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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2022-001441

The State, ...Respondent,

v.

Deshawn Chazz Hurley,.....Appellant.

SUPPLEMENTAL RECORD ON APPEAL

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THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF GREENWOOD	)	
	)	Case No.
THE STATE,	)	2020-GS-24-01062, 01063, 01064;
Plaintiff,	)	2021-GS-24-00382, 00383, 00384;
	)	2021-GS-24-01230, 01231, 01232;
vs.	)	2021-GS-24-01695, 01696, 01715;
	)	& 2022-GS-24-01153, 01154.
Narkevious Reid, Xayvion Hill, and Dashawn Chazz Hurley,	)	**Joint**
Defendants.	)	**Motion for New Trial or, in the Alternative, Motion to Reconsider Sentence**

Pursuant to S.C. Code Ann. § 17-23-110[1] and Rule 29, SCRCrimP, Narkevious Reid, Xayvion Hill, and Dashawn Chazz Hurley move this Court to issue an order granting a new trial on the charges of attempted murder and criminal conspiracy. Mr. Hill also moves for a ne trial on the charge of possession of a firearm during the commission of a violent crime. Alternatively, Mr. Reid, Mr. Hill, and Mr. Hurley move this Court to reconsider the sentence. This Court should convene a hearing to further develop the record regarding the matters set forth in this pleading.

I. INTRODUCTION.

In this case, the State alleged Narkevious Reid, Xayvion Hill, Chazz Hurley, and Trivoriaye Alston conspired to murder Gabriel Dion Goode and Justin Deaundrea Parks, on April 8, 2020, in retaliation for Jitavius Adams killing Jakevius Parker several weeks earlier. Under the State's theory, Mr. Hill and Mr. Alston shot and injured Mr. Goode and Mr. Parks. The State alleged Mr. Hill shot and killed Mr. Alston and shot himself while "holstering" his weapon in his waistband. The State further alleged Mr. Reid was present during the shooting and Mr. Hurley was the

[1] S.C. Code Ann. § 17-23-110 provides, "All the circuit courts of this State shall have power to grant new trials in cases in which there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law of the United States."

getaway driver. The State charged Mr. Reid, Mr. Hill, and Mr. Hurley with murder under a theory of transferred intent.[2]

The State began disclosing the retaliation theory of the case and supporting evidence on August 4, 2022—just eleven day before the date-certain trial—and continued disclosing supporting evidence up to and after the beginning of the jury trial.

In a seven-day jury trial, the State presented direct evidence of the shootings but failed to produce any direct evidence supporting the guilt of the accused, instead relying exclusively on circumstantial evidence. Mr. Hill exercised his right to remain silent. Mr. Reid and Mr. Hurley testified and explained they met at the Garden Glen Apartments and thereafter gave Mr. Alston a ride to the hospital, after coming upon Mr. Alston at the Gardens on Parkway Apartments after he had been shot.

After being instructed on transferred intent, the jurors acquitted Mr. Reid, Mr. Hill, and Mr. Hurley of murder but convicted them of attempted murder and criminal conspiracy. Regarding the charge of possession of a firearm during the commission of a violent crime, this Court directed a verdict of acquittal for Mr. Hurley, and the jurors acquitted Mr. Reid but convicted Mr. Hill. In reaching their verdicts, the jurors found that Mr. Reid was not present during the shooting, and none of the accused shot and killed Mr. Alston. For the reasons discussed below, this Court should order a new trial.

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[2] During pre-trial motions, the State expressly denied reliance on the "so-called felony murder rule." Credit for the term "so-called felony murder rule" belongs to Justice Bussey. *State v. Holland*, 261 S.C. 488, 505, 201 S.E.2d 118, 127 (1973) (Bussey, J., dissenting).

II. PROCEDURAL HISTORY.

For an incident occurring on April 8, 2020, the State of South Carolina charged Narkevious Reid,[3] Xayvion Hill,[4] and Chazz Hurley[5] with attempted murder of Gabriel Dion Goode and Justin Deaundrea Parks, criminal conspiracy, and possession of a firearm during the commission of a violent crime.

On September 21, 2021, the State indicted Mr. Reid,[6] Mr. Hill,[7] and Mr. Hurley[8] for the murder of Trivoriaye Alston.

From August 15-24, 2022, the State tried Mr. Reid, Mr. Hill, and Mr. Hurley before this Court and a jury. On Friday, August 19, 2022, at the close of the State's case, Mr. Reid, Mr. Hill, and Mr. Hurley moved for directed verdicts, arguing the State has not presented substantial circumstantial evidence of their guilt. On Sunday, August 21, 2022, this Court announced its inclination to deny the directed verdict motions, except for granting the motion as to Mr. Hurley on the charge of possession of a firearm during the commission of violent crime. On Tuesday, August 23, 2022, following additional arguments on the directed verdict motions, this Court denied the directed verdict motions, except for granting the motion as to Mr. Hurley on the charge of

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[3] Arrest Warrant No. 2020-A24-102-00377, 00378, 00379; Indictment No. 2021-GS-24-00382, 00383, 00384, 2022-GS-24-01153.

[4] Arrest Warrant No. 2020-A24-102-00380, 00381, 00382; Indictment No. 2021-GS-24-01230, 01231, 01232.

[5] Arrest Warrant No. 2020-A24-102-00383, 00384, 00385; Indictment No. 2020-GS-24-01062, 01063, 01064, 2022-GS-24-01154.

[6] Indictment No. 2021-GS-24-01705.

[7] Indictment No. 2021-GS-24-01695.

[8] Indictment No. 2021-GS-24-01696.

possession of a firearm during the commission of violent crime. Mr. Reid, Mr. Hill, and Mr. Hurley renewed their directed verdict motions at the close of all evidence.

On Wednesday, August 24, 2022, this Court instructed the jurors about the law applicable to this case. The jury instructions included circumstantial evidence, accomplice liability, and transferred intent. After over seven hours of deliberations, the jurors acquitted Mr. Reid, Mr. Hill, and Mr. Hurley of murder but convicted them of attempted murder and criminal conspiracy. Regarding the charge of possession of a firearm during the commission of a violent crime, the jurors acquitted Mr. Reid and convicted Mr. Hill.

