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Dec 22 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of General Sessions
Donald B. Hocker, Circuit Court Judge

Court of Appeals Case No. 2020-000091

State of South Carolina,

Respondent,

v.

Shi Heme Raquan Price,

Appellant.

APPELLANT'S PETITION FOR REHEARING

Appellant Shi Heme Price ("Price") respectfully petitions the Court for rehearing pursuant to Rule 221(a), SCACR, of Opinion No. 2022-UP-432 (S.C. Ct. App. filed December 7, 2022). This petition is submitted on the grounds that this Court misapprehended that given the facts of this case, Price's guilty plea to voluntary manslaughter did not waive his right to appeal the circuit court's denial of Price's request for immunity pursuant to the Protection of Persons and Property Act. For the reasons set forth below, Price respectfully asks this Court to grant this Petition for Rehearing and reverse the circuit court's denial of immunity to Price.

OVERLOOKED OR MISAPPREHENDED MATTERS

A petition for rehearing shall "state with particularity the points supposed to have been overlooked or misapprehended by the court." Rule 221, SCACR. Accordingly, Price respectfully submits that in affirming the circuit court, this Court overlooked or misapprehended certain material matters as follows:

PRICE SHOULD NOT BE PRECLUDED FROM CHALLENGING THE CIRCUIT COURT'S DENIAL OF IMMUNITY HERE JUST BECAUSE HE PLEADED GUILTY TO VOLUNTARY MANSLAUGHTER.

This Court affirmed the circuit court's denial of immunity to Price based upon his guilty plea. The Court agreed with the State that this plea waived Price's right to challenge the immunity denial based upon State v. Sims, 423 S.C. 397, 814 S.E.2d 632 (Ct. App. 2018).

The Sims court acknowledged the immunity granted by the Act is more than a mere defense because immunity goes to the court's jurisdictional power to hale the defendant into court. Id. at 400, 814 S.E.2d at 633-34. The Court still found the defendant's guilty plea to a lesser charged waived his right to challenge the immunity denial because the denial of immunity was not jurisdictional. Id. The Sims court reasoned the defense must establish the right to immunity from prosecution before that immunity becomes a jurisdictional defect to prosecuting the defendant. Id.

For all the reasons argued in Price's briefs before this Court, the facts establish he was entitled to immunity from prosecution in this case. The circuit court's denial of this right was an error that Price requests this Court reverse. The Supreme Court has not ruled on the question of whether a guilty plea waives a defendant's right to challenge the denial of immunity pursuant to the Protection of Persons and Property Act. Price intends to request that the Supreme Court overrule Sims to the extent necessary to allow Price to have his challenge to the denial of immunity reversed. By not allowing an immediate appeal of a denial of immunity and then not allowing a review of this denial after a guilty plea, the courts put Price and similarly situated defendants in the untenable position of having to face a murder trial despite establishing entitlement to immunity if they want to maintain that right of immunity.

CONCLUSION

WHEREFORE, for the foregoing reasons, Price respectfully asks this Court to grant this Petition for Rehearing and issue a substituted opinion reversing the circuit court's denial of immunity to Price.

Respectfully Submitted,



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This 22nd day of December, 2022.

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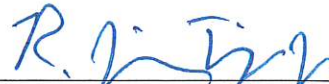
v.

Shi Heme Raquan Price,

Appellant.

Proof of Service

I certify that I have filed and served the Appellant's Petition for Rehearing by e-mailing a copy to the S.C. Court of Appeals at ctappfilings@sccourts.org, to William M. Blicht Jr. at wblitch@scag.gov, to Mark R. Farthing at mfarthing@scag.gov, and to Alan Wilson at awilson@scag.gov. This method of service and filing is based upon Rule 262 and the Supreme Court's order dated May 6, 2022.



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December 22, 2022



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State v. Shi Heme Price, Case No. 2020-000091 -- Appellant's Petition for Rehearing

1 message

Jamison Tinsley <tinslerj@gmail.com>

Thu, Dec 22, 2022 at 12:50 PM

To: Alan Wilson <agwilson@scag.gov>, William Blitch <wblitch@scag.gov>, Mark Farthing <mfarthing@scag.gov>

I have attached a copy of the Appellant's Petition for Rehearing along with a proof of service. I will be filing these documents with the court of appeals shortly. Thanks.

Jamison Tinsley
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 **appellant's petition for rehearing.pdf**
372K

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December 22, 2022

Via e-mail

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Re: State v. Shi Heme Price – Appellant’s Petition for Rehearing
Case No. 2020-000091

Please find attached a copy of Appellant’s Petition for Rehearing in the above-referenced matter along with proof of service. I am serving counsel for Respondent simultaneously via e-mail.

Thank you for your assistance in this matter.

Yours truly,



R. Jamison Tinsley Jr.

cc: Alan Wilson (via awilson@scag.gov)
William M. Blich Jr. (via wblitch@scag.gov)
Mark R. Farthing (via mfarthing@scag.gov)