

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Thomas W. Cooper, Jr., Circuit Court Judge

RECEIVED

DEC 15 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ALBERT EDWARD SIDERS,

APPELLANT

APPELLATE CASE NO. 2015-000995

MOTION TO WITHDRAW INITIAL BRIEF OF APPELLANT
AND INITIAL REPLY BRIEF OF APPELLANT AND
TO FILE AMENDED INITIAL BRIEF OF APPELLANT

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, the undersigned counsel requests leave to withdraw the initial brief and initial reply brief of appellant in the above titled case and file an amended initial brief of appellant. In support of this motion, counsel submits the following:

1. Appellant Albert Edward Siders was convicted of armed robbery, kidnapping, and possession of a weapon during the commission of a violent crime, following a trial before the Honorable Thomas W. Cooper, Jr. and a jury on April 20-22, 2015. Siders was sentenced to life imprisonment without the possibility of parole. Siders appealed. The undersigned counsel represents Siders on his direct appeal.

2. On May 13, 2016, counsel filed the initial brief of appellant on Sider's behalf, raising the issue of whether the trial court erred in sentencing Appellant to life without parole where the solicitor did not prove that he provided the requisite notice of intent to seek life without parole (LWOP) pursuant to the recidivist statute, S.C. CODE ANN. § 17-25-45. On July 25, 2016, the state, represented by assistant attorney general William F. Schumacher, IV, filed its initial brief of respondent. On September 6, 2016, Counsel filed the initial reply brief of appellant on Sider's behalf.

3. In preparing the initial briefs, counsel and the state had a five volume transcript (283 pages total) and an additional single transcript (14 pages), which contained the pre-trial hearings and trial held in Siders' case on April 20 to April 22, 2015.

4. On Friday, September 9, 2016, counsel learned from Siders that an additional hearing on a motion for continuance was held in his case on July 21, 2014, before the Honorable Brooks P. Goldsmith, which may be relevant to the issue raised on appeal. After reviewing Rules 3.1, 3.3, and 3.4, RPC, Rule 407, SCACR, counsel contacted assistant attorney general William F. Schumacher, IV, who consented to the request for abeyance filed with this Court on Monday, September 12, 2016, in order to obtain the missing transcript. Neither counsel nor Mr. Schumacher were aware of the July 21, 2014 hearing prior to that.

5. On December 8, 2016, counsel received the missing transcript from the court reporter. It reveals that trial counsel made several representations on the record that counsel received the state's notice of intent to seek life without parole. In light of these statements and in candor to this Court, counsel is no longer of the opinion that the issue raised in the initial brief of appellant has any legal merit sufficient to warrant a new trial. Therefore, counsel moves to withdraw the initial brief and initial reply briefs of appellant previously filed in this case.

6. Counsel has reviewed the transcripts in this case to determine if there are any other meritorious issues for appeal. Based on that review, counsel moves to file an amended initial brief of appellant, wherein she will raise the issue of:

Whether the trial court erred in denying Sider's motion to relieve counsel and failing to advise Siders of his right to represent himself *pro se*?

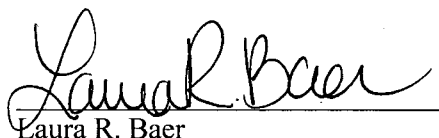
7. Counsel requests that this Court allow **thirty (30) days** from the date of the Court's ruling on this motion for counsel **to file the amended initial brief of appellant.**

8. Counsel has informed assistant attorney general William F. Schumacher, IV, Esquire, of her intention to file the instant motion with the Court.

WHEREFORE, counsel respectfully requests that this Court:

- A. Order the initial brief and reply brief of Appellant withdrawn; and
- B. Grant counsel thirty (30) days from the date of this Court's ruling on this motion to prepare and file the amended initial brief of appellant.

Respectfully submitted,



Laura R. Baer
Appellate Defender
ATTORNEY FOR APPELLANT

This 15th day of December, 2016.

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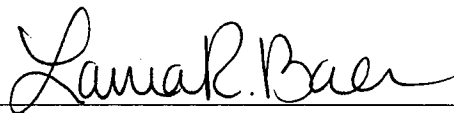
ALBERT EDWARD SIDERS,

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APPELLATE CASE NO. 2015-000995

CERTIFICATE OF SERVICE

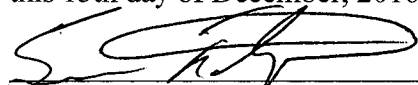
The undersigned attorney hereby certifies that a true copy of the Motion to Withdraw Initial Brief of Appellant and Initial Reply Brief of Appellant and to File an Amended Initial Brief of Appellant in the above-referenced case has been served upon William F. Schumacher, IV, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and on Albert Edward Siders at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 15th day of December, 2016.



Laura R. Baer
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 15th day of December, 2016.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022