This Court sentenced Mr. Reid to concurrent sentences of eighteen years for attempted murder and five years for criminal conspiracy.

This Court sentenced Mr. Hill to concurrent sentences of ten years for attempted murder, five years for criminal conspiracy, and five years for possession of a firearm during the commission of a violent crime.

This Court sentenced Mr. Hurley to concurrent sentences of ten years for attempted murder and five years for criminal conspiracy.

This motion for a new trial follows.[9]

III. FACTUAL BACKGROUND.

For the purpose of deciding this motion, this Court must accept the following facts as true based on the evidence presented at trial and the verdicts of the jurors:

1. The State did not present any evidence that Mr. Goode or Mr. Parks knew the three accused. The State did not even question Mr. Goode and Mr. Parks about knowing Mr. Reid, Mr. Hurley, or Mr. Hurley.

[9] Ten days following imposition of the sentence fell on Saturday, September 3, 2022. The deadline for filing this motion rolled over to Tuesday, September 6, 2022, because of the Labor Day Holiday.

2. The State did not present any evidence that the three accused knew Mr. Goode or Mr. Parks. The State did not even question Mr. Reid or Mr. Hurley about knowing Mr. Goode and Mr. Parks.

3. Although there was evidence Mr. Reid, Mr. Hill, Mr. Hurley, and Mr. Alston knew each other, the State failed to produce any evidence that all four were ever present at the same time, including on April 8, 2020.

4. When Laurel Bollinger's mother called 911, she reported hearing twenty gunshots.

5. Jameel Wilson testified he saw three people in a black car—two in the back seat and one in the front seat. Mr. Wilson was wrong when he claimed to hear only nine gunshots.

6. Stephanie Moss testified she saw three people in a black car—two in the front seat and one in the back seat.

7. Mr. Hill suffered a gunshot wound, but the State failed to present any evidence of the location where Mr. Hill was when he suffered the gunshot wound.

8. Charles "Bill" Hawthorne picked up Mr. Hill at the Gardens at Parkway Apartments and drove him to the hospital.

9. Mr. Reid and Mr. Hurley drove Mr. Alston to the hospital.

10. The gunshot residue ("GSR") evidence could not assist the trier of fact.

11. No DNA of Mr. Reid, Mr. Hill, or Mr. Hurley was found on any of the firearms introduced into evidence.

12. Mr. Hill did not shoot Mr. Alston because the jurors acquitted him of murder after this Court instructed transferred intent.

13. Mr. Reid was not present at the scene of the shootings because the jurors acquitted him of possession of a firearm during the commission of a violent crime.

14. Mr. Hurley was not at the scene of the shootings, as a matter of law, because this Court directed a verdict of acquittal of possession of a firearm during the commission of a violent crime.

IV. ARGUMENTS IN SUPPORT OF GRANTING A NEW TRIAL.

This Court should order a new trial based on one or more of the following grounds.

A. This Court erred by failing to require the State to produce a copy of the Greenwood Police Department "Gang Book," that was disclosed for the first time during pre-trial motions, when the "Gang Book" was material to both guilt-or-innocence and sentencing.

The charges in this case arose out of an April 8, 2020 incident. Over two years later, on April 15, 2022, the Honorable Donald B. Hocker, in his capacity as Chief Administrative Judge for General Sessions Court in the Eighth Judicial Circuit, set this case for a date-certain trial on August 15, 2022. Beginning on August 4, 2022—just eleven days prior to trial—and continuing after the start of the trial, the State began producing evidence supporting the prosecution theory that Narkevious Reid, Xayvion Hill, Chazz Hurley, and Trivoriaye Alston conspired to murder Gabriel Dion Goode and Justin Deaundrea Parks, as a criminal gang[10] retaliation, for Jitavius Adams killing Jakevius Parker, several weeks earlier, in a criminal gang related incident.

Mr. Reid, Mr. Hill, and Mr. Hurley moved to exclude any evidence that they, Mr. Alston, Mr. Goode, Mr. Parks, Mr. Adams, and Mr. Parker might have gang affiliations, and this Court convened a full day in camera hearing on Monday, August 15, 2022. The State relied on *State v. Johnson*, 433 S.C. 550, 860 S.E.2d 696 (Ct. App. 2021), affirming the introduction of gang related evidence to prove motive under Rule 404(b), SCRE and *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923). This Court immediately recognized the cautionary statement in *Johnson*: "Evidence of gang affiliation demands careful handling because of its power to distract the fact finder from its rational task of deciding the facts from objective evidence, luring their attention to the lurid, raising the risk that they will decide the case on an improper or subjective (often an unduly emotional) basis." 433 S.C. at 559, 860 S.E.2d at 701. Mr. Reid, Mr. Hill, and Mr. Hurley pointed out a critical distinction between *Johnson* and the case at bar. In *Johnson*, the prosecution presented direct

[10] *See* the "Criminal Gang Prevention Act," S.C. Code Ann. § 16-8-210, *et. seq.*

evidence of the accused's motive and leadership in the gang from members of the accused's gang who testified at trial. Mr. Reid, Mr. Hill, and Mr. Hurley also pointed this Court to *State v. Price*, 368 S.C. 494, 629 S.E.2d 363 (2006), excluding gang expert testimony based on hearsay.

During the hearing, the State called Officer Matt Blackwell, who at times has been the Greenwood Police Department's gang officer. At the time of his testimony, Officer Blackwell's login credentials to the SLED gang database had expired. In a "Hooveresque" manner, Officer Blackwell maintains files on citizens of Greenwood. Relying on his files, Officer Blackwell drew connections between Mr. Reid, Mr. Hill, Mr. Hurley, Mr. Alston, and Mr. Parker. Officer Blackwell drew connections between Mr. Goode, Mr. Parks, and Mr. Adams. Officer Blackwell, however, never drew a connection between the two groups. Officer Blackwell also testified about the SLED gang database. He claimed Mr. Reid was entered into the SLED Gang database, but he never produced any records from the database. He acknowledged that Mr. Hill, Mr. Hurley, and Mr. Auston are not entered into the SLED gang database. In fact, Officer Blackwell did not prepare a worksheet for entering Mr. Hill, Mr. Hurley, and Mr. Alston into the SLED gang database until after the Solicitor's Office contacted him during the eleven days prior to trial to obtain information supporting the prosecution's previously undisclosed theory of the case.

