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Feb 01 2022

SC Court of Appeals



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February 1, 2022

The Honorable Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Antonio Orlando Simmons v. State of South Carolina
Appellate Case No. 2020-000088

Dear Ms. Kitchings:

Mr. Simmons has decided to drop his appeal, as evidenced by the enclosed affidavit. I have reviewed with him the consequences of dropping the appeal and am in agreement with his decision. He has been informed of the advantages and disadvantages of pursuing this appeal, and I believe he has made his decision knowingly and voluntarily. Accordingly, I respectfully request that an order be issued dismissing this appeal.

By copy of this letter, I am informing Mark R. Farthing, Esquire of my client's decision. Thank you for your assistance in this matter.

Sincerely,

Victor R. Seeger
Appellate Defender

VRS/cws

Enclosure

cc: Mark R. Farthing, Esquire
Antonio Orlando Simmons

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF APPEALS)
APPELLATE CASE NO. 2020-000088)

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SC Court of Appeals

ANTONIO ORLANDO SIMMONS)

Appellant,)

v.)

AFFIDAVIT OF ANTONIO O. SIMMONS)

STATE OF SOUTH CAROLINA)

Respondent.)

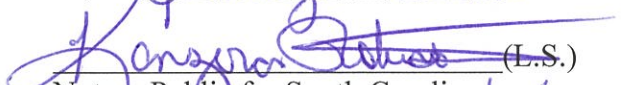
PERSONALLY appeared before me, Antonio O. Simmons, who being duly sworn, deposes and says:

1. I am the Appellant in the above captioned case.
2. In the December 2014 term, I was indicted by the Charleston County Grand Jury for five counts of armed robbery.
3. On March 20, 2018, I pled guilty to five counts of armed robbery (2014-GS-10-07111; 2014-GS-10-07142; 2014-GS-10-07147; 2014-GS-07123; 2014-GS-10-07145) in front of the Honorable R. Markley Dennis. I was represented by Michael Apicella. Judge Dennis sentenced me to thirty years' imprisonment suspended upon eighteen years' of service, and community supervision.
4. On July 23, 2019, I had a post-conviction relief (PCR) hearing held before the Honorable Michael G. Nettles. I was represented by Christopher Murphy. On October 1, 2019, Judge Nettles vacated my sentence and remanded the case for resentencing because I was sentenced improperly as sentences for armed robbery convictions cannot have any portion suspended.
5. On January 10, 2020, I had a resentencing hearing before the Honorably R. Markley Dennis, Jr. I was represented by Christopher R. Geel. I was sentenced to twenty-eight years' imprisonment by Judge Dennis.
6. On January 17, 2020, my sentencing counsel, Christopher R. Geel, filed a notice of appeal.
7. On July 14, 2020, my case was assigned to Victor Seeger, Esquire with the Office of Appellate Defense. On December 22, 2021, I spoke to Mr. Seeger by phone regarding my intention to withdraw my direct appeal.

8. On December 22, 2021, I requested that Mr. Seeger send me a "drop affidavit" to drop my direct appeal case.
9. I wish to drop my direct appeal to pursue post-conviction relief.
10. I understand that I am entitled to an appeal of my conviction, and that, because I am indigent, I am entitled to the assistance of an attorney from the South Carolina Office of Appellate Defense. I have been informed that if I drop my direct appeal that I forever waive those issues that could be raised, including in Federal Court.
11. In light of the risks which have been explained to me, it is my desire that the South Carolina Office of Appellate Defense drop the appeal formerly filed on my behalf.
12. I have made this decision on my own, with a full understanding of all the possible consequences of this action.
13. I do not wish to appeal.


Antonio O. Simmons

SWORN TO before me this 28th
day of January, 2022

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 8/4/2024