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Jun 11 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2020-001677

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

WILLIAM CHAD MARINO,

APPELLANT.

MOTION TO WITHDRAW APPEAL

This matter comes before the Court from an appeal of a criminal conviction and sentence filed by the Appellant William Chad Marino. The Appellant now wishes to withdraw his direct appeal. In support of this motion, the Appellant has attached an affidavit providing the reasons for withdrawal, advisement of rights, and waiver of potential issues preserved for appellate review. Specifically, the Appellant wishes to withdraw his direct appeal to pursue an Application for Post-Conviction Relief. The Appellant understands that this decision is final, and he will not be able to reinstate his direct appeal after it is dismissed pursuant to this motion. The Appellant made this decision knowingly, intelligently, and voluntarily after discussing his rights, waivers of legal issues, and potential conflict of interest with the undersigned Counsel.

Based on the foregoing reasons, the Appellant William Chad Marino respectfully moves this Court to dismiss his direct appeal with prejudice.

Respectfully submitted,



Dayne C. Phillips, Esq.

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June 11, 2021

ATTORNEY FOR APPELLANT

I CONSENT AND SO MOVE.



William Chad Marino, Appellant

Elizabeth W
6/11/2021



CERTIFICATE OF SERVICE

I hereby certify that I have this date served the within and foregoing Motion to Withdraw Appeal that I filed with the Clerk of Court by uploading a copy in AIS and depositing a true and correct copy of the same via first-class mail, postage prepaid, upon:

William Blich, Jr., Esq.
SC Attorney General's Office
PO Box 11549
Columbia, SC 29211

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SC Court of Appeals

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

By: Courtney Powers
Courtney Powers
Paralegal for Dayne C. Phillips, Esq.

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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Frank R. Addy, Jr., Presiding Judge

Appellate Case No.: 2020-001677
Lower Court Case No.: 2020-GS-32-02174

STATE OF SOUTH CAROLINA,

Respondent,

v.

WILLIAM CHAD MARINO,

Appellant.

AFFIDAVIT OF APPELLANT TO WITHDRAW APPEAL

PERSONALLY appeared before me, **William Chad Marino**, who being duly sworn,
deposes and says:

- (1) I am the Appellant in the above-captioned direct appeal.
- (2) I understand that I have a right to file and pursue this appeal.
- (3) It is my desire to pursue an Application for Post-Conviction Relief instead of this appeal.
- (4) I understand that this appeal must be dismissed to pursue collateral review of my conviction and sentence in a post-conviction relief action.
- (5) I understand that the issues presented in a direct appeal are different than in a post-conviction relief action.

- (6) I understand that any legal issues that are preserved for appellate review on my direct appeal are considered waived if this appeal is dismissed.
- (7) I have discussed the possible issues that are potentially preserved for appellate review on direct appeal with my lawyer, Dayne Phillips, Esq., and understand that I will not be able to raise those issues in a post-conviction relief action.
- (8) I understand and have discussed my rights, the procedure for direct appeal and post-conviction relief, and the potential risks and benefits of withdrawing my direct appeal to pursue a post-conviction relief action with my lawyer, Dayne Phillips, Esq., prior to signing this affidavit.
- (9) I understand and have discussed the differences between a direct appeal and post-conviction relief action, and the differences in the legal issues raised in those different proceedings with my lawyer, Dayne Phillips, Esq., prior to signing this affidavit.
- (10) I understand that the potential remedy of a post-conviction relief action could be different than the remedy pursued in my direct appeal (e.g., suppression versus new trial).
- (11) I understand that this decision to withdraw my appeal is final, and I will not be able to reinstate my direct appeal after it is dismissed or raise any issues that were preserved for appellate review (due to being waived by withdrawing this appeal).
- (12) I understand and have been advised that it is a potential conflict of interest for my current lawyer, Dayne Phillips, Esq., to represent me on a post-conviction relief action because I would be unable to raise any allegations of ineffective assistance of counsel against him during the collateral proceeding and would only be able to raise allegations of ineffective assistance of counsel against my former Trial Counsel, Mark Whitlark.
- (13) I understand that I have the right to hire different counsel due to the potential conflict of

interest, and I desire to continue my representation with Dayne Phillips, Esq., after this appeal is dismissed to pursue a post-conviction relief action on my behalf.

- (14) It is my informed desire to withdraw this appeal, thereby waiving any potential issues preserved for appellate review.
- (15) I am requesting that this direct appeal be dismissed with prejudice, so I may pursue collateral relief in a post-conviction relief action.
- (16) Therefore, I consent to this Court dismissing my direct appeal with prejudice.

FURTHER, AFFIANT SAYETH NOT.



William Chad Marino

SWORN TO BEFORE me this 11 day
of June, 2021.

Elizabeth Walker (L.S.)
Notary Public for South Carolina
My Commission Expires: 11/16/2030



Elizabeth Walker
6/11/2021

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CERTIFICATE OF SERVICE

SC Court of Appeals

I hereby certify that I have this date served the within and foregoing Affidavit of Appellant to Withdraw Appeal that I filed with the Clerk of Court by uploading a copy in AIS and depositing a true and correct copy of the same via first-class mail, postage prepaid, upon:

William Blich, Jr., Esq.
SC Attorney General's Office
PO Box 11549
Columbia, SC 29211

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

By: Courtney Powers
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Paralegal for Dayne C. Phillips, Esq.

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June 11, 2021

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June 11, 2021

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: **State of South Carolina v. William Chad Marino**
MOTION TO WITHDRAW APPEAL;
AFFIDAVIT OF APPELLANT TO WITHDRAW APPEAL
Appellate Case No.: **2020-001677**

Dear Ms. Kitchings:

I have enclosed the original Motion to Withdraw Appeal and the original Affidavit of Appellant to Withdraw Appeal that I uploaded in AIS and mailed for filing today in the above-referenced case. Thank you for your assistance with filing these documents.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Dayne C. Phillips, Esq.
(803) 807-0234

cc: **William Chad Marino**
William Blich, Jr., Esq.

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