During his pre-trial testimony, Officer Blackwell testified about a Gang Book that he prepares for local law enforcement. Mr. Reid, Mr. Hill, and Mr. Hurley moved for the Court to require the State to produce a copy of the Gang Book. Although Officer Blackwell did not have a copy of the Gang Book with him at the courthouse, he could have obtained a copy from his office in the Police Department in an adjacent building. This Court denied the motion to produce the Gang Book.

This Court qualified Officer Blackwell as an expert in gangs for the purposes of the pre-trial hearing. *See* Rule 702, SCRE. This Court found the State proved, by a preponderance of the evidence, Mr. Reid, Mr. Hill, Mr. Hurley, and Mr. Alston are members of a gang; however, this Court also found the prosecution failed to prove these individuals' gang affiliation by clear and convincing evidence. *Johnson*, 433 S.C. at 556, 860 S.E.2d at 699 ("If the prior bad act did not result in a criminal conviction, the State also bears the burden of proving the prior bad act by clear and convincing evidence.") (citing *State v. Smith*, 300 S.C. 216, 218, 387 S.E.2d 245, 247 (1989)). Although this Court excluded evidence of gang affiliation during the trial, this Court considered evidence of gang affiliation during sentencing.

This Court erred as a matter of law by failing to require the State to produce a copy of the gang book. This Court unquestionably had the authority to require the prosecution to produce a copy of the Gang Book. *See, e.g., State v. Hughes*, 346 S.C. 339, 552 S.E.2d 35 (Ct. App. 2001) (trial court had the authority and discretion to require production of notes used by expert witness to refresh her memory prior to trial). Mr. Reid, Mr. Hill, and Mr. Hurley have a due process right for the State to disclose materials necessary for preparation of a defense. *See, e.g., Kyles v. Whitley*, 514 U.S. 419, (1995), *Brady v. Maryland*, 373 U.S. 83, (1963), *Roviaro v. U.S.*, 353 U.S. 53 (1957), and *Riddle v. Ozmint*, 369 S.C. 39, 631 S.E.2d 70 (2006). Rule 5, SCRCrimP, is our state's mechanism for the prosecution complying with its due process obligation. Rule 5(1)(1)(C) specifically requires the State to disclose materials "which are material to the preparation of his defense or are intended for use by the prosecution as evidence in chief at the trial."

Because this Court erred by failing to require the State to produce the Gang Book, this Court should order a new trial and require disclosure.

B. This Court erred by failing to suppress evidence disclosed by the State for the first time in the eleven days leading up to this date-certain jury trial (scheduled on April 14, 2022) and after the jury trial started, when that discovery disclosed the State's theory of the case for the first time and was necessary in order to prepare a defense.

As seen in Subsection A, on April 15, 2022, Judge Hocker set the trial date. The State waited until eleven days before trial to begin disclosing evidence supporting its theory that Narkevious Reid, Xayvion Hill, Chazz Hurley, and Trivoriaye Alston conspired to murder Gabriel Dion Goode and Justin Deaundrea Parks, on April 8, 2020, in retaliation for Jitavius Adams killing Jakevius Parker several weeks earlier. The State's production of the evidence supporting its retaliation theory extended up to and after the beginning of trial.

Mr. Reid, Mr. Hill, and Mr. Hurley all filed motions for disclosure pursuant to Rule 5 and *Brady*. On June 30, 2021, Mr. Reid even filed a motion specifically requesting information about gang affiliation. Mr. Reid, Mr. Hill, and Mr. Hurley moved to exclude all evidence, supporting the State's retaliation theory, produced by the State, on or after August 4, 2022. This Court erred as a matter of law by not excluding this evidence. *State v. Lawton*, 382 S.C. 122, 675 S.E.2d 454 (Ct. App. 2009) (reversing convictions because accused was prejudiced by prosecution's failure to produce evidence in response to Rule 5 motion).

In the case at bar, Mr. Reid, Mr. Hill, and Mr. Hurley were prejudiced by the State's failure to comply in a timely with its due process and Rule 5 obligations. The delayed disclosure prevented the accused from investigating the facts and circumstances of Mr. Adams killing Mr. Parker in order to confront the evidence of motive presented by the prosecution. This Court should order a new trial.

C. This Court erred by failing to suppress GSR evidence when the State's own GSR expert testified during an in camera hearing that her testimony would not assist the jurors and could be misinterpreted by the prosecution. Furthermore, this Court erred by refusing to strike the GSR expert's testimony after her trial testimony was the same as her in camera testimony.

The State presented evidence through SLED Lt. Jennifer Nates showing GSR was found on the hands of Mr. Hill and Mr. Alston, both of whom suffered gunshot wounds. During an in camera hearing, Lt. Nates testified, under a policy that became effective on January 1, 2022, that SLED no longer tests for GSR on people who have been shot, because prosecutors have been misinterpreting those results. During the in camera hearing, Lt. Nates also testified that her testimony and opinions would not assist the jurors determine whether Mr. Hill and Mr. Alston shot guns. Mr. Reid, Mr. Hill, and Mr. Hurley moved to exclude Lt. Nates' testimony. This Court denied the motion. Over objection, Lt. Nates provided identical testimony to the jurors. At the conclusion of Lt. Nates testimony, Mr. Reid, Mr. Hill, and Mr. Hurley moved to strike her testimony. This Court denied this motion. During closing arguments, the Solicitor relied on Lt. Nate's testimony to support the prosecution's theory that both Mr. Hill and Mr. Alston shot guns.

Rule 702, SCRE provides:

> If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Before admitting expert testimony, the trial judge must determine "the subject matter is beyond the ordinary knowledge of the jury," "find that the proffered expert has indeed acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter," and "evaluate the substance of the testimony and determine whether it is reliable." *Watson v. Ford Motor Co.*, 389 S.C. 434, 446, 699 S.E.2d 169, 175 (2010); *cf. State v. White*, 382 S.C. 265, 676

S.E.2d 684 (2009) (trial court's gatekeeping function of assuring reliability of expert testimony applies to nonscientific evidence); Rule 702, SCRE.

