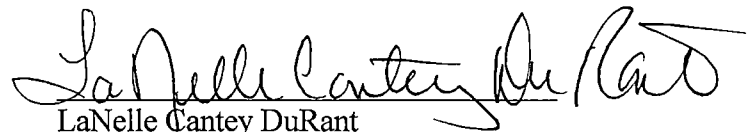
Rule 207, SCACR, provides for the necessary ordering of the transcript of the lower court proceeding in order to prepare the appeal. Rule 208 (b)(4), SCACR, provides for the references to the record for relevant objections and rulings.

These definitions and rules make it clear that an appeal involves only the lower court record.

Appellate counsel is willing to continue as counsel for Appellant Moseley but will respect the decision of this Court. Chief Appellate Defender Robert Dudek notified undersigned counsel that he strongly opposes any action that would relieve one appellate defender and appoint another appellate defender or outside counsel in the absence of good cause.

THEREFORE, based on the above, counsel for Appellant Moseley requests this Court, in its discretion, to decide this issue based on the best interests of Appellant Moseley. .

Respectfully submitted,

A handwritten signature in cursive script that reads "LaNelle Cantey DuRant". The signature is written in black ink and is positioned above the printed name.

LaNelle Cantey DuRant
Appellate Defender

Attorney for Petitioner

This 12th day of November, 2015

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Appeal from Williamsburg County

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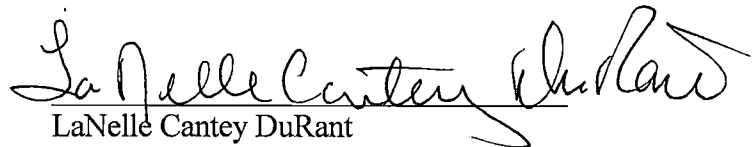
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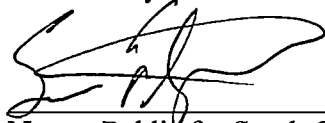
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Return to Appellant's Pro Se Motion to Substitute Counsel in the above referenced case has been served upon opposing counsel, William Edgar Salter, III, Esquire and Arthur Moseley, #199398 at Lieber Correctional Institution this 12th day of November, 2015.


LaNelle Cantey DuRant
Appellate Defender

Attorney for Appellant

SUBSCRIBED AND SWORN TO before me
this 12th day of November, 2015.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 12, 2015

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SC Court of Appeals

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

Re: The State v. Arthur Moseley
Appellant Case No. 2014-000199

Dear Ms. Kitchings:

Enclosed are an original and six copies of the Return to Appellant's Pro Se Motion to Substitute Counsel in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

LaNelle Cantey DuRant
Appellate Defender

LCD/lmv

Enclosure

cc: William Edgar Salter, III, Esquire
Mr. Arthur Moseley