

STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Brian M. Gibbons, Circuit Court Judge

Indictment Nos. 2014-GS-23-02745 & -02746

Appellate Case No. 2016-000525

**RECEIVED**

APR 01 2016

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

RAYMOND L. ROBERSON,

APPELLANT.

**MOTION TO DISMISS APPEAL AS AN  
IMPROPER CONDITIONAL GUILTY PLEA**

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

Appellant was indicted at the April 2014 term of the Greenville County grand jury for one count of criminal domestic violence of a high and aggravated nature (CDVHAN) (2014-GS-23-002745) and one count of unlawful conduct towards a child (2014-GS-23-002746). Appellant was represented by John Crangle, Esquire, and the State was represented by Assistant Solicitor Barbara M. Tiffin. On March 1, 2016, Appellant pled guilty as charged before the Honorable Brian M. Gibbons and was sentenced to five (5) years imprisonment on each charge, with the sentences to run concurrently. At the plea proceeding, the adult female victim and the

minor child victim of the criminal charges made a request, pursuant to Section 16-3-1910 of the South Carolina Code, for a permanent restraining order. Judge Gibbons issued a written “Permanent Restraining Order” making findings of fact and ordering, among other things, that Appellant: (1) “be restrained from committing further acts of abuse or threats of abuse” and (2) “be restrained from any contact with the Protected Person as set forth the on the attached pages . . . until further ordered.”

## II.

On March 3, 2016, Appellant submitted a “Motion to Reconsider Permanent Restraining Order” asking Judge Gibbons to “hold a hearing on the record to determine if a permanent restraining order is appropriate as to his minor child.” By way of a notation at the bottom of Appellant’s motion, Judge Gibbons denied the motion on the same day.

## III.

On March 8, 2016, Appellant served and filed a “Notice of Appeal” and a “Rule 203(d)(1)(B)(iv) Certification.” In that certification he attempts to show there is an issue which can be reviewed on appeal. Appellant argues the imposition of a permanent restraining order between a defendant and his minor child without a hearing implicates his fundamental parental rights and violates his procedural and substantive due process rights.

## IV.

The State submits Appellant’s explanation fails to show there is an issue which can be reviewed on appeal because Appellant affirmatively waived all constitutional due process rights as part of his guilty plea. The sentencing proceeding and the issuance of the permanent restraining order are part-and-parcel of the guilty plea proceeding. South Carolina does not recognize conditional guilty pleas. State v. Rice, 401 S.C. 330, 331, 737 S.E.2d 485, 485 (2013); State v.

Truesdale, 278 S.C. 368, 370, 296 S.E.2d 528, 529 (1982). Indeed, a guilty plea constitutes a waiver of non-jurisdictional defects and claims of violations of constitutional rights. Rice, 401 S.C. at 331-32, 737 S.E.2d at 485-86. Appellant's attempt to challenge the imposition of the permanent restraining order as a violation of his constitutional rights after he knowingly and voluntarily waived those rights and entered a guilty plea is akin to offering a conditional guilty plea. Consequently, this appeal should be dismissed with prejudice.


**WHEREFORE**, the State respectfully requests that this Court dismiss Appellant's appeal as an improper attempt to enter a conditional guilty plea.

Respectfully submitted,

ALAN WILSON  
Attorney General

J. BENJAMIN APLIN  
Senior Assistant Deputy Attorney General

W. WALTER WILKINS, III  
Solicitor, Thirteenth Judicial Circuit

BY:   
J. Benjamin Aplin  
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**ATTORNEYS FOR RESPONDENT**

April 1, 2016

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**PROOF OF SERVICE**

I, Angela S. Bennett, certify that I have served the within Motion to Dismiss Appeal as an Improper Conditional Guilty Plea on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

John Crangle, Esquire  
305 E. North Street, Suite 123  
Greenville, SC 29601

I further certify that all parties required by Rule to be served have been served. This 1<sup>st</sup> day of April, 2016.



ANGELA S. BENNETT  
Legal Assistant

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ALAN WILSON  
ATTORNEY GENERAL

April 1, 2016

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**SC Court of Appeals**

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

RE: State v. Raymond L. Roberson – Appellate Case No. 2016-000525

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to Dismiss Appeal as an Improper Conditional Guilty Plea, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

J. Benjamin Aplin  
Senior Assistant Deputy Attorney General  
SC Bar Number 8729

MRF/  
Enclosures

cc: John Crangle, Esquire  
Barbara Tiffin, Assistant Solicitor  
Victim Services