Mr. Reid, Mr. Hill, and Mr. Hurley did not contest Lt. Nates' qualifications regarding GSR under the second prong of *Watson*; however, citing Rule 702 and the first and third prongs of *Watson*, they objected to Lt. Nates' testimony because it would not assist the jurors and was unreliable because of the potential the prosecution might misinterpret her testimony in front of the jurors, which is exactly want happened during the State's closing argument.

Because admission of Lt. Nates' GSR testimony was an error of law, this Court should order a new trial.

D. This Court erred by failing to grant a mistrial when the Solicitor, disregarding this Court's limiting instructions, asked Officer Matt Blackwell whether he had seen a post on Xayvion Hill's social media that gave him a concern about "retaliation" for Jitavius Adams killing Jakevius Parker.

During an in camera hearing, Officer Matt Blackwell testified about one of Mr. Hill's social media posts that made him concerned Mr. Hill and others would retaliate for Mr. Adams killing Mr. Parker. Because of this social media post, Officer Blackwell caused a BOLO[11] to issue. Mr. Reid, Mr. Hill, and Mr. Hurley objected to this testimony and documentary evidence. This Court found Mr. Hill's social media testimony to be unclear, excluded the two proposed exhibits, and provided clear instructions limiting the State's questioning. Under this Court's limitation, the State was allowed to ask Officer Blackwell whether he saw a social media post from Mr. Hill that gave him concerns, without going into any details about the content of the social media post or the nature of the concerns. In the presence of the jurors, the Solicitor asked Officer Blackwell whether he saw a social media post from Mr. Hill that gave him concerns about retaliation for Mr. Adams

[11] "Be on the lookout."

killing Mr. Parker. Mr. Reid, Mr. Hill, and Mr. Hurley immediately objected and requested an in camera hearing to hear their motion for a mistrial. This Court informed counsel for the three accused that he is clairvoyant in this situation and would take up the mistrial motion later in the trial. This Court, nonetheless, instructed the jurors the Solicitor's question was improper, should not have been asked, and should be disregarded. Mr. Reid, Mr. Hill, and Mr. Hurley immediately objected to the sufficiently of the curative instructions. *State v. Outen*, 237 S.C. 514, 521, 118 S.E.2d 175, 179 (1961) ("If the appellant felt that he had been prejudiced by the Solicitor asking leading questions, even though objection thereto had been sustained, then he should have moved for a mistrial upon such ground."), *overruled on other grounds by State v. Torrence*, 305 S.C. 45, 406 S.E.2d 315 (1991)

Outside the presence of the jurors, Mr. Reid, Mr. Hill, and Mr. Hurley moved for a mistrial, arguing the Solicitor disregarded this Court's clear instructions. They argued it is not possible to "unring the bell." *State-Record Co. v. State*, 332 S.C. 346, 356, fn. 19, 504 S.E.2d 592, 597, fn. 19 (1998). This Court denied the mistrial motion, and Mr. Reid, Mr. Hill, and Mr. Hurley renewed their objections to the inadequate curative instruction.

Denying the mistrial motions constitutes an error of law. It is well settled prejudice can result from the manner in which a solicitor asks a question. *See, e.g., State v. Reyes*, 432 S.C. 394, 853 S.E.2d 334 (2020) (solicitor's use of first-person pronoun "we" when questioning child complainant about telling truth improperly bolstered complainant's testimony); *State v. Anderson*, 181 S.C. 527, 188 S.E. 186, 192 (1936) ("asking of questions by a Solicitor, a quasi judicial officer, which has the effect of attacking the reputation of a defendant whose reputation has not been put in issue, constitutes prejudicial error").

Under these circumstances, this Court has the authority to order a new trial. In *State v. Johnson*, a witness testified, "[T]hey kind of made me feel like I was lying because I didn't pass the polygraph test." 376 S.C. 8, 10, 654 S.E.2d 835, 836 (2007). When "defense counsel moved for a mistrial," the trial court "denied" the motion but "instructed the jury to disregard the reference to the polygraph." *Id.* The trial court subsequently granted a new trial based on the reference to the polygraph. *Id.* The Supreme Court affirmed because it was "incumbent upon the trial judge to ensure that should such a reference be made, no improper inference be drawn therefrom." *Id.*, 376 S.C. at 11, 654 S.E.2d at 836.

Because the jurors could have believed that Officer Blackwell had information establishing the retaliation motion, it is impossible to say that the error was harmless and did not affect the jurors' verdict. This Court should order a new trial.

E. This Court erred by failing to define the meaning of "substantial circumstantial evidence."

At the close of the State's case, and again at the close of all evidence, Mr. Reid, Mr. Hill, and Mr. Hurley moved this Court for directed verdicts, which the Court denied except for granting a directed verdict of acquittal regarding the possession of a firearm during the commission of a violent crime as to Mr. Hurley. Although the State produced direct evidence of the crimes, the prosecution relied entirely on circumstantial evidence to prove identity. During argument on the directed verdict motions, counsel for the accused noted the standard for this Court to consider is whether the State presented "substantial circumstantial evidence" of the guilt of the accused. *See, e.g., State v. Cherry*, 361 S.C. 588, 593–94, 606 S.E.2d 475, 478 (2004) ("If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury."). Counsel

moved this Court to define the term "substantial circumstantial evidence." Counsel pointed out "substantial" means "of considerable importance, size, or worth."

Counsel further noted our state recognizes at least two standards of review for "substantial circumstantial evidence." First, in some appellate court opinions the word "any" will be italicized. *See, e.g., State v. Land*, 419 S.C. 191, 198, 797 S.E.2d 48, 52 (Ct. App. 2016) ("*any* substantial circumstantial evidence"). Second, in other opinions, the appellate courts emphasize the word "substantial." *See, e.g., State v. Odems*, 395 S.C. 582, 584, 720 S.E.2d 48, 49 (2011) ("*substantial* circumstantial evidence"). Often, the Supreme Court of South Carolina has not used the word "any" to modify "substantial." *See, e.g., Odems; State v. Hernandez*, 382 S.C. 620, 624, 677 S.E.2d 603, 605 (2009) ("If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused...."); and *State v. Rosemond*, 356 S.C. 426, 429-30, 589 S.E.2d 757, 758 (2003) ("If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must find the case was properly submitted to the jury.").

