THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Williamsburg County

Honorable Clifton Newman, Circuit Court Judge

Appellate Case No: 2011-185566

THE STATE,

RESPONDENT,

v.

KELVIN MICHAEL BOWEN,

APPELLANT

INITIAL BRIEF OF RESPONDENTS

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APPELLANT'S QUESTION PRESENTED

I. Whether appellant Kelvin Bowen's federal and state due process rights were violated when the trial court admitted eyewitness and co-defendant Antonio McClary's out-of-court identification of Bowen.

STATEMENT OF THE CASE

During the early-morning hours of April 5, 2009, Annette Bradshaw found her 17-year old son, Kenyon Dorsey ("Victim") shot to death in their Williamsburg County home. (Tr. 78, 71, 83). The ensuing investigation lead to the arrest of Antonio McClary, Ronald Mack, Mack's mother, Tawanda Allen, and Allen's boyfriend, appellant, Kelvin Michael Bowen[1] ("Appellant"). (Tr. 283-84, 180). All four individuals were subsequently charged with murder, first degree burglary and criminal conspiracy. #2009-GS-45-0180. Additionally, both Mack and Appellant were charged with possession of a weapon during a violent crime. #2009-GS-45-0180. McClary later pled guilty to second degree burglary (Tr. 254), while Mack pled guilty as indicted. (Tr. 171-72). Allen, who elected to go to trial, was found guilty as charged.[2] (Tr. 209-10). On January 31, 2011, Appellant's case was called to trial before the Honorable Clifton Newman and a jury.[3] (Tr. 1). He was represented by William E. Jenkinson and Amanda Shuler, while the State was represented by Kimberly Barr and Tyler Brown. (Tr. 1). Appellant was later found guilty as charged receiving ninety-nine years on the murder charge, thirty years on the burglary charge, five years on the weapons charge and five years on the criminal conspiracy charge, all to be served consecutively. (Tr. 715-16, 729).

STATEMENT OF THE FACTS

Appellant and Allen left their apartment in Glen Burnie, Maryland on April 4, 2009, driving Allen's Kia sports utility vehicle headed to Kingstree. (Tr. 151-52, 153, 183, 231, 419); (Prelim. 14, 16); State's Ex. 65, Cassette Tape of Ronald Mack. After arriving in Kingstree at

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[1] Appellant is also know by his street name, "Callie" or "Cali," which was based on the fact that he had lived in California at some point in time. (Tr. 597);State's Ex. 65, Cassette Tape of Ronald Mack. Notably, when Appellant was apprehended he produced a California identification card indicating he was from Long Beach. (Tr. 353, 517).

[2] As of the writing of this brief, Allen's appeal is currently pending before this Court. State v. Tawanda Mack Allen, Appellate Case No. 2010-172506.

[3] Judge Newman also presided over Allen's trial and took McClary and Mack's guilty pleas.

approximately 2:00 AM, Allen and Appellant picked up Mack and McClary. (Tr. 263, 265); (Prelim. 17); State's Ex. 65, Cassette Tape of Ronald Mack. The group then drove to the residence Victim shared with his mother, at which point Appellant, Mack and McClary exited the car and entered the residence. (Tr. 265, 268-70); (Prelim. 19); State's Ex. 65, Cassette Tape of Ronald Mack. Once inside the residence, Appellant, who was armed with a shotgun, and Mack, who was armed with a handgun, found Victim asleep in a chair and shot him multiple times. (Tr. 271-72); (Prelim. 20, 27-28, 31); State's Ex. 65, Cassette Tape of Ronald Mack. Victim died as a result of three gunshot wounds and one shotgun blast. (Tr. 485-86); (Prelim. 34). Afterwards, Appellant, Mack and McClary left Victim's residence, got back into Allen's vehicle and fled the scene. (Tr. 273, 279); (Prelim. At 20-21, 29); State's Ex. 65, Cassette Tape of Ronald Mack. Allen and Appellant then dropped Mack and McClary off near a friend's residence in Kingstree before heading back to Maryland with both the handgun and shotgun. (Tr. 281-82); (Prelim. 20-21, 31); State's Ex. 65, Cassette Tape of Ronald Mack.

