

STATE OF SOUTH CAROLINA  
In the Supreme Court

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Appeal from Horry County  
The Honorable Steven H. John, Circuit Court Judge

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Opinion No. 2011-UP-343 (S.C. Ct. App. filed 6/29/2011)  
Appellate Case No. 2011-199609

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**S.C. Supreme Court**

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

ERIC DANTZLER,

PETITIONER.

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**BRIEF OF RESPONDENT**

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## TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES .....	ii
STATEMENT OF ISSUE ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
ARGUMENT .....	3
CONCLUSION .....	7

**TABLE OF AUTHORITIES**

**Cases:**

State v. Attardo, 263 S.C. 546, 211 S.E.2d 868 (1975) ..... 5

State v. Brown, 267 S.C. 311, 227 S.E. 2d 674 (1976) ..... 6

State v. Copeland, 321 S.C. 318, 468 S.E.2d 620 (2001) ..... 3

State v. Frazier, 375 S.C. 575, 654 S.E.2d 280 (2007) ..... 3

State v. Grant, 275 S.C. 404, 272 S.E.2d 169 (1980) ..... 5

State v. Halyard, 274 S.C. 397, 264 S.E.2d 841 (1980) ..... 3, 6

State v. Heath, 370 S.C. 326, 635 S.E.2d 18 (2006) ..... 3

State v. Hudson, 277 S.C. 200, 284 S.E.2d 773 (1981) ..... 5, 6

State v. Mercado, 635 A.2d 260 (R.I. 1993) ..... 6

## STATEMENT OF ISSUE ON APPEAL

The Court of Appeals properly affirmed the trial court's denial of Petitioner's directed verdict motion where the State presented evidence supporting that Petitioner was knowingly in constructive possession of the drugs; specifically, that both Petitioner and his girlfriend had been in possession of the vehicle for several months; that the drugs were found in the glove box directly in front of Petitioner's seat; that Petitioner attempted to control the vehicle and its contents by trying to prevent the vehicle from being towed; and that Petitioner ran away at the exact moment the officer opened the glove box and remained on the run for several days.

## STATEMENT OF THE CASE

Petitioner was indicted in May 2008 in Horry County for trafficking in cocaine, 10-28 grams. He was tried, along with co-defendant Maria Rodriguez, on January 5-6, 2009, before the Honorable Steven H. John. The jury found both defendants guilty, and Judge John sentenced Petitioner, as a third-time drug offender, to twenty-five years. A notice of appeal was timely served and filed.

On June 29, 2011, the South Carolina Court of Appeals affirmed Petitioner's conviction in an unpublished opinion. See State v. Dantzler, Op. No. 2011-UP-343 (S.C. Ct.App. filed 6/29/2011). Petitioner's request for rehearing was denied on August 23, 2011. Mr. Dantzler's Petition for Writ of Certiorari was submitted on November 22, 2011, and the State's Return followed on December 22, 2011. This Court granted the Petition for Writ of Certiorari on January 9, 2013. The Brief of Petitioner was filed on May 13, 2013, and this Brief of Respondent follows.

## ARGUMENT

**The Court of Appeals properly affirmed the trial court's denial of Petitioner's directed verdict motion where the State presented evidence supporting that Petitioner was knowingly in constructive possession of the drugs; specifically, that both Petitioner and his girlfriend had been in possession of the vehicle for several months; that the drugs were found in the glove box directly in front of Petitioner's seat; that Petitioner attempted to control the vehicle and its contents by trying to prevent the vehicle from being towed; and that Petitioner ran away at the exact moment the officer opened the glove box and remained on the run for several days.**

In ruling on a motion for directed verdict, the trial judge must view the evidence, and all of its reasonable inferences, in the light most favorable to the State. State v. Frazier, 375 S.C. 575, 581, 654 S.E.2d 280, 283 (2007). The trial court has a duty to deny a directed verdict motion if there is any direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused. State v. Copeland, 321 S.C. 318, 326, 468 S.E.2d 620, 626 (2001). In a drug case, where the State relies upon a theory of constructive possession, the case must be submitted to the jury where the State presents direct or circumstantial evidence that the defendant knew about the presence of the drugs and that he had the right to exercise dominion and control over the drugs. State v. Heath, 370 S.C. 326, 329, 635 S.E.2d 18, 19 (2006). A directed verdict should not be granted even though there is evidence that more than one person had the right to exercise control over the drugs because constructive possession may be shared by two or more persons. See, e.g., State v. Halyard, 274 S.C. 397, 400, 264 S.E.2d 841, 842 (1980); State v. Hudson, 277 S.C. 200, 202, 284 S.E.2d 773, 775 (1981).

The evidence presented in this case established that Petitioner was knowingly in constructive possession of the drugs. Petitioner was the sole passenger in a vehicle driven by his girlfriend. (R. p. 3-4; p. 80; p. 100, lines 10-13). The glove box, which was

directly in front of where Petitioner was sitting in the front passenger seat, contained 12.17 grams of cocaine. (R. p. 55-56; p. 124, lines 21-22; p. 157, lines 9-10). Petitioner's girlfriend was driving because she was the only one of the two with a valid driver's license. (R. p. 4, lines 19-22). However, both Petitioner and his girlfriend had been in possession of that particular vehicle for several months. (R. p. 61-62; p. 68, lines 6-17; p. 109; p. 127, lines 6-9). At the time their car was stopped, the key that opened the glove box was in the ignition, within an arm's reach of Petitioner. (R. p. 100, lines 2-19; p. 126, lines 7-12).