Counsel reminded the Court about *Jackson v. Virginia* where the Supreme Court of the United States held a scintilla or modicum of evidence is not enough to submit a case to the jury. 443 U.S. 307, 320 (1979) ("But it could not seriously be argued that such a 'modicum' of evidence could by itself rationally support a conviction beyond a reasonable doubt.").

Counsel identified *State v. Schrock*, 283 S.C. 129, 322 S.E.2d 450 (1984), "where there was a lot of circumstantial evidence placing [Schrock] in the vicinity of the murder," *State v. Hernandez*, 382 S.C. 620, 677 S.E.2d 603 (2009) where finding drugs in the back of a truck was not sufficient evidence to submit to the jurors the drug trafficking charges of the drivers of another truck in the same caravan, *State v. Arnold*, 361 S.C. 386, 389, 605 S.E.2d 529, 530 (2004), where

law enforcement finding the accused's "fingerprint on a tab from a coffee cup lid found in the center compartment between the seats" of the deceased's car was insufficient evidence to submit the case to the jurors, and *State v. Mitchell*, 332 S.C. 619, 506 S.E.2d 523 (Ct. App. 1998) *affirmed by State v. Mitchell*, 341 S.C. 406, 535 S.E.2d 126 (2000), where locating the accused's fingerprints on a window screen outside the residence was insufficient evidence to withstand a directed verdict motion.

These cases are instructive about the meaning of "substantial circumstantial evidence" and warrant further attention. In *Schrock*, Schrock admitted to being in the general area at the time of a double murder. At the crime scene, law enforcement located a footprint that was consistent with Schrock's footprint and Marlboro cigarette butts. Schrock admitted he smoked Marlboro cigarettes. "[O]n the morning after the incident, [Schrock] disposed of clothes and tennis shoes he had been wearing." 283 S.C. at 132, 322 S.E.2d at 451. Our Supreme Court held:

> The evidence presented by the State in the instant case may raise a suspicion of Schrock's guilt, but it does not point conclusively, nor to a moral certainty, nor beyond a reasonable doubt, to his guilt. From the record before us, we can reach no other conclusion but that Schrock was entitled to a directed verdict of not guilty based on the lack of evidence.

283 S.C. at 134, 322 S.E.2d at 453.

In *Mitchell*, a burglar entered the homeowner's house though a broken window and stole some guns. Law enforcement found Mitchell's thumbprint on a window screen found directly under the broken window. Additionally,

> the state presented evidence that Mitchell had been on the [] property at least twice, once to help [the home owner's] son move furniture and attend a social gathering in the house and another time to help the son unload lumber. [The homeowner] further testified that Mitchell had not entered the room where the broken window and glass were found on either occasion.

332 S.C. at 621, 506 S.E.2d at 524. The Court of Appeals reversed, holding the fingerprint found on the window screen was no "substantial" circumstantial evidence of entry into the house. *Id.*, 332 S.C. at 622, 506 S.E.2d at 525. The State appealed, and the Supreme Court affirmed, reasoning:

> The evidence in this case is entirely circumstantial. The only evidence linking respondent to the burglary is the fingerprint. The State did not present any evidence whether the screen was on the window at the time the window was broken or when the screen had been removed. The fact that respondent's fingerprint was on a screen that was propped up against the house does not prove entry where respondent had been in and around the victim's house as least three times prior to the burglary.

341 S.C. at 409, 535 S.E.2d at 127.

In *Arnold,*

> the State's theory of the case was that [Arnold] and [the decedent] drove to the woods where [Arnold] shot [the decedent] while [the decedent] was kneeling "either by force or for sex." [Arnold] then drove the [decedent's borrowed BMW] car to Tennessee and stopped for coffee on the way [leaving his fingerprint on a coffee lid found in the car].

361 S.C. at 389, 605 S.E.2d at 531. The Supreme Court held:

> Viewing the evidence most favorably to the State, [Arnold's] fingerprint on the coffee cup lid tab establishes he was in the borrowed BMW on the same day the victim was last seen alive. The fact that the BMW was found abandoned in Tennessee, the same state where respondent was located after his stay in Savannah, raises a suspicion of guilt but is not evidence that respondent killed [the decedent]. Further, there is no evidence respondent was at the scene of the crime, which according to the State's theory was in Colleton County.

361 S.C. at 390, 605 S.E.2d at 531.

In *Hernandez,* federal agents intercepted a tractor-trailer transporting 900 pounds of marijuana from Mexico to Trenton, South Carolina. A federal agent took the place of the driver of the tractor-trailer and transported the contraband to its destination in Edgefield County. The three defendants in *Hernandez*, occupying a rented Ryder truck, joined a caravan including the tractor-trailer transporting the contraband. When the tractor-trailer and the Ryder truck got stuck

in the mud on a dirt road, the federal agents arrested the three occupants of the Ryder truck and charged them with trafficking marijuana. "At trial, [the three defendants] moved for a directed verdict claiming that the State had only proved mere presence at the scene and had failed to prove the element of knowledge." 382 S.C. at 623, 677 S.E.2d at 604. The trial judge denied the motion, the jurors convicted, and the three appealed. The Supreme Court held, "[T]his evidence does not constitute substantial circumstantial evidence of knowledge." 382 S.C. at 625, 677 S.E.2d at 605.

In each of these cases—*Schrock, Mitchell, Arnold,* and *Hernandez*—an "any circumstantial evidence" standard would have allowed the trial judge to submit the cases to the jurors. The evidence in each case raised a suspicion of guilt; however, our appellate courts, applying a "substantial circumstantial evidence" standard, analyzed the limitations of the evidence and held the trial judge erred by not entering a directed verdict of acquittal. That the State placed the three accused near the location of the crimes is not dispositive. Our appellate courts directed a verdict in *Hernandez* where the accused were arrested near illegal drugs, *Schrock* where the accused admitted to being near the scene of the crime and *State v. Hepburn*, 406 S.C. 416, 753 S.E.2d 402 (2013), a homicide by child abuse case, where proof that the accused was present in the home at the time the child was injured was insufficient circumstantial evidence to submit the case to the jurors.