A. Mack and Victim's Relationship Prior to the Shooting

Both Victim's mother, Annette Bradshaw and Mack would later explain Victim and Mack were previously friends, but had stopped speaking to one another in the month leading up to the shooting. (Tr. 75, 77); State's Ex. 65, Cassette Tape of Ronald Mack. Mack elaborated on this in his May 28, 2009 statement explaining that he and Victim stopped talking to one another because of issues regarding drug money, issues which Mack revealed, lead him to call Appellant and ask for his assistance in killing Victim. (Tr. 231); State's Ex. 65, Cassette Tape of Ronald Mack.

B. Night of the Shooting

On the evening of April 4, 2009, Mack, McClary and two others, Quadir Wilson and Dontrey Barr, spent their evening at a local club known as Club Jordan. (Tr. 135, 145-46). Wilson explained that before the group even made it to Club Jordan, Mack was on his phone and appeared agitated. (Tr. 137). According to Wilson, Mack said he was going to get Victim that night. (Tr. 137). This was corroborated by Barr who added Mack was texting another individual named "Callie" and explained the text messages exchanged between Mack and "Callie" indicated Mack wanted Callie's help in killing Victim. (Tr. 152). Barr further stated he observed Callie's response to Mack which said he was on his way to Kingstree and further informed Mack he would be arriving in Kingstree early that morning.[4] (Tr. 153).

After leaving Club Jordan, the group returned to Barr's residence around 1:30 AM. (Tr. 138, 155). Approximately fifteen minutes later, Mack and McClary, who had changed into darker clothes, left Barr's residence. (Tr. 138, 155-56). When Wilson asked Mack and McClary where they were going, both Mack and McClary told Wilson "don't worry about it." (Tr. 139).

Once Mack and McClary left Barr's residence, Mack called Allen who came and picked them up in a green SUV. (Tr. 263-64). McClary explained that Allen's boyfriend, who he then knew only as "Callie" was initially in the passenger seat, but, once Allen stopped to pick he and Mack up, "Callie" got out of the passenger seat and into the backseat with Mack where they began loading two guns, a nine-millimeter and a shotgun. (Tr. 265-66). McClary testified "Callie" had the shotgun, while Mack had the nine-millimeter. (Tr. 268). According to McClary, both "Callie" and Mack were wearing gloves. (Tr. 270).

Between 10 and 15 minutes later, the group arrived at Victim's residence and entered through the front door, which McClary said, was unlocked. (Tr. 269-70). The group then began searching the residence for Victim, eventually finding him asleep in a chair with the television

[4]Barr also observed a text message from Callie telling Mack to delete the text messages observed by Barr. (Tr. 153).

still on. (Tr. 271-72). After "Callie" asked Mack if Victim was the one sleeping in the chair and Mack confirmed that he was, Mack began shooting Victim and "Callie" followed suit. (Tr. 273). The group then ran out of the house, got into the vehicle and fled. (Tr. 273). According to McClary, Mack sat in the front seat while he and "Callie" sat beside one another in the back seat. (Tr. 277).

As the group was returning to Kingstree, McClary explained Allen and Mack had a normal conversation in the front of the vehicle while "Callie" simply began staring at him and "mean mugging" him. (Tr. 279-80). McClary testified "Callie" had the nine-millimeter wrapped up in his lap while he was doing this and added "Callie" continued to stare at him until he got out of Allen's vehicle in Kingstree. (Tr. 280-81). McClary confirmed the guns used in the shooting were wrapped up and remained in "Callie" and Allen's possession. (Tr. 282).

C. The Investigation

During the State's investigation, McClary admitted his involvement in the shooting and further implicated Allen, Mack and "Callie" leading South Carolina authorities to obtain arrest warrants for Mack and Allen. (Tr. 212-13, 340); (Prelim. 21, 41). However, because McClary was unaware of Callie's real name, South Carolina authorities did not immediately obtain an arrest warrant for him, but instead advised Maryland authorities to be aware that an unidentified male may be accompanying either Mack or Allen and that the unidentified male was a person of interest. (Tr. 365); (Prelim. 21).

