

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J. C. Nicholson, Jr., Circuit Court Judge  
Trial Court Case No. 2017-CP-10-03226

Appellate Case No. 2017-002621

**RECEIVED**  
DEC 07 2018  
SC Court of Appeals

John Gilbert Singletary, .....Appellant,

v.

The State, .....Respondent.

MOTION TO DISMISS APPEAL

NOW COMES The State and respectfully moves this court to dismiss this appeal as the Appellant has failed after numerous opportunities, to file the proper documentation to support his appeal.

The history of this case is as follows. On June 23, 2017, Appellant filed an appeal of a municipal court conviction from May 6, 2010. That appeal was denied in the Circuit Court by the Honorable Judge Nicholson on December 14, 2017. A notice of appeal to this court was filed on December 20, 2017. First, the Appellant failed to notify the court or counsel for the State that he had ordered the transcript and was already in possession of such. This caused a delay in the setting of the briefing schedule. Once the deadlines were set, Appellant requested an extension of time to

file his initial brief from February 29, 2018 until March 30, 2018. Then a second extension of time was requested and granted until April 30, 2018. A brief was filed on April 30, 2018, but it was filed by the appellant himself, and not by his designated attorney. On May 25, 2018, the brief was returned to appellant and his attorney was instructed to file a brief within ten (10) days, “or this appeal will be dismissed.” A completely different brief from the pro se brief was filed by counsel on June 5, 2018, but was improper as all exhibits were attached to the initial brief. Additionally, counsel did not serve the State with the designation of matter. The court sent a deficiency letter to counsel regarding two issues. The State had already mailed its brief to the court before receiving the court’s June 20, 2018 deficiency letter. The State’s initial brief was filed on June 25, 2018 and Appellant’s corrected initial brief was filed two days later. Because of Appellant’s deficient brief, the court then gave the State ten (10) more days to re-file its brief, which was not needed. Then, Appellant filed a reply brief on August 22, 2018 and submitted a false certificate of service showing that he had served the State with the brief on the 22<sup>nd</sup> when in fact he had not. The same was brought to the court’s attention by counsel for the State.

The Record on Appeal should have been due thirty (30) days later, or on September 22, 2018. However, Appellant’s attorney, Aaron Mayer, was suspended from the practice of law on or about August 24, 2018. This court sent a letter dated September 25, 2018 indicating that it had learned of the suspension and advised that the appeal would be held in abeyance for thirty (30) days to allow him to procure new counsel or proceed pro se. On October 30, 2018, at the Appellant’s request, the court issued a second order granting appellant an extension until November 26, 2018 to serve and file the record on appeal.

As of the filing of this motion, no appearance has been made by any attorney, no Record on Appeal has been filed and no further extensions have been requested. The State asks the court

to also take note that counsel for the State gathered and sent a copy of all documents designated by the State, to counsel for Appellant, when its initial brief was filed. Appellant Mr. Singletary has a copy of these documents, as he sent an e-mail to both his attorney and counsel for the State with his opinions about the documents. Therefore, Appellant can make no argument that he does not have access to such documentation.

The court has granted extension after extension to the Appellant and then when those have been exhausted, allowed correction after correction of improper filings. The State has been brought into this frivolous appeal of a 2010 municipal court conviction that never should have been filed. The State has filed all necessary documentation in this appeal in a timely manner and have cooperated with all extensions and deficiencies from the Appellant. At this time, however, the Appellant has failed to file the Record on Appeal and has made no attempt to contact either the court or the undersigned with any explanation for such. The State therefore, respectfully asks the court to dismiss this appeal with prejudice based on the failure to prosecute.



ROBIN L. JACKSON  
*Senn Legal, LLC*  
Post Office Box 12279  
Charleston, South Carolina 29422  
(843) 556-4045  
(843) 556-4046 (fax)  
[Robin@SennLegal.com](mailto:Robin@SennLegal.com)  
Attorney for Respondent

December 4, 2018  
Charleston, SC

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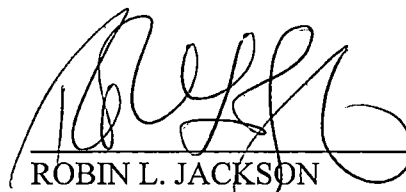
John Gilbert Singletary, ..... Appellant,

v.

The State, ..... Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent's Motion to Dismiss on the Appellant, by depositing a copy of the same in the United States Mail, postage prepaid, on December 4, 2018, addressed to John G. Singletary, 4321 Waterview Circle, North Charleston, South Carolina 29418.



ROBIN L. JACKSON  
*Senn Legal, LLC*  
Post Office Box 12279  
Charleston, South Carolina 29422  
(843) 556-4045  
(843) 556-4046 (fax)  
[Robin@SennLegal.com](mailto:Robin@SennLegal.com)  
Attorney for Respondent



*Senn Legal*

-LLC-

ATTORNEYS AT LAW

*Sandra J. Senn  
Robin L. Jackson  
Christopher T. Dorsel  
Kevin M. DeAntonio*

*3 Wesley Drive  
P.O. Box 12279  
Charleston, SC 29422  
(843) 556-4045  
F: (843) 556-4046*

[robin@sennlegal.com](mailto:robin@sennlegal.com)

December 4, 2018

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

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SC Court of Appeals

RE: John Gilbert Singletary v. The State  
Appellate Case No. 2017-002621

Dear Madame Clerk:

Enclosed for filing please find the original and six copies of the Respondent's Motion to Dismiss the Appeal and certificate of service. If you would, please file these. Appellant is being served with a copy of this motion on today's date at the address on the court's letter dated September 25, 2018.

Thank you and with kind regards, I am,

Sincerely,

Robin L. Jackson

mbk  
Enclosures

cc: John G. Singletary

Robin L. Jackson, Esquire  
Senn Legal, LLC  
P.O. Box 12279  
Charleston, SC 29412

The Honorable Jenny Abbott Kitching  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

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