

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM ALLENDALE COUNTY

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NOV 12 2019
SC Court of Appeals

HONORABLE PERRY M. BUCKNER, CIRCUIT COURT JUDGE

THE STATE,

RESPONDENT

V

LAPARIS S. FLOWERS,

APPELLANT

APPELLATE CASE NO. 2018-000099

MOTION TO ALTER OR AMEND PRO SE BRIEF

LA'PARIS S. FLOWERS
APPELLANT PRO SE
LEE CORRECTIONAL INSTITUTION
990 WISACKY HIGHWAY
BISHOPVILLE, SC 29010

On Motion to Alter or Amend Pro Se Brief of Appellant and for good cause shown, Appellant will respectfully show the Honorable Court the following:

Through due diligence by Appellant in researching the law, Appellant shows that the claim in question Appellant seeks to amend to the Pro Se brief relies on a new rule of constitutional law made retroactive to cases pending on direct review by the Supreme Court.

Petitioner submits to the Court, that his direct appeal is pending before the Court, and therefore, having shown good cause, seeks to amend the Pro Se brief to include the following:

In *State v Burdette*, 427 SC 490, 832 SE 2d 575 (July 31, 2019), the Court held that regardless of the evidence presented at trial, a trial court shall not instruct the jury that it may infer the existence of malice when the deed was done with a deadly weapon.

1) Did the trial court (Judge) abuse his discretion by giving the erroneous jury instructions?

There is no doubt whatever of the isolated proposition that the law presumes malice from the mere fact of homicide. But there are cases as made, by the roof to which the rule is inapplicable. The Court explained that when all the circumstances of the case are fully proved there is no room for presumption.

The question becomes one of fact for the jury under the general principle that he who affirms must prove. And that every man is presumed innocent until a contrary appears.

Respectfully submitted,

s/ 
La'Paris Flowers, Pro Se

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PROOF OF SERVICE

The undersigned hereby certifies that on November 6, 2019, true and correct copies of the Motion to Alter or Amend Pro Se Brief and Amendment to Pro Se Brief of Appellant were served by depositing the same in the prison mail system, postage prepaid, to the following addresses:

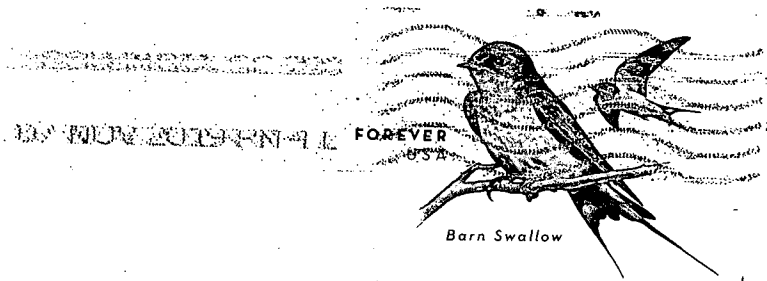
SC Attorney General

Clerk's Office
South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211

November 6, 2019
Bishopville, SC

sl *La'Paris Flowers*
La'Paris Flowers, Pro Se
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

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LEE Correctional
990 WISACKY HIGHWAY
BISHOPVILLE, SC 29610



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