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**Feb 27 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHEROKEE COUNTY  
Circuit Court

Honorable R. Keith Kelly, Judge

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Trial Court Case No. 2021-CP-11-00609  
Appellate Case No. 2022-000687

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Benjamin Paul Hannon, \_\_\_\_\_, Appellant,

v.

State of South Carolina, \_\_\_\_\_ Respondent.

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**REPLY BRIEF OF APPELLANT**

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- I. **The Circuit Court erred in ruling the Appellant knowingly, intelligently, and voluntarily waived his right to a jury trial.**  
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**I. The Circuit Court erred in ruling the Appellant knowingly, intelligently, and voluntarily waived his right to a jury trial?**

A defendant's waiver of the right to a jury trial must be knowing, voluntary, and intelligent. *Moore v. State*, 399 S.C. 641, 732 S.E.2d 871, 873 (S.C. 2012) (citing *Patton v. United States*, 281 U.S. 276, 50 S.Ct. 253, 74 L.Ed. 854 (1930), *overruled on other grounds by Williams v. Florida*, 399 U.S. 78, 90 S.Ct. 1893, 26 L.Ed.2d 446 (1970)). In order to make a knowing, voluntary, and intelligent waiver the Defendant must have an understanding of what he is waiving. "Knowing" is defined as "having or showing awareness or understanding; well-informed." *Black Law Dictionary* 403 (3<sup>rd</sup> pocket ed.2006).

In Respondent's brief, the State argues the Appellant made a knowing and voluntary waiver of his right to a jury trial after being told he would be found guilty. Based on Respondent's brief, there is no disagreement that if the Appellant made a statement, concerning a jury trial, it was after being told he would be found guilty. The Appellant was not informed of the consequences of waiving his jury trial. He was not informed the burden of proof would be on the State, and if the State failed to meet its burden the jury could find him not guilty. The Court's failure to provide the Appellant with that information made it impossible for Appellant to make a knowing well-informed waiver of his right to a jury trial.

**CONCLUSION**

Based on the foregoing, in addition to the arguments made in the initial brief, the Appellant asks this Honorable Court to grant the relief sought and reverse the judgements on the four UTTs and remand them for a new trial.



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**PROOF OF SERVICE**

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I Certify that I have served the REPLY BRIEF OF APPELLANT on the State of South Carolina by sending a copy of said documents via electronic mail, on February 27, 2023 addressed to:

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I Certify that I have served the REPLY BRIEF OF APPELLANT on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on February 27, 2023 addressed to:

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