

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ANDERSON COUNTY
Court of General Sessions

R. Lawton McIntosh, Judge

Appellate Case No. 2017-002011
Case Number: 2016A05324

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FEB 07 2019
SC Court of Appeals

State of South Carolina,

Respondent,

v.

Jason Franklin Carver,

Appellant.

MOTION TO CONSOLIDATE RELATED APPEALS

Pursuant to Rule 42(a) of the SCRPC, Appellant, by and through his counsel, hereby moves to consolidate the two above-captioned appeals, which arise from the same circuit court case and involve related issues. Appellant states that:

1. On November 15, 2016, Appellant Jason Carver was indicted for the killing of Steven Cameron.
2. On August 21 to 25, 2017, Appellant was tried in the General Sessions Court of Anderson County, South Carolina.
3. Appellant, along with Woodrow Curry was charged with the crime of murder under the doctrine of accomplice liability (hand of one is hand of all). The State theorized that the killing of Cameron was the unintended result of an alleged plan by the Appellant, Curry and James Gambrell to commit either robbery, kidnapping, or physical injuries.

4. On August 22, 2017, Curry entered into a plea bargaining with the State to reduce his charges from Murder to Voluntary Manslaughter. His sentence was deferred until after Appellant's trial.
5. The State presented Curry as a State Witness against Appellant during his trial.
6. Appellant called on Gambrell to testify in his favor, but upon the prodding of the trial judge and his counsel, Gambrell invoked his Fifth Amendment right.
7. On August 25, 2017, Appellant was found guilty of Murder and sentenced to thirty (30) years in prison, due to the weight of Curry's testimony.
8. On September 9, 2018, Appellant perfected his Appeal, and was recorded as Appellate Case No. 2017-002011).
9. Appellant was finalizing his record on appeal when he learned of the trial for James Milton Gambrell. Gambrell was charged with "Accessory before the fact to a Felony" and "Solicitation to Commit Murder."
10. Appellant also discovered that Curry's sentencing was further deferred. The State presented him as a State Witness against Gambrell.
11. During Gambrell's trial, Curry and Detective Marzolf, the investigating officer for Appellant's case, offered inconsistent and outright false statements.
12. Believing that these statements are newly discovered evidence that can exonerate Appellant, he moved to suspend his appeal to give him the opportunity to file a motion to set aside/vacate the trial court decision, and/or motion for new trial.
13. On October 23, 2018, Appellant filed his Motion to Hold his Appeal in Abeyance, which this Honorable Court granted the motion on December 10, 2018.

14. On December 20, 2018, Appellant filed his Motion for New Trial based on newly-discovered evidence, in the lower court. The case was given a new case number (Case No. 2016A05324).
15. Appellant amended the same on December 27, 2018.
16. On January 4, 2019, Judge McIntosh issued an Order, denying Appellant's Motion for New Trial, without the necessity of a formal hearing.
17. On January 14, 2019, Appellant moved to reconsider the order of denial.
18. On January 17, 2019, Appellant filed an Addendum on his Motion for Reconsideration.
19. On January 30, 2019, the trial court ordered the denial of Appellant's motion for reconsideration, again without the necessity of a formal hearing.
20. On February 5, 2019, Appellant submitted to this Honorable Court of Appeals his status update, notice of appeal, and Form 11.
21. These two cases (Appellate Case No. 2017-002011 and Case No. 2016A05324) present common questions of fact and law. Consolidation will not delay the disposition of this case. It will, in fact, minimize delays and eliminate confusion.

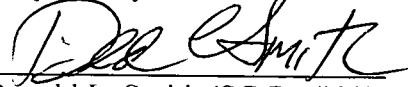
CONCLUSION

WHEREFORE, because consolidation of these two cases (Appellate Case No. 2017-002011 and 2016A05324) will promote efficiency and judicial economy, and will not prejudice any party, Appellant respectfully requests this Honorable Court to enter an Order consolidating all further proceedings in these actions.

{SIGNATURE TO FOLLOW}

Anderson, South Carolina
February 5, 2019

Respectfully submitted:



Donald L. Smith (SC Bar#6699)

Attorney for Appellant

122 N. Main Street

Anderson, SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

**FORM 7
PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ANDERSON COUNTY
Court of General Sessions

R. Lawton McIntosh, Judge

Case Number: 2016A0410200556

State of South Carolina,

Respondent,

v.

Jason Franklin Carver,

Appellant.

PROOF OF SERVICE

I certify that I have served Appellant's Form 1, Form 7, Form 8, Form 9, Form 14, and an original and six (6) copies of Appellant's Motion to Consolidate Related Appeals, upon The Honorable Jenny Abbott Kitchings, Clerk of Court South Carolina Court of Appeals, at PO Box 11629, Columbia SC 29211. A copy of the above-mentioned materials were also served upon The Honorable Richard Shirley, Anderson County Clerk of Court, at PO Box 8002, Anderson SC 29622 ; Assistant Solicitor for Tenth Judicial Circuit, Chelsey Hucker, at 100 S. Main Street, Anderson SC 29624; South Carolina Attorney General Alan McCrory Wilson and Assistant Deputy Attorney General Samuel Marion Bailey, Office of South Carolina Attorney General at PO Box 11549, Columbia, SC 29211, by depositing copies in the United States Mail, postage prepaid, on February 5, 2019.

February 5, 2019



Donald L. Smith (SC Bar#6699)
Attorney for Appellant
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com

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FORM 8
LETTER TO THE COURT OF APPEALS CLERK OF COURT
FILING STATUS UPDATE, NOTICE OF APPEAL, FORM 9,
FORM 14 AND MOTION TO CONSOLIDATE RELATED APPEALS

February 5, 2019

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

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SC Court of Appeals

RE: The State v. Jason Franklin Carver
Case No.: 2016A05324

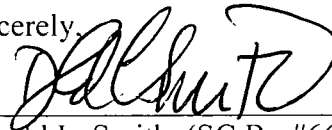
Dear Ms. Kitchings:

Pursuant to this Honorable Court's Order, dated December 10, 2018, Appellant Carver informs this Court of the trial court's denial of his Amended Motion for New Trial and Motion for Reconsideration, on January 4, 2019 and January 30, 2019, respectively.

In view of this development, Appellant is submitting the following materials for filing:

- (1) Form 8- which also serves as Appellant's status update;
- (2) Form 1- Notice of Appeal;
- (3) Trial Court Order, dated January 4, 2019;
- (4) Trial Court Order, dated January 30, 2019;
- (5) Form 9- Letter to Clerk of Lower Court;
- (6) Form 14-Designation of Matter to be Included in the Record on Appeal;
- (7) Appellant's Motion to Consolidate Related Appeals; and,
- (8) Form 7- Proof of Service for the same.

Sincerely,



Donald L. Smith, (SC Bar#6699)
Attorney for Appellant
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com

cc:

Honorable Richard Shirley, Anderson County Clerk of Court
Mr. Alan McCrory Wilson, Esquire, South Carolina Attorney General
Mr. Samuel Marion Bailey, Esquire, Assistant Deputy Attorney General
Ms. Chelsey Hucker, Esquire, Assistant Solicitor for the Tenth Judicial Circuit