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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

December 6, 2023

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

RE: Earnest Maurice Allen v. State of South Carolina
Appellate Case No. 2019-002056

Dear Ms. Kitchings:

Yesterday, this Court held an oral argument in the above-referenced criminal appeal. Pursuant to Rule 208(b)(7) of the South Carolina Appellate Court Rules, the State seeks to provide the Court with a supplemental citation to a case referenced by the State during the oral argument based on the belief the citation will be relevant and helpful to the Court in resolving the appeal. Specifically, the State believes the following citation may be relevant to the second issue raised on appeal: State v. Price, 400 S.C. 110, 732 S.E.2d 652 (Ct. App. 2012), (finding in an ABWIK case, no Belcher violation resulted from the presentation of a jury instruction on inferring malice from the use of a deadly weapon even though the jury was, in fact, instructed on the lesser-included offense of ABHAN because there was no evidence actually presented during trial supporting the ABHAN charge and, thus, “no evidence that could reduce, mitigate, excuse, or justify” the crime), cert. dismissed as improvidently granted, 411 S.C. 92 767 S.E.2d 202, overruled on other grounds by State v. Burdette, 427 S.C. 490, 832 S.E.2d 575 (2019)

Sincerely,

Andrew D. Powell

Staff Attorney

S.C. Bar Number 106415

ADP/

cc: Kathrine H. Hudgins, Esquire
Victim Advocacy Division

Andrew Powell

From: Andrew Powell
Sent: Wednesday, December 6, 2023 3:04 PM
To: khudgins@sccid.sc.gov; cstock@sccid.sc.gov
Subject: State v. Earnest Allen (2019-002056)
Attachments: ALLEN Earnest - Supplemental Citation Letter (03452444xD2C78).pdf

Good Afternoon Ms. Hudgins and Mr. Stock,

Attached please find a copy of a supplemental citation letter in The State v. Earnest Allen (2019-002056). This letter will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to this email to confirm receipt.

Thank you,

Andrew Powell,
Staff Attorney
South Carolina Attorney General's Office
Criminal Appeals
scag.gov



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