South Carolina authorities also contacted Maryland authorities and asked them to obtain a search warrant for Allen's vehicle and the residence Allen shared with Mack, who authorities had learned moved to Maryland in the aftermath of the incident. (Tr. 340, 187); (Prelim. 21-22). On May 18, 2009, Maryland authorities arrested Mack who was a passenger in his mother's

vehicle. (Tr. 195, 377, 180, 188-89). Mack identified the other person driving his mother's vehicle as appellant, Kelvin Bowen. (Tr. 180). However, when describing his arrest, Mack twice slipped up explaining "Callie" was driving his mother's vehicle while he was the passenger. (Tr. 180, 183). Mack added that Maryland authorities took a picture of both himself and Appellant following his arrest.[5] (Tr. 190). The photographs were then e-mailed to South Carolina authorities who, at the time, were in the process of bringing McClary over from the detention center for additional questioning. (Tr. 286-87). When McClary walked into the room to answer additional questions, he noticed the picture of the person he knew as "Callie" on a computer screen and said "ya'll already got Callie." (Tr. 287). In response, authorities asked "you know this guy right here." (Tr. 287). McClary then confirmed that the person in the picture was "Callie" and, as a result, Maryland authorities also arrested Appellant. (Tr. 353, 364).

Following Mack and Appellant's arrest, Maryland authorities also arrested Allen. (Tr. 353). Thereafter, they executed a search warrant at the apartment occupied by Allen, Mack and Appellant finding shotgun shells, a shotgun, nine-millimeter rounds and various paperwork in Allen, Appellant's and Mack's names. (Tr. 345-49); (Prelim. 22-23). Subsequent ballistics testing confirmed that shot shells found at the scene of the shooting were fired by the shotgun found in the apartment occupied by Appellant, Allen and Mack. (Tr. 443).

After Appellant's arrest and extradiction, both Mack and Allen gave statements to authorities on May 28, 2009. (Prelim. 24-29). According to Investigator Jean Lail's testimony during the preliminary hearing, Allen's statement explained that Mack had contacted Appellant,

[5] During further questioning Mack was asked what Callie did with the shotgun used in the shooting. (Tr. 191). In response, Mack said he didn't know. (Tr. 191). Immediately thereafter, Mack was asked, "[w]here is he from, by the way?" to which Mack responded, "California." Continuing, the State asked, "what do you call him?" to which Mack twice responded, "Kelvin." (Tr. 191).

who she said was also known as "Callie," requesting his assistance in taking care of an issue with Victim. (Prelim. 24). Specifically, Allen's statement revealed that she drove Appellant to Kingstree in order to help Mack kill Victim. (Prelim. 26). Lail's testimony further showed that after Appellant and Mack shot and killed Victim, they dropped Mack and McClary off, then returned to Maryland with the weapons used in the shooting. (Prelim. 29).

Similarly, Mack's statement, which was taken immediately after his mother's, indicated "Callie" was Appellant and further established Mack and Appellant shot Victim over drug money. State's Ex. 65, Cassette Tape of Ronald Mack. Specifically, Mack's statement, much like Allen's statement and McClary's testimony, detailed that Mack asked Appellant to help him kill Victim at which point Allen and Appellant drove down from Maryland, met up with Mack and McClary, and helped Mack kill Victim. State's Ex. 65, Cassette Tape of Ronald Mack. Like Allen's statement and McClary's testimony, Mack's statement confirmed Allen and Appellant dropped Mack off immediately after killing Victim and returned to Maryland. State's Ex. 65, Cassette Tape of Ronald Mack. Mack's statement further corroborated Allen's statement and McClary's testimony suggesting the guns used in the shooting were Appellant's. State's Ex. 65, Cassette Tape of Ronald Mack.

PRESENTATION OF ISSUE AT TRIAL

Prior to trial, defense counsel sought to suppress McClary's eyewitness identification citing to Neil v. Biggers, 409 U.S. 188 (1972). (ID. 24-28). Specifically, defense counsel, who later called Lail to the stand, argued the identification procedure was unnecessarily suggestive because it purportedly amounted to a single-person show-up and further maintained the identification may be inadmissible under the circumstances. (ID. 27-28).

Ruling on the issue, the trial court determined there was "no indication of any unduly suggestive identification by the State." (ID. 38-39). Accordingly, Appellant's motion was denied. (Tr. 38-39).

During the State's case-in-chief, the State called McClary to testify, *inter alia*, about the identification process. (Tr. 285). Specifically, McClary explained he was brought over to Lail's office to answer "some more questions" when, upon walking into her office, he observed a photograph on Lail's computer and spontaneously stated "ya'll already got Callie." (Tr. 287). Responding to McClary's spontaneous statement, authorities asked McCalry if he knew the person displayed on Lail's computer screen. (Tr. 287). McClary then confirmed the person on the screen was "Callie." (Tr. 288). Following this statement, defense counsel renewed his previous objection regarding the identification procedure. (Tr. 288). Thereafter, McClary made an in-court identification confirming Appellant was in fact the person he knew as "Callie" who had shot Victim with a shotgun. (Tr. 289).

