

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Howard P. King, Circuit Court Judge

RECEIVED

MAY 17 2016

SC Court of Appeals

RESPONDENT,

THE STATE,

V.

ARTHURO RIOS TORRES,

APPELLANT

APPELLATE CASE NO. 2015-002645

**RETURN TO THE MOTION TO BE RELIEVED
AND TO SUBSTITUTE COUNSEL**

The undersigned counsel, making his return to the petition to be relieved of plea counsel John O'Leary shows the Court:

(1) Appellant Arturo Torres pled guilty before the Honorable Howard P. King on December 15, 2015 in Richland County to a criminal charge. This Court can take judicial notice from the records of the South Carolina Department of Corrections that Appellant Torres was already serving a twenty-year sentence for a hit and run resulting in death, and a felony DUI resulting in death in Richland County.

(2) Appellant Torres filed a notice of intent to appeal following his guilty plea. John O'Leary represented appellant at his guilty plea. On January 8, 2016, Counsel O'Leary filed a

motion to be relieved as counsel. The motion asserted: "Appellant is indigent and unable to retain our services for purposes of an appeal."

(3) By this Court's order, dated January 22, 2016 this case was remanded to the circuit court for a ruling on a motion to reconsider the sentence. This Court also ruled it would not consider Counsel O'Leary's motion to be relieved until the trial court had ruled on the motion to reconsider the sentence.

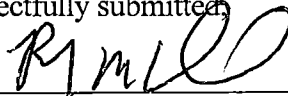
(4) The order of the Honorable Howard P. King denying the motion to reconsider the sentence was filed on February 8, 2016 with this Court. By letter dated February 5, 2016, Counsel O'Leary notified this Court that the motion to reconsider the sentence had been resolved, and that appellant's appeal could now proceed. Counsel O'Leary also requested that this Court consider his motion to be relieved and to appoint the Office of Appellate Defense to represent appellant Torres.

(5) Appellant Torres has submitted an affidavit of indigency to this Office. The affidavit of indigency reveals that Appellant Torres is indigent.

(6) However, since undersigned counsel does not have a copy of the transcript of the guilty plea or the motion to reconsider, Counsel obviously does not have an opinion on the merits of the appeal. Nonetheless, should this Court in its discretion allow this guilty plea appeal to proceed, the Office of Appellate Defense will represent Appellant Torres since he is indigent.

WHEREFORE, undersigned counsel does not oppose Counsel O'Leary's motion to be relieved, and to substitute counsel if the guilty plea appeal is allowed to proceed by this Court.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

May 17, 2016

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Howard P. King, Circuit Court Judge

RECEIVED

MAY 17 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

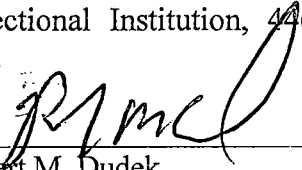
V.

ARTHURO RIOS TORRES,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Return to the Motion to be Relieved and to Substitute Counsel in the above-referenced case has been served upon John A. O'Leary, Esquire, at 714 Calhoun Street, Columbia, SC, 29201; J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Arturo Rios Torres, # 366476, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 17th day of May, 2016.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 17th day of May, 2016.



(L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

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

May 17, 2016

Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED

MAY 17 2016

SC Court of Appeals

Re: The State v. Arturo Rios Torres, Appellate Case No. 2015-002645

Dear Ms. Kitchings:

Enclosed is an original and six copies of the return to the motion to be to be relieved and to substitute counsel. Please contact me if you have any questions or concerns.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/ssd

Enclosure

cc: John A. O'Leary, Esquire
J. Benjamin Aplin, Esquire