

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jan 27 2021

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
General Sessions Court
DeAndrea G. Benjamin, Circuit Court Judge

Case No. 2017-GS-40-07158
Case No. 2017-GS-40-07162
Case No. 2017-GS-40-07165
Case No. 2017-GS-40-07166
Appellate Case No. 2019-001981

The State,

Respondent,

v.

Charles Barham,

Appellant.

MOTION TO AMEND INITIAL BRIEF OF APPELLANT AND TO STAY
RESPONDENT'S FILING DEADLINE UNTIL ACTION ON THIS MOTION

Appellant, Charles Barham, respectfully files this motion to amend the Initial Brief of Appellant, for the purpose of amplifying the statement of the case and the argument of one of the issues raised in this appeal, due to information about the trial court proceedings unknown to counsel at the time of the filing of the initial brief. For the following reasons, appellant asks this Court to grant this motion and accept the attached Amended Initial Brief of Appellant in place of his previously filed Initial Brief of Appellant.

Appellant was tried on multiple criminal charges in the Richland County General Sessions Court August 26-30, 2019. His trial attorneys are not his attorneys in this appeal. Appellate counsel prepared and filed the Initial Brief of Appellant, raising issues based on the record of the trial proceedings. After the filing of the Initial Brief of Appellant, appellate counsel learned of post-trial motions and proceedings that appellate counsel did not previously know had occurred. One of the post-trial motions pertained to one of the issues raised in the Initial Brief of Appellant, Issue 2.

Appellant asks this Court to allow amendment of his Initial Brief of Appellant, for the purpose of reciting the additional proceedings in his statement of the case and discussing the new trial motion in the brief's argument of Issue 2. Appellant seeks to amend his initial brief in order to provide an accurate account of the proceedings in the lower court with respect to the post-trial motions and the treatment of Issue 2.

Appellant has prepared an Amended Initial Brief of Appellant, which is submitted with this motion. The only additions to the text of the initial brief are (1) the second paragraph of the Statement of the Case, on page 1 of the Amended Initial Brief of Appellant; (2) the first full paragraph of page 15 of the Amended Initial Brief of Appellant, in the Argument of Issue 2; and (3) the first full paragraph of page 19 of the Amended Initial Brief of Appellant, in the Argument of Issue 2. These additions are made in the interest of fully articulating the issue and argument presented in the lower court proceedings. [In addition to these textual additions, the Amended Initial Brief of Appellant revises the tables of contents and authorities in accordance with these additions.]

The state has not yet filed the Initial Brief of Respondent, and the current due date for that brief is February 12, 2021. Appellant asks this Court to hold the state's deadline

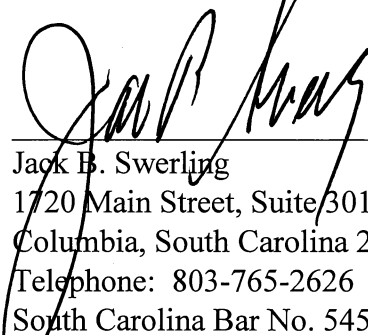
for the respondent's initial brief in abeyance until the Court rules on this motion, and to reestablish the state's deadline 30 days after the order ruling on this motion, so as to allow the state's attorney to know which version of the brief will be the subject of its response.

Because of the stage of these proceedings, no prejudice will result to the respondent if this motion is granted.

Appellant's counsel has consulted with the attorney for the respondent, Assistant Attorney General Michael G. Ross, and submitted to him the proposed Amended Initial Brief of Appellant. Mr. Ross indicates that he does not object to amendment of the Initial Brief of Appellant.

WHEREFORE, appellant respectfully moves this Court to allow amendment of the Initial Brief of Appellant, to accept the accompanying Amended Initial Brief of Appellant in its place, and to hold the state's deadline for the Initial Brief of Respondent in abeyance pending a ruling on this motion.

Respectfully submitted,



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