STANDARD OF REVIEW

In criminal cases, appellate courts sit only to review errors of law. State v. Liverman, 398 S.C. 130, 137-38, 727 S.E.2d 422, 425 (2012) (citing State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006)). The question of whether an eyewitness identification is sufficiently reliable amounts to a mixed question of law and fact. Liverman, 398 S.C. at 137-38, 367 S.E.2d at 425 (citing State v. Moore, 343 S.C. 282, 288, 540 S.E.2d 445, 448 (2000)). When reviewing mixed questions of law and fact, where the evidence supports but one reasonable inference, the question becomes a matter of law for the court. Liverman, 398 S.C. at 138, 367 S.E.2d at 425; Moore, 343 S.C. at 288, 540 S.E.2d at 448. "Generally, the decision to admit an eyewitness identification is at the trial judge's discretion and will not be disturbed on appeal absent an abuse

of discretion." Liverman, 398 S.C. at 138, 367 S.E.2d at 425; Moore, 343 S.C. at 288, 540 S.E.2d at 448.

ARGUMENT

I. The trial court correctly determined the identification procedure at issue was not unduly suggestive since the record establishes McClary's identification of Appellant was an unprompted, spontaneous statement made in response to seeing a photograph which he immediately recognized as "Callie," his co-defendant in the incident now at issue

Appellant maintains the trial court erred in finding the identification procedure at issue failed the first prong of Biggers arguing the procedure was "inherently unreliable and unduly suggestive." Br. of App. at 16. Appellant further suggests that had the trial court engaged in the next prong of a Biggers analysis, it would have concluded McClary's identification was unreliable. Br. of App. at 17. Quite simply, the State disagrees as the process utilized here, was not a true "show-up" as Appellant contends, but is instead merely a confirmatory process in light of the fact McClary already knew Appellant, albeit by his nickname, based upon the fact the two had met before when they participated in Victim's murder. See Liverman, 398 S.C. at 141-42, 727 S.E.2d at 427-28 ("The suggestive nature of a show-up is mitigated by the witness's prior knowledge of the accused. We concur with those jurisdictions that consider the show-up identification procedure, normally considered unduly suggestive, as merely confirmatory.").

The Supreme Court has outlined a two-step approach to determine the admissibility of eyewitness identification testimony. First, the defendant must prove that the identification procedure was impermissibly suggestive. Holdren v. Legursky, 16 F.3d 57, 61 (4th Cir.1994) (citing Manson v. Brathwaite, 432 U.S. 98, 114 (1977)). Second, even if the defendant proves that the identification procedure was suggestive, an identification is still valid if it is reliable. Brathwaite, 432 U.S. at 114; Biggers, 409 U.S. at 188.

"[T]he factors to be considered in evaluating the likelihood of misidentification include the opportunity of the witness to view the criminal at the time of the crime, the witness' degree of attention, the accuracy of the witness' prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation, and the length of time between the crime and the confrontation." Biggers, at 199-200. "Reliability of the eyewitness identification is the linchpin." Perry v. New Hampshire, 132 S.Ct. 716, 718-19 (2012) (internal quotations omitted).

A. The Identification Procedure is not Unduly Suggestive

Appellant maintains that despite the mandate of Biggers, which requires courts to determine whether a given procedure is impermissibly suggestive on a case-by-case basis, South Carolina's appellate courts have found certain identification procedures patently suggestive. In particular, Appellant notes that in State v. Traylor, 360 S.C. 74, 600 S.E.2d 523 (2004) our Supreme Court found a procedure in which three victims were put in the same room, within several feet of one another and received the same line-up with names written on the back was "patently suggestive." Appellant further cites to Moore as another case in which an identification procedure, in this case a "show-up" was held to be suggestive.

In response, the State simply notes that a review of the facts and circumstances surrounding the identification procedure utilized here clearly shows that unlike both Traylor, a photo lineup case and Moore, a show-up case in which the witness based her identification off of the clothing worn by the defendant, the trial court correctly concluded the identification process utilized was not unduly suggestive.

