

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
FEB 28 2019
SC Court of Appeals

John Gilbert Singletary, Appellant,

v.

The State, Respondent.

RESPONSE IN OPPOSITION
TO MOTION FOR LEAVE TO FILE AMENDED INITIAL BRIEF

NOW COMES the State and opposes the Appellant's motion for leave to file an amended initial brief. Appellant Singletary has been represented by counsel at all stages in this appeal and the case was ready to go before the court once the Record on Appeal is filed (after three extensions). That deadline expired on February 25, 2019 and no Record on Appeal has been filed. Instead, on the eve of the deadline on the third extension of time to file the Record on Appeal, Mr. Singletary hired another attorney who now wants to cancel out the last eight months and three briefs and start this appeal from the beginning by submitting a new initial brief and designation of matter.

This appeal was filed on December 27, 2017 and relates all the way back to a 2010 municipal court conviction. Appellant requested and received an initial extension of time to file the initial brief to March 30, 2018 and a second extension to April 30, 2018. Then, Mr. Singletary filed a *pro se* brief on April 30, 2018, which was returned to him. His attorney filed a brief on June 5, 2018, and an amended/corrected brief on June 27, 2018. When Mr. Mayer was suspended in August, the court gave Appellant until October 25, 2018 to obtain new counsel or proceed *pro se*, and then until November 26, 2018 to file the Record on Appeal. On December 7, 2018, the Court gave Mr. Singletary 10 days to provide proof of service for the Record on Appeal. Singletary then asked for yet another extension. The Court took no action until January 25, 2019, when it granted a fourth thirty day extension to file the Record on Appeal. Mr. Singletary has had since September, 2018 to retain new counsel and has done nothing on this matter until February 13, 2019¹, when Michael McMullen sent a letter to the court approximately one week before the expiration of the fourth extension to file the Record on Appeal. As of the date of this filing, no Record on Appeal has been filed.

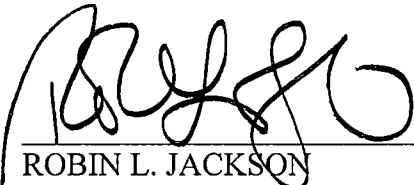
New counsel may not agree with the way prior counsel handled this appeal, but Mr. Singletary privately retained Mr. Mayer's services and was represented by him in the Municipal Court, the Circuit Court appeal and before this court. Mr. Singletary never made any attempt to terminate Mr. Mayer's services before he was suspended from the practice of law.² Therefore, the briefs that have been filed should be the basis upon which this case moves forward.

¹ The date on the letter is November 13, 2019. It was received by the court on February 14, 2019 and by the undersigned on February 15, 2019.

² On January 31, 2019, Mr. Mayer informed Magistrate Metcalf of the United States District Court for the Western District of North Carolina that he was suspended from the practice of law in Florida for failure to timely pay his bar dues and that he was suspended from practice in South Carolina for failure to attend an interview for which he claims to not have received notice. His license to practice law in North Carolina is still valid. *Martin v. Garrett et al*, 1:17-cv-0350.

Counsel states in his motion that there will be no prejudice to the Respondent, but the Respondent disagrees. Counsel for Respondent spent hours of time and effort doing research on the issues put forth by Appellant and preparing the Response brief and the Designation of Matter. As this case dated back more than seven years at the time of the initial appeal, quite a bit of additional time was needed to gather all of the necessary information. The Respondent has incurred attorney's fees and costs for all of this work. To allow the Appellant to simply start over because a new attorney has come up with a new theory for the appeal is not how the appellate process is supposed to work.

Respondent asks this court to deny the motion and give the Appellant ten (10) days to file the Record on Appeal or have the appeal dismissed. In the alternative, if the court considers allowing the Appellant to submit an amended Initial Brief, Respondent asks that the Appellant be ordered to pay for Respondent's attorney's fees and costs for the preparation of the original brief and designation of matter, and further order that they be paid prior to the submission of amended briefs. The undersigned is willing to submit an affidavit of fees and costs on this issue.



ROBIN L. JACKSON
Senn Legal, LLC
Post Office Box 12279
Charleston, SC 29422
(843) 556-4045
(843) 556-4046 (fax)
Robin@SennLegal.com
Attorney for Respondent

February 26, 2019
Charleston, SC

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

FEB 28 2019

SC Court of Appeals

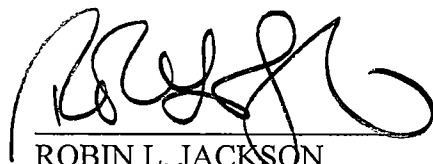
John Gilbert Singletary,Appellant,

v.

The State,Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent's Response in Opposition to Appellant's Motion for Leave to File Amended Initial Brief, by depositing a copy of the same in the United States Mail, postage prepaid, on February 26, 2019, addressed to Michael D. McMullen, 1720 Main Street, Ste. 301, Columbia, SC 29201.



ROBIN L. JACKSON
Senn Legal, LLC
Post Office Box 12279
Charleston, South Carolina 29422
(843) 556-4045
(843) 556-4046 (fax)
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

February 26, 2019

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

RECEIVED

FEB 28 2019

SC Court of Appeals

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

Dear Madame Clerk:

Enclosed for filing please find Respondent's Response in Opposition to Appellant's Motion for Leave to File Amended Initial Brief along with six (6) copies pursuant to SCAR Rule 240(e). If you would, please file the same. One additional copy is also included to be filestamped and returned to me in the enclosed envelope. Counsel for Appellant is being served with copies of these pleadings on today's date as referenced by the attached Proof of Service.

Thank you and with kind regards, I am,

Sincerely,

Robin L. Jackson

mbk
Enclosures

cc: Michael D. McMullen, Esquire

\$1.90 0

US POSTAGE
FIRST-CLASS
062S0006954171
29407

B79828 11



stamps.com

RECEIVED

FEB 28 2019

SC Court of Appeals



*Post Office Box 12279
Charleston, SC 29422-2279*

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