Once the car was lawfully stopped and Petitioner was advised regarding the towing policy, Petitioner attempted to control the disposition of the vehicle by doing everything in his power to prevent the police from towing it. (See R. p. 175, line 22 – p. 176, line 8). He made repeated entreaties to several different police officers who were present, and he also used his cell phone to try to call friends to come and pick up the vehicle. (R. p. 4-5; p. 47-49; p. 63-65; p. 81-82; p. 88-95; p. 103-105; p. 119-29). Petitioner appeared unusually nervous and anxious about officers going into the vehicle. (R. p. 64, lines 1-3; p. 81-82; p. 104-105; p. 119, lines 4-8; p. 125-26).

When Petitioner learned that the car was going to be towed despite his vehement protests, he began "side-stepping" away from the vehicle, creating distance between himself and the officers. (R. p. 6-7; p. 35; p. 48-49; p. 63-64). At the moment the officer performing a routine inventory opened the glove box, Petitioner immediately went into a "full sprint, running," without bothering to retrieve his state identification card back from the officers. (R. p. 7; p. 25; p. 33; p. 35; p. 39-41; p. 50; p. 64, line 10; p. 83; p. 104-105). Petitioner would not have known to run at that precise moment unless he knew that drugs

were in the glove box. (See R. p. 49; p. 63; p. 125-29). Petitioner escaped from the officers chasing him and disappeared for several days. (R. p. 7-8; p. 50-53; p. 64, line 20 – p. 65, line 3; p. 83-88). He later turned himself in to police after hiring a lawyer. (R. p. 73, lines 1-23). Nearly two-thousand dollars in cash was found in Petitioner's girlfriend's purse, which had been in the car with them. (R. p. 13-16). Petitioner's girlfriend was also arrested and charged with trafficking cocaine. (See R. p. 189, lines 6-11).

The evidence described above supports that both Petitioner and his girlfriend were knowingly in constructive possession of the cocaine in the glove box. Petitioner fled the scene at top speed at the exact moment he saw that the officer was opening the glove box, and he remained on the run for several days. His immediate flight clearly illustrated guilty knowledge regarding the drugs inside the glove box. See State v. Attardo, 263 S.C. 546, 550, 211 S.E.2d 868, 869 (1975) (knowledge can be proven by the evidence of acts, declarations, or conduct of the accused from which the inference may be drawn that the accused knew of the existence of the illegal substances); State v. Grant, 275 S.C. 404, 407, 272 S.E.2d 169, 171 (1980) (attempts to run away have always been regarded as some evidence of guilty knowledge and intent).

Further, Petitioner was in constructive possession of the drugs. His efforts to relinquish control of the car to a third party to avoid having the car towed illustrated that he had the *right* to exercise dominion and control of the car and the drugs inside the car. Indeed, the only thing that prevented him from *actually* exercising control over the vehicle was the officers' insistence that the car be towed pursuant to policy. In addition, the drugs were located directly in front of Petitioner's seat in the vehicle, and both

Petitioner and his girlfriend had been in possession of the vehicle for several months. See State v. Hudson, 277 S.C. 200, 202, 284 S.E.2d 773, 775 (1981) (where appellants shared control of the premises, and where appellant apparently fled upon realizing the drugs had been discovered by police, there was sufficient evidence of both knowledge and constructive possession); State v. Brown, 267 S.C. 311, 315-16, 227 S.E. 2d 674, 676-77 (1976) (evidence of dominion and control may be established where the State presents evidence of a special relationship between the passenger and driver or owner of a car in which the drugs were found); cf. State v. Halyard, 274 S.C. 397, 264 S.E.2d 841 (1980) (where there was evidence both the car's occupants had been acting in concert during an armed robbery, there was sufficient evidence of the defendant passenger's right to exercise dominion and control over a shotgun found underneath the driver's seat); cf. also State v. Mercado, 635 A.2d 260 (R.I. 1993) (in a case having similar facts, the Supreme Court of Rhode Island held that evidence established the defendant's constructive possession over heroin found in the trunk of a vehicle in which the defendant was a passenger). Petitioner could have easily exercised actual control over the drugs at any moment by simply obtaining the glove box key from his girlfriend, who was sitting right beside him in the car they had both possessed for a substantial period of time.<sup>1</sup> Therefore, since there was evidence supporting that Petitioner was knowingly in constructive possession of the drugs, the trial court properly denied Petitioner's directed verdict motion.

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<sup>1</sup> The fact that the glove box was locked did not inhibit Petitioner's *right* to exercise dominion and control over the drugs where both the drugs and the key to the glove box were within his immediate reach and Petitioner's girlfriend was the person in possession of the key. See Brown at 315-16, 227 S.E. 2d at 676-77 (discussing a special relationship between the passenger and driver); Hudson at 202, 284 S.E.2d 775 (discussing shared control of the premises).

**CONCLUSION**

For all of the reasons discussed in detail above, this Court should affirm Petitioner's conviction and sentence.

Respectfully submitted,

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**ATTORNEYS FOR RESPONDENT**

July 12, 2013

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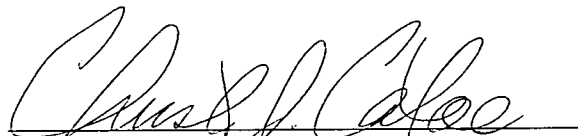
PETITIONER.

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**CERTIFICATE OF SERVICE**

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The undersigned attorney hereby certifies that the **Brief of Respondent** in the above-referenced case has been served upon **KATHRINE H. HUDGINS**, Division of Appellate Defense, South Carolina Commission on Indigent Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589, this **12<sup>th</sup> day of July, 2013**.

  
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