With respect to the issue of whether an identification procedure is impermissibly suggestive, due process mandates that such a determination be assessed "on a case-by-case basis[.]" Liverman, 398 S.C. at 139, 727 S.E.2d at 426 (citing Biggers, 409 U.S. at 198).

Additionally, "[t]he fallibility of eyewitness evidence does not, without the taint of improper state conduct, warrant a due process rule requiring a trial court to screen such evidence for reliability before allowing the jury to assess its creditworthiness." Biggers, 408 U.S. at 196-97. Moreover, the exclusion of identification evidence is a "drastic sanction" which is "limited to identification testimony which is manifestly suspect." Harker v. Maryland, 800 F.2d 437, 443 (4th Cir. 1986).

Here, to the extent one can even consider the process utilized as being a true identification procedure created by the state, there is nothing to suggest such a procedure was unduly suggestive. Notably, a review of the identification hearing shows that Lail never told McClary he was coming to the station for anything other than a second interview. (ID. 29-38). In fact, Lail testified it was only as McClary was coming over to her office for a second interview, that she even received an e-mail from Maryland authorities explaining that they had arrested Mack and were detaining another person who was yet to be identified. (Prelim. 22, 41-44). This was corroborated by officer Justin Whack who confirmed McClary was not being taken to the station to view a photograph, but was instead being taken to an interview room for an interview when he happened to observe the photograph which he spontaneously recognized was "Callie." (Tr. 548-49). Whack elaborated on this explaining that not only was McClary not there for the purpose of making an identification, but added that authorities never even showed McClary the photograph, testimony which of course confirmed Lail's testimony from the identification hearing. (Tr. 553); (ID. 33). Indeed, outside of McClary's statement in cross-examination, a statement which is inconsistent with his testimony on direct, there is simply nothing in the record to suggest that McClary was brought to the station for the purpose of making an identification. As such, there is simply nothing showing McClary's spontaneous

recognition of "Callie" amounted to an impermissibly suggestive identification procedure similar to those utilized in Traylor, Moore or any other case.

B. The Identification is Reliable

Yet even assuming one determines McClary's spontaneous recognition of "Callie" is an identification procedure and further assuming such a procedure is impermissibly suggestive, the totality of the circumstances still support the admission of McClary's alleged identification. As detailed above, "the factors to be considered in evaluating the likelihood of misidentification include the opportunity of the witness to view the criminal at the time of the crime, the witness' degree of attention, the accuracy of the witness' prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation, and the length of time between the crime and the confrontation." Biggers, at 199-200. "Reliability of the eyewitness identification is the linchpin." Perry, 132 S.Ct. at 718-19 (internal quotations omitted).

Applying, the factors from Biggers the State first notes McClary had approximately an hour to observe "Callie" in a variety of different lighting environments and for a prolonged period of time. Moreover, in light of the circumstances, namely that the group understood it was going to be carrying out a murder, McClary, despite saying he was initially in the "clubbing" state of mind, clearly focused on the situation at hand noting that he covered his face to prevent being identified by a potential victim and was the first person to find and identify Victim. Additionally, in the aftermath of the incident McClary's testimony shows he was very focused on the fact that "Callie" was staring him down, explaining that he looked on as "Callie" "mean mugged" him.

Furthermore, even if one, for purposes of discussion believed Appellant's subjective argument regarding the perceived accuracy of McClary's identification, the fact that McClary,

without any prompting whatsoever, immediately told authorities the photograph was "Callie" obviously enhances the reliability of the identification as a whole. Indeed, this was noted by the Liverman Court who recently explained "the fact that an identification witness knows the accused remains a significant factor in determining reliability." 398 S.C. at 141, 727 S.E.2d at 427. Indeed, the record clearly reflects McClary knew "Callie" not by his haircut or his build, but instead because of his face, something which was made quite apparent by his spontaneous recognition of "Callie" from simply encountering a photograph as he was making his way to an interview. Accordingly, the State submits that when considering reliability is the linchpin under Perry, and in light of the fact that exclusion of identification evidence is a "drastic sanction . . . limited to identification testimony which is manifestly suspect" pursuant to Harker, the State maintains the trial court correctly admitted McClary's testimony regarding his spontaneous recognition of "Callie."

