

RECEIVED
May 20 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County
Honorable R. Markley Dennis, Jr., Circuit Court Judge
Appellate Case Tracking No. 2019-000511

The State,

Respondent,

vs.

Aaron Mckenzie Capers,

Appellant.

MOTION TO DISMISS SECOND AMENDED NOTICE OF APPEAL

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

On April 12, 2019, Appellant asked this Court to remand his case to the Circuit Court to consider outstanding post-trial motions. By Order of this Court dated April 17, 2019, “this case is remanded to the circuit court for the limited purpose of allowing the circuit court to rule on Appellant’s pending motions.” It appears the Circuit Court held a hearing and issued an order denying the post-trial motions. In the Amended Notice of Appeal¹ served March 30, 2021, Appellant’s counsel notes she received a copy of the Order denying the post-trial motions on February 19, 2021.

As noted, Appellant did not serve and file this Amended Notice of Appeal within the required ten-day period provided by Rule 203(b)(2), SCACR. He failed to serve the Amended

¹ This is actually the Second Amended Notice of Appeal, but will be referred to by the title on the document of Amended Notice of Appeal. A first Amended Notice of Appeal was filed April 1, 2019.

Notice of Appeal for forty days after receiving notice of the entry of the order denying his post-trial motions. As a result, this Court should not accept jurisdiction of any claims arising out of the post-trial motions. The State asks this Court to dismiss the second Amended Notice of Appeal and restrict consideration to only those issues appearing in the record before the Circuit Court at trial and not in the post-trial motions.

WHEREFORE, Respondent prays that the Court dismiss the second Amended Notice of Appeal; only consider issues properly raised and ruled on during the original trial and not consider any issues raised during the post-trial motions; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General

BY: 

William M. Blitch, Jr.
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(803) 734-3727

ATTORNEYS FOR RESPONDENT

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PROOF OF SERVICE

I, Caroline Collins, certify that I have served the Motion to Dismiss Second Amended Notice of Appeal on Appellant by emailing Appellant's counsel of record, Tara Dawn Shurling, at her primary email listed with the Attorney Information System (AIS).

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

This 20th day of May, 2021.



CAROLINE COLLINS
Administrative Coordinator
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727

Caroline Collins

From: Caroline Collins
Sent: Thursday, May 20, 2021 12:01 PM
To: 'TDSLAW'
Cc: William Blich
Subject: The State v. Aaron McKenzie Capers (2019-000511)
Attachments: CAPERS Aaron (2) - Motion to Dismiss Second Amended Notice of Appeal - 2019-000511 (02583578xD2C78).PDF

Good Afternoon Ms. Shurling,

Attached please find a copy of the Motion to Dismiss Second Amended Notice of Appeal in The State v. Aaron McKenzie Capers (2019-000511). This motion will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to confirm receipt.

Thank you!

Caroline Collins

Administrative Coordinator
South Carolina Attorney General's Office
P: (803) 734-3723