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**Mar 08 2021**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM YORK COUNTY  
Court of General Sessions  
The Honorable William A. McKinnon, Circuit Court Judge

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Appellate Case No. 2019-000470

THE STATE, .....APPELLANT,

v.

HAROLD GENE WHITE, III, .....RESPONDENT.

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**AGREED DISMISSAL TO WITHDRAW APPEAL PURUSANT TO RULE 260(b),  
SCACR**

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Appellant (“the State”), through its undersigned counsel, would respectfully show unto this Court as follows:

**I.**

In October of 2018, the York County Grand Jury indicted Respondent Harold White for trafficking in hydrocodone (2018-GS-07326).<sup>1</sup> On March 12, 2019, Respondent proceeded to a bench trial before the Honorable William McKinnon. Prior to trial, the State requested a discussion as to whether Respondent would make any motions challenging the propriety of the

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<sup>1</sup> Respondent was also indicted for possession with intent to distribute oxycodone (2018-GS-46-07327), possession of cocaine (2018-GS-46-03874), and possession with intent to distribute marijuana (2018-GS-46-03876). However, these charges were not dismissed and thus are not part of this appeal.

trafficking hydrocodone indictment; it sought to resolve any issues with the charge prior to jeopardy attaching to it at trial. After hearing the arguments of both parties, the trial judge, who felt constrained by the rule of lenity, dismissed the charge, noting he was unable to discern the legislature's intent on the issue.

On March 14, 2019, the trial judge issued a written order memorializing his dismissal, finding hydrocodone was not a substance for which trafficking could be charged under S.C. Code Ann. Section 44-53-370(e)(3).

## II.

Subsequent to the State's initiation of the appeal, the State—after further review of the record and trial judge's order—has now determined an appeal is not warranted under the specific and unique circumstances of Respondent's case.

## III.

The State contacted counsel for Respondent who has graciously consented to the State's request to dismiss the appeal. (Attachment "A")

## IV.

Therefore, pursuant to Rule 260(b) of the South Carolina Appellate Court Rules, the State asks this Court to dismiss the State's appeal. See Rule 260(b), SCACR ("If the parties to an appeal or other proceeding shall sign and file with the clerk of the appellate court an agreement that the proceeding be dismissed, the appellate court may enter an order of dismissal.")

**WHEREFORE**, Petitioner prays this Court will dismiss the State's appeal in the case of State v. Harold G. White, III, Appellate Case No. 2019-000470; issue remittitur; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

WILLIAM F. SCHUMACHER, IV  
Assistant Attorney General

By: \_\_\_\_\_



William F. Schumacher, IV  
Bar # 100231  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3713

March 8, 2021

# Attachment

“A”

## Bill Schumacher

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**From:** Alexander, David <dalexander@sccid.sc.gov>  
**Sent:** Friday, February 26, 2021 8:57 AM  
**To:** Bill Schumacher  
**Subject:** RE: [External] State v. White, C/A# 2019-000470

Bill,

Sorry for the late response—I was on vacation this week and just got back this morning. Yes, I will consent to the withdrawal.

Thanks,

David

**From:** Bill Schumacher <BSchumacher@scag.gov>  
**Sent:** Monday, February 22, 2021 11:21 AM  
**To:** Alexander, David <dalexander@sccid.sc.gov>  
**Subject:** [External] State v. White, C/A# 2019-000470

Hey David,

I hope this email finds you well. After recent discussions with Solicitor Brackett, the A.G.'s office has decided to withdraw this appeal. I'm hoping you are willing to consent to the withdrawal pursuant to Rule 260, SCACR. If you have any questions, don't hesitate to ask.

Regards,

Bill Schumacher



**William F. Schumacher, IV**  
**Assistant Attorney General**

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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from York County  
Honorable William A. McKinnon, Circuit Court Judge  
Appellate Case No. 2019-000470  
Trial Court Case No. 2018GS4607326

THE STATE, .....APPELLANT,

v.

HAROLD GENE WHITE, III .....RESPONDENT.

**PROOF OF SERVICE**

I, Shana Montgomery, certify that I have served the within Agreed Dismissal to Withdraw the Appeal Pursuant to Rule 260(b), SCACR ,on Respondent by sending an electronic copy via email to the address listed in AIS for the following individual along with physical copies to follow:

David Alexander, Esquire  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

I further certify that all parties required by Rule to be served have been served this 8th day of March, 2021.



Shana Montgomery  
Legal Assistant  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-0368

## Shana Montgomery

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**From:** Shana Montgomery  
**Sent:** Monday, March 8, 2021 9:50 AM  
**To:** Matthews, Lindsey; Alexander, David  
**Cc:** Shana Montgomery; Bill Schumacher; William Blich  
**Subject:** WHITE III Harold ; Appellate Case No. 2019-00470 ; Agreed Dismissal to Withdraw Appeal  
**Attachments:** 02508195.PDF

Good Morning,

Attached please find a copy of the Agreed Dismissal to Withdraw Appeal Pursuant To Rule 260(b) SCACR State V. Harold G. White III (2019-000470). Please confirm receipt. This motion will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System. Please don't hesitate to contact us should you have any questions or concerns.

Thank You.

Shana Montgomery  
Legal Assistant  
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803-734-7239