

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE SOUTH CAROLINA SUPREME COURT
APPELLATE CASE NO. 2017-002020

STATE OF SOUTH CAROLINA,)

Respondent,)

v.)

MICHAEL FOSTER,)

Appellant.)

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MAR 28 2018

SC Court of Appeals

AFFIDAVIT OF MICHAEL FOSTER

PERSONALLY appeared before me, Michael Foster, who being duly sworn, deposes and says:

1. I am the appellant in the above captioned case.
2. In April 2017, a York County grand jury indicted me for one count of trafficking crack cocaine (2017-GS-46-01406). On September 19-20, 2017, my trial was convened and I was found guilty as indicted. The Honorable Thomas W. Cooper, Jr., sentenced me to eight years' imprisonment.
3. On September 29, 2017, my attorney, John A. O'Leary filed a notice of appeal.
4. On January 19, 2018, my case was assigned to Victor Seeger, Esquire with the Office of Appellate Defense. On March 2, 2018, I spoke to Mr. Seeger by phone regarding my intention to withdraw my appeal to file a post-conviction relief application instead.
5. I understand that I am entitled to an appeal, and that, because I am indigent, I am entitled to the assistance of an attorney from the South Carolina Office of Appellate Defense. I have been informed that if I withdraw my appeal that I forever waive those issues that could be raised.
7. In light of the risks which have been explained to me, it is my desire that the South Carolina Office of Appellate Defense withdraw the notice of appeal formerly filed on my behalf.
8. I have made this decision on my own, with a full understanding of all the possible consequences of this action.
9. I do not wish to appeal the decision of the trial court to instead pursue a post-conviction relief remedy.

Michael Foster
Michael Foster

SWORN TO before me this 22nd
day of March, 2018.

Rumela D Hatfield (L.S.)
Notary Public for South Carolina

My Commission Expires: 3/15/2021



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 28, 2018

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

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SC Court of Appeals

Re: The State v. Michael Lymonne Foster, Jr.
Appellate Case No. 2017-002020

Dear Ms. Kitchings:

Mr. Foster has decided to drop his appeal, as evidenced by the enclosed affidavit. I have reviewed with him the consequences of dropping the appeal and am in agreement with his decision. He has been informed of the advantages and disadvantages of pursuing this appeal, and I believe he has made his decision knowingly and voluntarily.

I respectfully request that an order be issued dismissing this appeal. Additionally, I respectfully requests the timelines for filing be held in abeyance pending the Court's decision on the motion to withdraw.

By copy of this letter, I am informing Julie Coleman, Esquire of my client's decision. Thank you for your assistance in this matter.

Sincerely,

Victor R. Seeger
Appellate Defender

VRS/csb

Enclosure

cc: Julie Coleman, Esquire
Michael Foster #305122