This Court erred by not identifying the standard of review applied by the Court. This Court should rule that the "substantial circumstantial evidence" standard applied in *Schrock, Mitchell, Arnold, Hernandez* and *Hepburn* is the appropriate standard.

F. This Court erred by not directing a verdict of acquittal when the State failed to present substantial circumstantial evidence of the charged offenses.

"When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight." *Hernandez*, 382 S.C. at 624, 677 S.E.2d at

605 (citing *State v. Weston,* 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006)). An accused "is entitled to a directed verdict when the state fails to produce evidence of the offense charged." *Id.* When considering a motion for directed verdict, the trial "court views the evidence and all reasonable inferences in the light most favorable to the State." *Id.* "If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused," then the trial court must submit the case to the jurors. *Id. See also State v. Rose*, 423 S.C. 382, 389, 814 S.E.2d 529, 532 (Ct. App. 2018) ("in ruling on a directed verdict motion where the State relies on circumstantial evidence, th[is] court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt." (citing *State v. Bennett*, 415 S.C. 232, 236, 781 S.E.2d 352, 354 (2016)). Once this Court appropriately defines "substantial circumstantial evidence," the need to enter a directed verdict of acquittal becomes apparent.

During the trial of this case, the State identified Laurel Bollinger as the one witness who provided testimony "closest" to direct evidence of guilt. She testified about two men crouching down firing guns and a shirtless third man who ran past her window brandishing a weapon. She was not able to identify anyone in a police photo lineup. The jurors reheard her testimony during deliberations. Under the State's theory, Mr. Reid was the third man who ran past Ms. Bollinger's window brandishing a weapon. The jurors acquitted Mr. Reid of being the third man who ran past Ms. Bollinger's window when they acquitted him of possession of a firearm during the commission of a violent crime.

When this Court directed the verdict of acquittal regarding the charge of possession of a firearm during the commission of a violent crime as to Mr. Hurley, this Court ruled as a matter of law the Mr. Hurley was not present when Mr. Alston, Mr. Goode, and Mr. Parks were shot. Also,

the jurors found that Mr. Reid was not present when Mr. Alston, Mr. Goode, and Mr. Parks were shot. The State also failed to present substantial circumstantial evidence that Mr. Hill was present when Mr. Alston, Mr. Goode, and Mr. Parks were shot. Although the State produced evidence that Mr. Hill was shot, the prosecution did not present any substantial circumstantial evidence of the location where Mr. Hill was shot. Under the State's theory, Mr. Hill shot Mr. Alston, but the jurors acquitted Mr. Hill of murder after being instructed on the law of transferred intent.[12] This verdict, accordingly, acquits Mr. Hill of being present at the location of the shootings.

Because there is no substantial circumstantial evidence that Mr. Reid, Mr. Hill, and Mr. Hurley were at the location of the shootings, this Court erred by failing to direct a verdict of acquittal on all charges for all three accused. This Court, accordingly, should order a new trial.

G. Once this Court accepts as true that someone other than Narkevious Reid, Xayvion Hill, and Chazz Hurley shot and killed Trivoriaye Alston, then there is no substantial circumstantial evidence that the shootings of Gabriel Dion Goode and Justin Deaundrea Parks resulted from the foreseeable consequences of any agreement between the three accused.

The State prosecuted Mr. Reid, Mr. Hill, and Mr. Hurley under a theory of accomplice liability. "Under the theory the 'hand of one is the hand of all,' when two people join together to commit a crime, and during the commission of that crime one of the two commits another crime, both may be criminally liable for the unplanned crime if it was a natural and probable consequence of their common plan to commit the initial crime." *Butler v. State*, 435 S.C. 96, 97–98, 866 S.E.2d 347, 348 (2021).

As seen above, the jurors acquitted Mr. Hill of shooting the bullet that killed Mr. Alston. The jurors also acquitted Mr. Reid of being present at the location of the shooting by finding him

[12] Under this Court's juror instruction on transferred intent, a finding that Mr. Hill shot Mr. Alston required the jurors to convict Mr. Hill of murder.

not guilty of possession of a firearm during the commission of a violent crime. This Court acquitted Mr. Hurley of being at the location of the shooting by directing a verdict of acquittal on the charge of possession of a firearm during the commission of a violent crime. Once this Court accepts as true that someone other than Narkevious Reid, Xayvion Hill, and Chazz Hurley shot and killed Trivoriaye Alston, then there is no direct or circumstantial evidence of who fired the first shot. Based on Lt. Nates' testimony, the GSR evidence does not assist the jurors or this Court in determining whether Mr. Hill or Mr. Alston even fired shots. Thus, there is no substantial circumstantial evidence that Mr. Reid, Mr. Hill, and Mr. joined together to commit a crime. Nor is there any evidence that Mr. Goode and Mr. Parks getting shot was the was a natural and probable consequence of a common plan of Mr. Reid, Mr. Hill, and Mr. Hurley to commit a crime.

H. This Court should order a new trial based on the cumulative error doctrine.

The cumulative error doctrine "provides relief to a party when a combination of errors that are insignificant by themselves have the effect of preventing a party from receiving a fair trial." *State v. Johnson*, 334 S.C. 78, 93, 512 S.E.2d 795, 803 (1999). *And see State v. Blurton*, 342 S.C. 500, 512, 537 S.E.2d 291, 297 (Ct. App. 2000), *reversed on other grounds by State v. Blurton,* 352 S.C. 203, 573 S.E.2d 802 (2002) (cumulative error of solicitor's improper argument and improperly excluded evidence warranted reversal).

In this case, Mr. Reid, Mr. Hill, and Mr. Hurley objected more than once because this Court was rushing to complete this case during a one-week period, even though the Solicitor's Office all along represented more than one week would be necessary to complete this trial and Judge Hocker scheduled this trial in a manner that it could roll over into a second week. Rushing this case is legal error because it denied Mr. Reid, Mr. Hill, and Mr. Hurley their due process right to a fair trial by jury. This error should be considered in the context of the other trial error raised in this motion.

For example, rushing this trial to a conclusion affected this Court's decision to deny the mistrial. This Court denied the request by Mr. Reid, Mr. Hill, and Mr. Hurley to excuse the jurors from the courtroom for the Court to consider the mistrial motion when the Solicitor disregarded this Court's instructions limiting the trial testimony of Officer Blackwell.

