

STATE OF SOUTH CAROLINA
In the Court Of Appeals

APPEAL FROM LEXINGTON COUNTY
William P. Keesley, Circuit Court Judge

Appellate Case No. 2017-002283

RECEIVED
DEC 12 2017
SC Court of Appeals

THE STATE,

Respondent,

v.

PERRY DRAKE GILMORE, JR.,

Appellant.

RETURN TO MOTION TO ENLARGE TIME

Respondent (the State), by and through undersigned counsel and making Return to the Motion to Enlarge Time, would respectfully show unto this Court:

1. On August 23, 2017, Appellant appeared in the Lexington County Court of General Sessions in a self-represented capacity before the Honorable William P. Keesley and pled no contest on charges of indecent exposure, second-degree assault and battery, and hit and run involving property damage. Appellant was sentenced to the maximum sentences, but they were ordered to run concurrently. (Order Denying Motion to Withdraw Pleas and for Reconsideration filed October 12, 2017.)

2. Earlier in the day that Appellant pled no contest, the lower court conducted a *Faretta* hearing on the record and concluded Appellant freely, knowingly, and voluntarily elected to go forward with his no-contest pleas. (Order Denying Motion to Withdraw Pleas and for

Reconsideration filed October 12, 2017.)

3. Following the plea, Appellant moved to withdraw his pleas and/or to have the court reconsider the sentences imposed. A hearing was held on October 2, 2017. (Order Denying Motion to Withdraw Pleas and for Reconsideration filed October 12, 2017.)

4. In a detailed written order filed October 12, 2017, the lower court denied Appellant's post-plea motion. (Order Denying Motion to Withdraw Pleas and for Reconsideration filed October 12, 2017.)

5. Appellant subsequently filed and served a *pro se* notice of appeal and is currently proceeding in this Appeal *pro se*; however, in his notice of appeal he requested counsel. In a letter dated November 13, 2017, this Court construed Appellant's request as a motion to appoint counsel. The State submitted a letter taking no position on Appellant's request.

6. In a separate letter dated November 13, 2017, this Court notified Appellant of certain deficiencies under the South Carolina Appellate Court Rules, and that any deficiency must be corrected within ten (10) days of the date of the letter.

7. Appellant has now moved to enlarge the time to correct the noted deficiencies asking to be given until ten (10) days after appointed counsel makes a notice of entry.

8. The State opposes Appellant's motion to enlarge time. The deficiencies noted by this Court are straightforward and do not require the assistance of counsel or a delayed response until counsel is, or is not, appointed. Appellant, who has demonstrated that he possesses sufficient knowledge to file a motion with the Court in his *pro se* capacity, certainly also possesses sufficient knowledge about the case he handled in a self-represented capacity below and the reasons he should be entitled to an appeal from his plea to respond to this Court's letter.

WHEREFORE, having made Return, the State opposes Appellant's motion to enlarge time.

Respectfully submitted,

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Interim Senior Assistant Deputy Attorney General

S.R. "Rick" Hubbard, III
Solicitor, Eleventh Judicial Circuit

BY: 

J. Benjamin Aplin
S.C. Bar No: 8729

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

December 12, 2017

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Appellant.

PROOF OF SERVICE

I, Sally Ellison, certify that I have served the Return to Motion to Enlarge Time on Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to Perry Drake Gilmore, Jr., 344879, P.O. Box 2039, Ridgeland, SC 29936.

I further certify that all parties required by Rule to be served have been served.

This 12th day of December, 2017.



Sally Ellison
Legal Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

December 12, 2017

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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. Perry Drake Gilmore, Jr.
Appellate Case No. 2017-002283

Dear Ms. Kitchings:

Enclosed for filing are the original and six copies of the Respondent's Return to Motion to Enlarge Time in the above-referenced case.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General

Enclosures

cc: Perry Drake Gilmore, Jr., 344879
Victim Advocacy Division