II. Even if the Trial Court Erred in Admitting McClary's Spontaneous Recognition of "Callie" and Error is Harmless

The State submits that even if the trial court erred in admitting McClary's spontaneous recognition of Appellant's photograph as being "Callie," any error is harmless. "A harmless error analysis is contextual and specific to the circumstances of the case." State v. Byers, 392 S.C. 438, 448–49, 710 S.E.2d 55, 60 (2011). Indeed, no definite rule of law governs a finding of harmless error; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case. State v. Reeves, 301 S.C. 191, 193–94, 391 S.E.2d 241, 243 (1990). Thus, when determining whether error is harmless, a case's particular facts must be considered along with various factors including: "the importance of the witness' testimony in the prosecution's case, whether the testimony was cumulative, the presence or absence of evidence corroborating or contradicting the testimony of the witness on material points, the extent of

cross-examination otherwise permitted, and, of course, the overall strength of the prosecution's case." State v. Clark, 315 S.C. 478, 481, 445 S.E.2d 633, 635 (1994) (quoting Delaware v. Van Arsdall, 475 U.S. 673, 684 (1986)).

Here, because McClary's identification was cumulative to Mack's statement identifying Appellant as "Callie" in addition to his testimony on cross-examination that Appellant was "Callie," any error was harmless. Specifically, a review of Mack's statement firmly establishes that Appellant is "Callie." Additionally, because Mack, despite not cooperating, twice slipped up explaining "Callie" was driving his mother's vehicle when both he and Appellant were arrested, any error is harmless. (Tr. 180, 183). Indeed, it is clear the jury's decision to convict Appellant was largely based upon Mack's statement since it was the only exhibit that was replayed for the jury. In light of these facts, the State submits that were this Court to find the trial court erred in admitting McClary's spontaneous recognition of "Callie" any error is necessarily harmless.

CONCLUSION

For the aforementioned reasons, the State respectfully asks this Court to affirm Appellant's convictions and sentences.

Respectfully Submitted,

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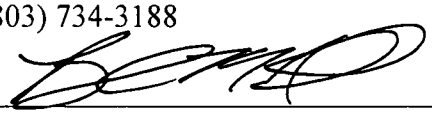

Brendan J. McDonald
ATTORNEY(S) FOR RESPONDENTS

July 15, 2013.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Clifton Newman, Circuit Court Judge

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THE STATE,

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DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Respondent agrees with Appellant's proposal regarding the designation of matter on appeal and further requests the following:

(1) Tr. Pages 2-15; 55-169; 210; 213-16; 339-521; 530-586; 629-714; 727-28;

(2) State's Ex. 56-59 Photos from Search of Apartment;

(3) State's Ex. 61-62 Documentation Re: Appellant;

(4) State's Ex. 64, Appellant's Driver's License Reinstatement;

(5) State's Ex. 65, Cassette Tape of Ronald Mack;

I certify that this designation contains no matter that is irrelevant to this appeal.

Respectfully Submitted,

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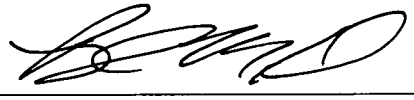

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THE STATE,

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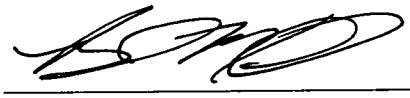
PROOF OF SERVICE

I, Brendan McDonald, counsel for the Respondent, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two (2) copies of the same in the United States mail, first class, postage prepaid, addressed to his attorney of record Susan B. Hackett at:

SCCID/Division of Appellate Defense
1330 Lady St. Suite #401
Columbia, SC 29201-3332

I further certify that all parties required by Rule to be served have been served.

This fifteenth day of July, 2013.



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ALAN WILSON
ATTORNEY GENERAL

July 15, 2013

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Kelvin Michael Bowen
Appeal from Williamsburg County
Appellate Case No.: 2011-185566

Dear Ms. Kitchings:

Enclosed please find the original plus one (1) copy of the ***Initial Brief of Respondent and Designation of Matter***, dated, along with proof of service, in the above-referenced case.

Thank you for your cooperation in this matter.

Sincerely,

Brendan J. McDonald
Assistant Attorney General

BJM/mv

cc: Susan B. Hackett, Appellate Defender
The Honorable Ernest A. Finney, III, Third Circuit Solicitor
Sandi Wofford, Victim Services