

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Beaufort County
Court of General Sessions
The Honorable Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

Respondent,

v.

SAMUEL T. COLLINS,

Appellant.

Appellate Case No. 2017-002221

**MOTION TO CONTINUE ORAL ARGUMENT &
SUPPLEMENT RECORD ON APPEAL**

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SC Court of Appeals

Oral argument in this case is scheduled for Wednesday November 13, 2019. Undersigned counsel for the State respectfully moves for a continuance in order to supplement the record. In support of this motion, counsel would respectfully show the Court:

1. In December 2018, both parties submitted final briefs in this case. Each party indicated in their respective Statement of the Case that petitioner was serving a fifty-year prison sentence for murder. (Brief of Appellant, 2; Brief of Respondent, 2).
2. On October 4, 2019, this Court notified the parties of the date and time of oral argument. On October 11, 2019, undersigned counsel for the State informed the Court that the case had been reassigned to him and requested to be added as counsel of record. Additionally, via separate correspondence, undersigned counsel acknowledged receipt of the notice of oral argument.

3. On November 5, 2019, the Court requested that both parties be prepared to discuss the implications to this appeal of the appellant's testimony given at his wife's subsequent trial.

4. On January 24, 2018, appellant's wife was convicted of accessory after the fact of murder. That case is also on appeal in this Court. (Appellate Case No. 2018-000449). The record of appeal in that case reveals that appellant testified, among other things, that he shot and killed the victim in this case. (R. 148, l. 9-15). The record also indicates that the State and appellant had come to an agreement regarding the use of appellant's testimony. (R. 131, l. 1-14). Specifically, the State agreed to a re-sentencing hearing in exchange for his testimony. (R. 131, l. 3-4).

5. On November 7, 2019, undersigned counsel for the State performed an "inmate search" of appellant's publicly available online records with the South Carolina Department of Corrections. (www.public.doc.state.sc.us/scdc-public/). According to these records, appellant is serving a thirty-five year sentence for murder. The records also indicate that appellant had a court appearance in Beaufort County on March 22, 2018.

6. On November 7, 2019, undersigned counsel for the State also performed an online public index search of appellant's records with the Beaufort County Clerk of Court. The search revealed that an Order Reducing Sentence Pursuant to S.C. Code Ann. § 17-25-65 was filed with the court. However, the actual order is not available online.

7. On November 7, 2019, undersigned counsel for the State spoke with appellant's counsel of record on appeal, Taylor D. Gilliam. Both parties agree pursuant to Rule 212(b), SCACR, that the Record on Appeal in this case should be supplemented. At a minimum, the record should be supplemented to include the Motion for Reduction of Sentence, the Order Reducing Sentence, the transcript of any hearing reducing appellant's sentence, the amended sentencing sheet, and the transcript of appellant's testimony at his wife's trial. These records are

necessary in order to analyze the relevance of appellant's testimony and subsequent re-sentencing in light of State v. Sroka, 267 S.C. 664, 230 S.E.2d 816 (1976) and its progeny.

8. Additionally, both parties agree that a continuance of oral argument is necessary to supplement the record in this case.

WHEREFORE, undersigned counsel would respectfully request a continuance in this case for such time reasonably necessary to supplement the record on appeal.

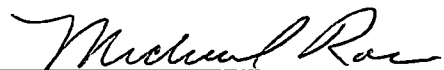
Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
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By: 
MICHAEL D. ROSS
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ATTORNEYS FOR RESPONDENT

November 7, 2019.

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PROOF OF SERVICE

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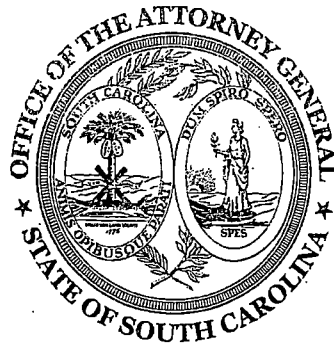
I, Brandy Rankin certify that I have served two (2) copies of the Motion to Continue Oral Argument & Supplement Record on Appeal via U.S. mail to appellant's attorney of record, Taylor D. Gilliam, S.C. Commission on Indigent Defense, Division of Appellate Defense, 1330 Lady Street Suite 401, P.O. Box 11589, Columbia, SC 29211-1589.

I further certify that all parties required by Rule to be served have been served.

This 7th day of November, 2019.

Brandy Rankin

Brandy Rankin
Legal Assistant to Michael D. Ross
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ALAN WILSON
ATTORNEY GENERAL

November 7, 2019

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

Re: *The State v. Samuel T. Collins*
Appeal from Beaufort County
Appellate Case No. 2017-002221

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Motion to Continue Oral Argument & Supplement Record on Appeal, together with Proof of Service, in the above-referenced matter.

Thank you for your assistance in this matter.

Sincerely,

Michael Ross
Assistant Attorney General

MDR:brb
Enclosures

cc: Taylor Davis Gilliam, Esq. (w/two copies of encls.)
Isaac McDuffie Stone, III, Esq. (w/two copies of encls.)
Trish Allen, Victims Advocacy (w/copies of encl.)

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