

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM HORRY COUNTY  
Benjamin H. Culbertson, Circuit Court Judge

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The State of South Carolina..... Respondent,

v.

Timothy E. Young ..... Appellant.

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MOTION TO RECONSIDER

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**RECEIVED**

JUN 20 2013

**SC Court of Appeals**

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ATTORNEYS FOR APPELLANT

Appellant respectfully requests this Court to reconsider the decision entered in this matter on June 5, 2013. In an unpublished opinion, this Court concluded that the issue Appellant raised on direct appeal was not preserved for appellate review. The Court's decision cites to both State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003) and In re Care & Treatment of Corley, 365 S.C. 252, 258, 616 S.E.2d 441, 444 (Ct. App. 2005) for the proposition that, to be preserved for appellate review, an issue – even of constitutional magnitude – must be raised to and ruled upon by the trial judge.

This Court has previously held that “[a] party need not use the exact name of a legal doctrine in order to preserve it, but it must be clear that the argument has been presented on that ground.” State v. Russell, 345 S.C. 128, 546 S.E.2d 202 (Ct. App. 2001) (emphasis supplied). At a pre-trial hearing, Appellant's trial counsel raised the issue of access to any exculpatory material in a file maintained by a therapist. On appeal Appellant maintained that this request for exculpatory material in that file was brought pursuant to Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 1197 (1963). Appellant further argued that the trial judge erred when he denied Appellant access to the notes in the file based on his conclusion that none of the notes contained in the therapist's file were discoverable, regardless of whether they were of exculpatory value to Appellant.

Though not by name, Appellant raised a Brady issue on the record. See ROA p. 9, lines 16-18. Both on the record and in a written order the trial judge ruled that the notes contained in the file were not subject to discovery. As such, Appellant respectfully submits that the issue he raised on direct appeal is preserved of appellate review and asks this Court to reconsider the merit of his appeal.

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June 18 2013

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In the Court of Appeals

APPEAL FROM HORRY COUNTY  
Benjamin H. Culbertson, Circuit Court Judge

The State of South Carolina..... Respondent,

v.

Timothy E. Young ..... Appellant.

PROOF OF SERVICE

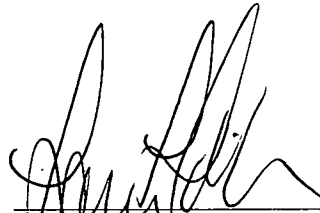
The undersigned attorney hereby certifies that on this, the 18th day of June, 2013, she served a true copy the Appellant's Motion to Reconsider on Julie K. Keeney, Assistant Attorney General, by mailing the same via United States Postal Service Express Mail to the following address with sufficient postage attached:

Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211

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June 18, 2013

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