This Court's failure to define the meaning of "substantial circumstantial evidence" is legal error that influenced this Court's decision to deny the directed verdict motions. These two grounds for a new trial must be considered together.

This Court's failure to exclude and strike the GRS testimony of Lt. Nates should be considered in connection with this Court denying the directed verdict motions because, as Lt. Nates warned, this Court misinterpreted the GSR to the extent this Court relied on that evidence to deny the directed verdict motions.

This Court's failure to grant a mistrial should be considered in connection with this Court's failure to exclude and strike the GRS testimony of Lt. Nates because there is a danger the jurors used the prosecution's misinterpretation of the GRS evidence in combination with the Solicitor's improper questioning about "retaliation" to reach their verdicts.

V. ARGUMENTS IN SUPPORT OF RESENTENCING.

If this Court declines to order a new trial, then this Court should reconsider the sentences for the following reasons. Prior to reconsidering the sentences, this Court should order the State to disclose the Gang Book prepared by officer Matt Blackwell for local law enforcement, if this Court continues to consider gang affiliation to enhance the sentences.

A. This Court erred by failing to require the State to produce a copy of the Greenwood Police Department "Gang Book," that was disclosed for the first time during pre-trial motions, when the "Gang Book" was material to both guilt-or-innocence and sentencing.

As seen in Subsection IV(A) above, this Court did not require disclosure of the Gang Book created by Officer Blackwell and provided to local law enforcement. This Court has the authority to order disclosure of the Gang Book. *Hughes, supra.* During sentencing, the Solicitor argued this Court should consider gang affiliation when imposing sentences. During sentencing, this Court expressly stated consideration of gang affiliation as part of sentencing. Mr. Reid, Mr. Hill, and Mr. Hurley have a due process right for the State to produce the Gang Book before the prosecution and the Court rely upon gang affiliation during sentencing. *Brady*, after all, was a sentencing case. Mr. Reid, Mr. Hill, and Mr. Hurley also have a Sixth Amendment Right to assistance of counsel during sentencing. *See, e.g., Missouri v. Frye*, 566 U.S. 134 (2012); *Lafler v. Cooper*, 566 U.S. 156 (2012).

In Subsection B below, the accused ask this Court to reconsider the sentences without enhancing the sentencing by relying on facts not found by the jurors beyond a reasonable doubt. If the Court denies the request in Subsection B below, then this Court should require the State to produce the Gang Book before reconsidering the sentences.

B. This Court erred as a matter of law by enhancing the sentences of Narkevious Reid, Xayvion Hill, and Chazz Hurley, based on their membership in a gang, when that fact was neither found by the jurors nor proven beyond a reasonable doubt.

As seen in Subsections IV(A) and V(A) above, this Court enhanced the sentences based on evidence of gang affiliation, even though that fact was neither found by the jurors nor proven beyond a reasonable doubt. Enhancing a sentence based on a fact not found by the jurors violates a longstanding line of precedent from the Supreme Court of the United States. *See, e.g., Apprendi v. New Jersey*, 530 U.S. 466 (2000); *State v. Simuel*, 357 S.C. 378, 593 S.E.2d 178 (Ct. App. 2004) (*Apprendi* rule required jury determination of whether defendant was recaptured outside of state, as basis for sentence enhancement).

"The requirement that guilt of a criminal charge be established by proof beyond a reasonable doubt dates at least from our early years as a Nation." *In re Winship*, 397 U.S. 358, 361(1970). "The reasonable-doubt standard . . . is a prime instrument for reducing the risk of convictions resting on factual error." *Id.*, at 363. "The accused during a criminal prosecution has at stake interest of immense importance, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatized by the conviction." *Id.*

"Any possible distinction between an 'element' of a felony offense and a 'sentencing factor' was unknown to the practice of criminal indictment, trial by jury, and judgment by court as it existed during the years surrounding our Nation's founding." *Apprendi v. New Jersey*, 530 U.S. 466, 478 (2000) (internal footnote omitted). "As a general rule, criminal proceedings were submitted to a jury after being initiated by an indictment" placing the accused on notice of the crime charged "in order that he may prepare his" defense and leaving "'*no doubt as to the judgment which should be given,* if the defendant be convicted.'" *Id.* (citing J. Archbold, Pleading and Evidence in Criminal Cases 44 (15th ed. 1862) (emphasis supplied by the Court). "[T]he English trial judge of the later eighteenth century had very little explicit discretion in sentencing" because "[t]he substantive criminal law tended to be sanction-specific [by] prescribe[ing] a particular sentence for each offense." *Id.*, at 479 (internal quotations omitted) (citing Langbein, The English Criminal Trial Jury on the Eve of the French Revolution, in The Trial Jury in England, France, Germany 1700-1900, pp. 36-37 (A. Schioppa ed.1987)).

In *Apprendi v. New Jersey*, the Supreme Court considered "whether the Due Process Clause of the Fourteenth Amendment requires that a factual determination authorizing an increase in the maximum prison sentence for an offense from 10 to 20 years be made by a jury on the basis of

proof beyond a reasonable doubt." 530 U.S. 466, 469 (2000). The Supreme Court summarized the trial court's handling of the guilty plea to a 23-count indictment:

> The parties entered into a plea agreement, pursuant to which Apprendi pleaded guilty to two counts (3 and 18) of second-degree possession of a firearm for an unlawful purpose, and one count (22) of the third-degree offense of unlawful possession of an antipersonnel bomb; the prosecutor dismissed the other 20 counts. Under state law, a second-degree offense carries a penalty range of 5 to 10 years; a third-degree offense carries a penalty range of between 3 and 5 years. As part of the plea agreement, however, the State reserved the right to request the court to impose a higher "enhanced" sentence on count 18 . . . on the ground that that offense was committed with a biased purpose.... Apprendi, correspondingly, reserved the right to challenge the hate crime sentence enhancement on the ground that it violates the United States Constitution.

