

No. 11A22

DISTRICT FIVE

SUPREME COURT OF NORTH CAROLINA

STATE OF NORTH CAROLINA)	
)	
v.)	<u>From New Hanover County</u>
)	No. COA21-144
JAQUALYN ROBINSON)	

MOTION TO AMEND PETITION FOR WRIT OF CERTIORARI

Pursuant to Rules 2 and 21 of the North Carolina Rules of Appellate Procedure, the Defendant-Appellant respectfully submits the following:

When Mr. Robinson filed his Petition for Writ of Certiorari on 10 January 2022, this Court had not yet decided *State v. Killette*, No. 379PA18-2 (See Petition at pp 13, 15). This Court issued its opinion in *Killette* on 17 June 2022. 2022-NCSC-80.

In *Killette*, as here, the defendant sought a writ of certiorari to review the denial of his motion to suppress where notice of his intent to appeal was not given prior to the entry of his guilty plea. 2022-NCSC-80 ¶ 7. The Court of Appeals denied Killette's petition and dismissed his appeal, apparently believing it did not have the authority to issue the writ under these circumstances. This Court vacated that decision and

remanded to the Court of Appeals for further consideration. *Id.* at ¶ 14 (“our decisions in *Ledbetter*, *Stubbs*, and *Thomsen* should have made it clear that Court of Appeals possessed jurisdiction and authority to exercise its discretion in reviewing and deciding to allow or deny defendant’s petition”).

The Court of Appeals did not explain its decision to deny Mr. Robinson’s Petition for Writ of Certiorari and dismiss his appeal. (*See* Petition at pp 9-10) To the extent the Court of Appeals’ actions may have been founded in the mistaken belief that they did not have jurisdiction to consider Mr. Robinson’s claims, *Killette* requires that the Court of Appeals’ order be vacated and remanded for reconsideration.

Respectfully submitted this the 27th day of June 2022.

__ Electronically submitted ____
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ATTORNEY FOR DEFENDANT-APPELLEE

CERTIFICATE OF FILING AND SERVICE

I hereby certify that this Motion to Amend Petition for Writ of Certiorari has been filed electronically with the Clerk of the Supreme Court of North Carolina.

I further certify that a copy of the foregoing Motion to Amend Petition for Writ of Certiorari was served on Nicholas Sanders, Assistant Attorney General, N.C. Department of Justice, by electronic means by emailing it to nsanders@ncdoj.gov.

This the 27th day of June 2022.

__ Electronically submitted ____

Sarah Holladay