

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRYAN AUSTIN SEIDLE,

APPELLANT.

APPELLATE CASE NO. 2020-001485

RETURN TO MOTION TO SUBMIT
AMENDED FINAL BRIEF OF RESPONDENT

On November 12, 2021, appellant filed his initial brief. The state filed its initial brief on February 28, 2022. Appellant filed his initial reply brief on March 21, 2022 to correct an inaccurate characterization. Thereafter, the state and appellant filed their respective final briefs on May 3, 2022.

On May 16, 2022, the state filed a motion requesting permission to amend its final brief to correct “a partially inaccurate assertion.” Appellant opposes this motion for two important reasons. First, Rule 211(b)(2), SCACR, only allows “obvious typographical errors and misspellings” contained in the initial brief to be corrected. “No other changes may be made.” The state cited no rule or other authority that would permit the filing of an amended final brief to alter the substance of the argument.


Second, appellant opposes this motion because allowing the state's "amendment" would render appellant's reply brief patently absurd. On appeal, appellant argued the trial judge abused his discretion by excluding evidence the decedent was a registered sex offender since the evidence was relevant to appellant's state of mind during the confrontation with the decedent and to whether appellant had a reasonable apprehension of violence from the decedent. During trial, when deciding whether to admit the evidence, the judge inquired as to the underlying facts of the offense which required the decedent to register as a sex offender, and he posed a hypothetical. The judge stated, "What - - and the other thing is we would kind of almost have to know a little bit about what the facts are. I think, you know, if we're talking about propensity for violence and *if Mr. Ingersoll [the decedent] was 17 years old and he had sex with a 15 year old, that's not violent at all.* I mean it's probably inappropriate and it's certainly illegal but *do we know anything about the [underlying] facts of the case?"* R. 101, ll. 16-22 (emphasis added).

In its brief of respondent, the state argued the hypothetical posed by the trial judge was a fact. It asserted, "In fact, Ingersoll's [the decedent's] sex offender registry requirement was based on a sex crime he committed as a seventeen year old against a fifteen year old victim." BOR at 8. In his reply brief, appellant argued the state mischaracterized the record and that the above assertion contained in the state's brief was not supported by the record. Reply Brief at 1. Appellant asserted the record was clear that neither party was aware of the underlying facts of the offense which required the decedent to register as a sex offender. Reply Brief at 1.

In its motion to submit an amended final brief, the state admits its brief contains "a partially inaccurate assertion" and now seeks to correct this portion of the brief. However, if the state is permitted to file an amended final brief to correct this factual inaccuracy, it would render appellant's reply brief absurd, and also disregard the clear meaning of Rule 211(b)(2), SCACR. Consequently, appellant respectfully objects to the amendment.

WHEREFORE, appellant respectfully requests this Court deny the state's motion to submit an amended final brief of respondent.

Respectfully submitted,


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Appellate Defender

Robert M. Dudek
Chief Appellate Defender

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ATTORNEYS FOR APPELLANT

This 23rd day of May, 2022.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Michael G. Nettles, Circuit Court Judge

RECEIVED

May 23 2022

SC Court of Appeals

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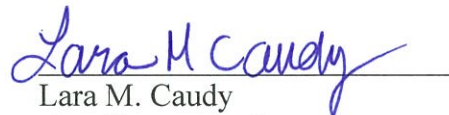
BRYAN AUSTIN SEIDLE,

APPELLANT.

APPELLATE CASE NO. 2020-001485

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the return to motion to submit amended final brief of respondent in the above referenced case has been served upon Joshua E. Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 23rd day of May, 2022.



Lara M. Caudy
Appellate Defender

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ATTORNEY FOR APPELLANT

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Subject: 2020-001485 The State v. Bryan Austin Seidle
Date: Monday, May 23, 2022 1:37:00 PM
Attachments: [2020-001485 - State v. Bryan Seidle - Return to Motion to Submit Amended Final Brief of Respondent.pdf](#)

Attached is a return to motion to submit amended final brief of respondent in the above-referenced case.

Thank you.

Sincerely,
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