

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Oct 15 2024

S.C. SUPREME COURT

—————
Certiorari to the Court of Appeals
On Appeal from Pickens County
Honorable Donald Hocker, Circuit Court Judge

BRANDON CLARK,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

Appellate Case No. 2023-000641

—————
MOTION TO ARGUE AGAINST PRECEDENT
—————

1. The present case is scheduled for oral argument before this court on October 30, 2024. It involves three issues, including whether this Court should revisit its error preservation rules to provide for an exception where, as here, errors are so plain and so harmful that to delay their correction to collateral review would be unjust and wasteful of judicial resources.
2. Appellant now moves, pursuant to Rule 217 of the South Carolina Rules of Appellate procedure, to argue against the precedent in South Carolina rejecting “plain error” review. As noted in *State v. Sheppard*, 391 S.C. 415, 421 (S.C. 2011), this Court “has routinely held the plain error rule does not apply in South Carolina state courts.” The Court first expressly rejected plain error review in

State v. Vanderbilt, 287 S.C. 597 (1986) and eliminated the only exception, the corollary *in favorem vitae* review in capital cases, in *State v. Torrance*, 305 S.C. 45 (1991).

3. Appellant now asks this Court to consider the adoption of plain error review, where unpreserved errors are susceptible to direct appellate review where the errors are so plain and so harmful that to delay their correction to collateral review would be unjust and wasteful of judicial resources. This is in keeping with the law and practice of the federal courts, as outlined in *U.S. v. Olano*, 507 U.S. 725 (1993)(following Fed. R. Crim. Pr. 52(b)).

WHEREFORE, appellant moves to argue against *State v. Vanderbilt*, *State v. Sheppard*, *State v. Torrance*, and any other precedential opinion which holds that the State of South Carolina rejects the doctrine of plain error review in criminal cases.

Respectfully submitted,

/s/ Cameron Jane Blazer

Cameron Jane Blazer
Ninth Circuit Public Defender
Attorney for Petitioner Brandon Clark

This 15th Day of October, 2024.