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May 23 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County
Honorable R. Markley Dennis, Circuit Court Judge
Appellate Case Tracking No. 2022-000472

The State,

Respondent,

vs.

Bowen Gray Turner,

Respondent,

In re: Victim C.B.,

Appellant.

MOTION TO DISMISS

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

I.

On April 8, 2022, Respondent Bowen Turner pled guilty to assault and battery in the first degree. Appellant, Victim C.B., was Mr. Turner's victim of the charges which resulted in the plea. Appellant has filed a Notice of Appeal from the plea court's denial of several motions filed by Appellant. Bowen Turner has not filed a Notice of Appeal, so the plea and sentence are final.

II.

As this Court has explained:

A victim, as defined in S.C. Code Ann. § 16-3-1510 (Supp.1997), possesses *no* rights in the appellate process. Nothing in our Constitution or statutes provides the "victim" standing to appeal the trial court's order. Additionally, the rights granted by the South Carolina Constitution and statutes are enforceable by a writ of mandamus, rather than direct participation at the trial level.

Reed v. Becka, 333 S.C. 676, 681, 511 S.E.2d 396, 399 (Ct. App. 1999). Accordingly, Appellant, as the victim in the underlying action, cannot bring this appeal through a Notice of Appeal in the original case. As a result, this Court should dismiss the underlying appeal because there is no Constitutional or statutory provision allowing it to be entertained. Any attempt at redress by the Victim would need to be brought in the original jurisdiction of the South Carolina Supreme Court.

III.

The undersigned has consulted with counsel for Bowen Gray Turner and has obtained his consent and concurrence on this motion.

WHEREFORE, Respondent, the State, prays that the Court hold this matter in abeyance until ruling on this motion, and dismiss this appeal because there is no basis to entertain an appeal filed by a Victim in an action; 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: 

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ATTORNEYS FOR RESPONDENT

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PROOF OF SERVICE

I, William M. Blitch, Jr., certify that I have served the Motion to Dismiss on Appellant by emailing Appellant's counsel of record including: Sarah A. Ford, Tamika D. Cannon, and Terri Bailey at their primary email addresses as listed by the Attorney Information System (AIS). Additionally, a copy has been served on Respondent Bowen Gray Turner through his counsel of record, Robert M. Dudek, at his primary email address as provided by AIS.

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

This 23rd day of May, 2022.



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