

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

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FEB 22 2019

SC Court of Appeals

John Gilbert Singletary,..... Appellant,

v.

The State,Respondent.

MOTION FOR LEAVE TO FILE AMENDED INITIAL BRIEF

COMES NOW the Appellant, John Singletary, by and through his undersigned attorney, Michael D. McMullen who moves for leave from the Court to file new pleadings--specifically, an Amended Initial or Substitute Initial Brief and Designation of Matter--in this appeal. This motion is made due to the unique circumstances in this case. In support of this Motion, Appellant would show:

Mr. Singletary recently retained the undersigned to represent him in this appeal. It was Mr. Singletary's belief that all that would be required of his new attorney would be to compile, file, and serve a proper Record on Appeal, and thereafter represent Mr. Singletary in the appeal as required.

A brief procedural history of this appeal may be of use. Appellant filed an appeal in the Court of Common Pleas in Charleston from an adverse ruling on a Motion for New Trial or Motion to Reopen a North Charleston Municipal Court case. The Honorable J. C. Nicholson upheld the Municipal Court's ruling, and through his former attorney Mr. Nicholson appealed to the Court of Appeals.

His appeal was based on three grounds, and his former attorney submitted an Initial Brief, an Amended Brief, etc., stating numerous allegations and arguing at length each of the three issues. To say the least, these briefs and the arguments therein are far from clear and concise.

On August 24, 2018, for reasons unknown to the undersigned, the Supreme Court of South Carolina placed Mr. Singletary's previous attorney on indefinite suspension.

After reviewing the pleadings filed on behalf of Mr. Singletary, the undersigned became convinced that that the briefs and other pleadings filed by his former attorney do not meet the level of skill, care, and diligence contemplated by the sixth amendment and cannot be salvaged merely by compiling, filing, and serving a record on appeal. Proper representation in this appeal requires a new appellate brief--one that is clear and concise and otherwise complies with the Appellate Court Rules.

Granting this Motion will serve the ends of justice. It will cause no prejudice to the Respondent. On the other hand, if Mr. Singletary is required to proceed with the pleadings previously filed on his behalf, by an attorney who is currently suspended indefinitely from practicing law, he arguably will be denied the

assistance of effective counsel. Thus, the undersigned respectfully requests an Order granting the following relief:

- (1) that the Order of January 25, 2019, granting 30 days within which to file the Appellant's Record on Appeal be extended;
- (2) that the Appellant be allowed 30 days within which to file and serve an amended initial or substitute initial brief and designation of matter; and
- (3) that the Appeal proceed thereafter on the normal timetable provided in the Appellate Court Rules.

Should the Court of Appeals grant this request, Counsel for the Appellant will seek no further extensions of time from the Court.

Finally, it is the intention of undersigned counsel, after consulting with Appellant, to reduce the number of issues on appeal from three to one, thereby significantly narrowing the scope of the appeal, reducing the length of the brief to be submitted, and reducing the items to be included in the Record on Appeal.

Respectfully submitted,



Michael D. McMullen

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PROOF OF SERVICE

I certify that I have served the Appellant's Motion for Leave to File an Amended Initial Brief on counsel of record for Respondent by depositing a copy of the same in the United States Mail, postage prepaid, on February 22, 2019, addressed to Robin L. Jackson, Senn Legal, LLC, Post Office Box 12279, Charleston, South Carolina 29422.



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February 22, 2019

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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SC Court of Appeals

Re: John Gilbert Singletary v. The State
Case No.: 2017-002621
Motion for Leave to File an Amended or Substitute Initial Brief

Dear Ms. Kitchings:

Enclosed for filing and the Court of Appeals' consideration, please find the Original and one copy of Appellant's Motion for Leave to File and Amended or Substitute Initial Brief and Designation of Matter.

Of course, I have also enclosed a certificate of service verifying that I have sent a copy of this correspondence to counsel for the Respondent at: Robin L. Jackson, Senn Legal, Post Office Box 12279, Charleston, South Carolina 29422.

Thank you for your kind assistance.

Respectfully submitted,



Michael D. McMullen
Attorney for the Appellant

cc: Robin L. Jackson, Esquire

MICHAEL D. McMULLEN

ATTORNEY AT LAW

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COLUMBIA, SOUTH CAROLINA 29201**

The Honorable Jenny Abbott Kitchings
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South Carolina Court of Appeals
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