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SC Court of Appeals



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March 12, 2025  
(via e-filing only)

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

Re: *State of South Carolina vs. Devin J. Johnson*  
Appeal from Charleston County  
Appellate Case No. 2019-000938

To this Honorable Court,

In light of this Court's recent unpublished opinion No. 2025-UP-059, and in review of Appellant's Petition for Rehearing which does not raise Respondent's identified issue, Respondent wishes to bring a non-dispositive issue to this Court's attention and requests permission to file a narrowly tailored Return regarding the same.

The language of the unpublished opinion appears to utilize the former appellate standard of review for determining the voluntariness of a criminal defendant's statement, i.e. "review[ing] only the trial court's determination: without reevaluating the facts based on its own view of the preponderance of the evidence, an appellate court determines whether the trial court's ruling is supported by any evidence." *State v. Miller*, 441 S.C. 106, 118, 893 S.E.2d 306, 312 (2023). However, in the intervening years between the original appeal challenging the trial court's finding that Appellant's statement was voluntary and the Supreme Court's remand to decide that issue (among others), the Supreme Court chose to clarify the standard of review for determining such an issue. *Id.* In *Miller*, the Court has set forth that while the trial court's findings of fact are to be adopted (unless clearly erroneous), the ultimate ruling as to whether a statement was voluntary, based on those findings of fact, is a matter of law considered *de novo*.

Respondent does not believe this distinction would entitle Appellant to any relief. Respondent simply wants to bring the issue to the attention of the Court.

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Sincerely,

*s/ W. Joseph Maye*

W. Joseph Maye  
Assistant Attorney General

:dmd

cc: Robert M. Dudek, Esq. (via email)  
Trisha Allen, Victim Advocacy Division