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**May 08 2025**

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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Appeal from Florence County  
The Honorable D. Craig Brown, Circuit Court Judge

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**THE STATE,**

**RESPONDENT,**

v.

**TIRIK JAQUAN JOHNSON-EPPS,**

**APPELLANT.**

Appellate Case No. 2023-000179

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**PETITION FOR REHEARING**

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Pursuant to Rule 221(a), SCACR, counsel for Respondent petitions this Court for rehearing.<sup>1</sup> Counsel respectfully submits that this Court has misapprehended certain factual and legal matters in arriving at its holding. Respondent would respectfully argue:

1. While Respondent acknowledges that this Court is obliged to follow established precedent from the South Carolina Supreme Court, the unusual circumstances of this case warranted the trial court's decision to forego verbal jury polling in favor of relying upon the raising of hands by each juror. As the trial court noted, "in the 13 years [he's] been on the bench" he had never had anything happen like what took place during the course of this trial. (R. p. 412). The numerous occurrences impacting juror safety, courthouse safety, and juror

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<sup>1</sup> A Petition for Rehearing is required before a party can seek a Writ of Certiorari from the South Carolina Supreme Court. Rule 242, SCACR.

tampering created a basis for distinction from *Wright* and an environment wherein departure from the verbal affirmation was necessary. As the record demonstrates conclusively that Appellant's guilty verdict was unanimous, there is no reversible error stemming from "structural error."

2. As Respondent argued, the potential for structural error does not exist within the *method* of polling, but in the black and white assurance that a unanimous verdict was secured. The distinction is a vital one, and it demonstrates the underlying error that is set forth in *State v. Wright*, 439 S.C. 101, 886 S.E.2d 206 (2023). The jury delivered a unanimous verdict. The record demonstrates that there is *no evidence* to the contrary, and the trial court polled the jury to further ensure such. No structural error exists that warrants the overturning of the jury's conviction.

## CONCLUSION

Based upon the above arguments, Respondent asserts that this Court has misapprehended certain facts and law that led to an improper result in this case. Respondent respectfully petitions for rehearing on this matter, and that for all the foregoing reasons, the judgments of the trial court, along with the defendant's convictions and sentences should be affirmed.

Respectfully Submitted,

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May 8, 2025.

By: s/W. Joseph Maye  
ATTORNEYS FOR RESPONDENT

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**PROOF OF SERVICE**

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I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Petition for Rehearing has been forwarded to Appellant's counsel, Robert M. Dudek, Esq., via email today, May 8, 2025 to [RDudek@sccid.sc.gov](mailto:RDudek@sccid.sc.gov) and to his assistant at [kwarren@sccid.sc.gov](mailto:kwarren@sccid.sc.gov).

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

This 8<sup>th</sup> day of May, 2025.

*s/ Donna D'Alessio*

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