Id., at 469-70 (internal citations omitted). "After the trial judge accepted the three guilty pleas, the prosecutor filed a formal motion for an extended term." *Id.*, at 470. "The trial judge thereafter held an evidentiary hearing on the issue of Apprendi's 'purpose' for the shooting." *Id.* After finding "by a preponderance of the evidence that Apprendi's actions were taken with a purpose to intimidate as provided by the statute, the trial judge held that the hate crime enhancement applied," rejected Apprendi's constitutional challenge to the statute," and "sentenced him to a 12-year term of imprisonment on count 18, and to shorter concurrent sentences on the other two counts." *Id.*, at 471 (internal quotations and citations omitted).

The Supreme Court concluded, "The New Jersey procedure challenged in this case is an unacceptable departure from the jury tradition that is an indispensable part of our criminal justice system." *Id.*, at 497. The Court held, "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Id.*, at 490. It "is unconstitutional for a legislature to remove from the jury the assessment of facts that increase the prescribed range of penalties to

which a criminal defendant is exposed," and it "is equally clear that such facts must be established by proof beyond a reasonable doubt." *Id.*

In *Ring v. Arizona*, the Supreme Court considered "the Sixth Amendment right to a jury trial in capital prosecutions." 536 U.S. 584, 588 (2002). Relying on *Apprendi* and *Jones v. United States*, 526 U.S. 227 (1999) (provisions of carjacking statute that established higher penalties to be imposed when offense resulted in serious bodily injury or death set forth additional elements of offense, not mere sentencing considerations), "Ring argued that Arizona's capital sentencing scheme violate[d] the Sixth and Fourteenth Amendments to the U.S. Constitution because it entrusts to a judge the finding of a fact raising the defendant's maximum penalty." *Ring*, at 595. "Based solely on the jury's verdict finding Ring guilty of first-degree felony murder, the maximum punishment he could have received was life imprisonment" because "in Arizona, a death sentence may not legally be imposed unless at least one aggravating factor is found to exist beyond a reasonable doubt." *Id.*, at 597 (internal quotations and punctuation omitted).

Ring considered "whether that aggravating factor may be found by the judge, as Arizona law specifie[d], or whether the Sixth Amendment's jury trial guarantee, made applicable to the States by the Fourteenth Amendment, requires that the aggravating factor determination be entrusted to the jury." *Id.* The Supreme Court recognized:

> [T]he English jury's role in determining critical facts in homicide cases was entrenched. As fact-finder, the jury had the power to determine not only whether the defendant was guilty of homicide but also the degree of the offense. Moreover, *the jury's role in finding facts that would determine a homicide defendant's eligibility for capital punishment was particularly well established.* Throughout its history, the jury determined which homicide defendants would be subject to capital punishment by making factual determinations, many of which related to difficult assessments of the defendant's state of mind. By the time the Bill of Rights was adopted, the jury's right to make these determinations was unquestioned."

Id., at 599 (quoting *Walton v. Arizona*, 497 U.S. 639, 710-11 (1990) (emphasis original) (Stevens, J, dissenting), *overruled by Ring v. Arizona*, 536 U.S. 584 (2002). The Supreme Court held, "Because Arizona's enumerated aggravating factors operate as "the functional equivalent of an element of a greater offense, the Sixth Amendment requires that they be found by a jury." *Id.*, at 609 (internal citations and quotations omitted) (citing *Apprendi,* 530 U.S., at 494, fn. 19). In *Hurst v. Florida,* the Supreme Court further held, "The Sixth Amendment requires a jury, not a judge, to find each fact necessary to impose a sentence of death." 577 U.S. 92, 94 (2016).

The Supreme Court continued to apply *Apprendi* "to instances involving plea bargains" in *Blakely v. Washington,* 542 U.S. 296 (2004). *Hurst*, 136 S. Ct. at 621. Blakely "was sentenced to more than three years above the 53-month statutory maximum of the standard range because the sentencing judge subjectively found that Blakely had acted with 'deliberate cruelty.' The facts supporting that finding were neither admitted by [Blakely] nor found by a jury." *Id.* The Court held, "[T]he State's sentencing procedure did not comply with the Sixth Amendment" and Blakely's "sentence [was] invalid." *Id.* at 305.

C. This Court should reconsider and reduce the sentences.

This Court should reconsider and reduce the sentences imposed on Mr. Reid, Mr. Hill, and Mr. Hugely. As discussed in Subsection V(B) above, this Court improperly considered gang affiliation evidence to enhance the sentences. Once this Court excludes consideration of gang affiliation, then need to reduce the sentences becomes apparent. Alternatively, if this Court continues to rely on gang affiliation evidence for sentencing, then this Court should order production of the Gang Book so that Mr. Reid, Mr. Hill, and Mr. Hurley can respond to the information presented by the State.

Additionally, this Court's sentences for Mr. Reid, Mr. Hill, and Mr. Hurley are disproportionately high in relation to sentences imposed by this Court in other cases involving gang affiliation. For example, in State v. Joseph Raekwon Rapp, Case No. 2021-GS-24-001892, 001893—a much more egregious crime with actual evidence of gang affiliation—this Court imposed a thirteen-year sentence. Once this Court excludes consideration of gang affiliation in this case, the sentence for Mr. Reid, Mr. Hill, and Mr. Hurley should be much lower. Even if this Court continues to consider gang affiliation—after providing the three accused and opportunity to review the Gang Book—then the sentence for Mr. Reid should be no greater than the thirteen-year sentence imposed on Mr. Rapp, and the sentences for Mr. Hill and Mr. Hurley should be much lower.

VI. CONCLUSION.

For the foregoing reasons, this Court should order a new trial. In the alternative, for the foregoing reasons, this Court should reconsider the sentences. This Court should convene a hearing on these motions to develop a complete record.

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September 6, 2022
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF GREENWOOD	)	
	)	Case No.
THE STATE,	)	2020-GS-24-01062, 01063, 01064;
Plaintiff,	)	2021-GS-24-00382, 00383, 00384;
	)	2021-GS-24-01230, 01231, 01232;
vs.	)	2021-GS-24-01695, 01696, 01715;
	)	& 2022-GS-24-01153, 01154.
Narkevious Reid, Xayvion Hill, and Dashawn Chazz Hurley,	)	**Joint Motion for New Trial or, in the Alternative, Motion to Reconsider Sentence**
Defendants.	)	

I certify that I have served a copy of this pleading on the State of South Carolina, by emailing at copy to counsel, at counsel's AIS email address, as reflected below:

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