

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County
Donald B. Hocker, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DARRELL ERVIN RAINES, JR.,

APPELLANT

APPELLATE CASE NO. 2016-000142

CONSENT MOTION TO HOLD THE APPEAL IN ABEYANCE
AND REMAND FOR RESENTENCING ON LESSER CONVICTED CHARGE OF
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

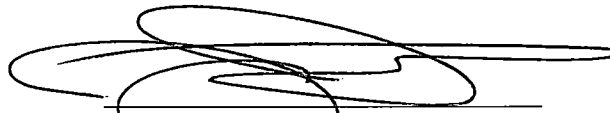
Under Rule 240(A), SCACR, Counsel for Appellant Darrell Ervin Raines, Jr. respectfully moves this Court to hold the time limits for his appeal in abeyance and to remand this case to the Laurens County Court of General Sessions for a partial resentencing on Appellant's lesser charge of possession of a weapon during the commission of a violent crime based on S.C. Code Ann. § 16-23-490 and the following:

1. On November 1, 2013, Appellant was indicted for one count of murder and one count of possession of a weapon during commission of a violent crime by the Laurens County Grand Jury.
2. On December 7-11, 2015, Appellant proceeded to trial before the Honorable Donald B. Hocker and a jury. Judge Hocker sentenced Appellant to life imprisonment for murder and to a consecutive five years imprisonment for possession of a weapon during the commission of a violent crime.

3. Following a hearing on post-trial motions, Defense Counsel Bryan C. Able filed a timely Notice of Appeal on January 19, 2016. Sometime thereafter, it became apparent to the trial judge and defense counsel that the sentence for possession of a firearm during commission of a violent crime was illegal under S.C. Code Ann § 16-23-490(A). *See also State v. Palmer*, Opinion No. 5382, Shearouse's Adv. S. No. 8 (February 24, 2016); 2015 WL 731237.
4. Senior Assistant Deputy Attorney General Donald Zelenka has consented to this motion to suspend the appeal and remand the case to the Laurens County Court of General Sessions for a partial resentencing on the lesser offense.

WHEREFORE, Appellant Darrell Raines respectfully requests that this Court hold his direct appeal in abeyance and remand this case to the Laurens County Circuit Court for a resentencing hearing on his conviction of possession of a weapon during the commission of a violent crime.

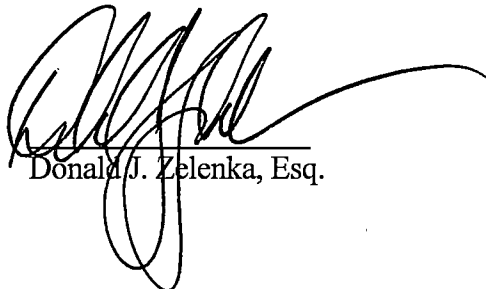
Respectfully submitted,



JOHN H. STROM
Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

I consent:



Donald J. Zelenka, Esq.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

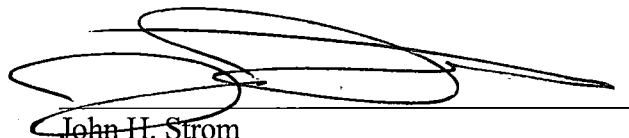
V.

DARRELL ERVIN RAINES, JR.,

APPELLANT

CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of the Motion to Hold the Appeal in Abeyance and Remand for Resentencing on a Lesser Charge in the above referenced case has been served upon Donald Zelenka, Esquire, at the Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; this 7th day of April, 2016.



John H. Strom
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of April, 2016.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022