STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable Kristi Lea Harrington, Circuit Court Judge

Appellate Case No: 2013-000332

THE STATE,

Respondent,

v.

NORRIS T. STEPLIGHT,

Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

To the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review because Appellant raised no objection to the trial court failing to make findings on the record before proceeding in his absence. Regardless, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in absentia because Appellant was aware of his right to be present for trial and the fact the trial would proceed without him. Furthermore, even if the trial court did err, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant was present for most of the trial and fully able to present his defense.

STATEMENT OF THE CASE

A Charleston County Grand Jury indicted Appellant for trafficking cocaine base. (R.* Indictment.) On February 4-5, 2013, Appellant proceeded to trial before a jury. James W. Smiley, IV, Esquire, and Laree A. Hensley, Esquire, represented Appellant, and Assistant Solicitors Stephanie Linder and Randell Stoney represented the State. The jury found Appellant guilty, and the Honorable Kristi Lea Harrington sentenced him to twenty-five years' imprisonment. (Tr. 258.)

On February 13, 2013, Appellant filed a Notice of Appeal.

STATEMENT OF FACTS

On May 27, 2011, Detective Jeffery Harrison of the City of Charleston Police Department pulled Appellant over for failing to come to a complete stop at a red light and for failing to turn into the immediate lane. (Tr. 78, line 13-Tr. 79, line 24.) Appellant handed Detective Harrison a route-restricted drivers license, and Harrison discovered Appellant had violated the restrictions by dropping his girlfriend off at church instead of only driving to and from work. (Tr. 81, lines 10-23.) Harrison arrested Appellant for driving under suspension. (Tr. 84, lines 2-3.) Appellant consented to a search, and Investigator Sean Engles, who was present at the traffic stop with Harrison, noticed an unnatural object between Appellant's buttocks. (Tr. 24, lines 9-16.) When Appellant was booked into the county jail, Engles confiscated two plastic bags from between Appellant's buttocks during a strip search. (Tr. 175, lines 13-19.) The bags contained 5.266 grams and 7.216 grams of cocaine base. (Tr. 210, lines 13-18.) Appellant was indicted for trafficking cocaine base. (R.* Indictment.)

At 12:00 p.m. on Monday, February 4, 2013, Appellant's counsel appeared in court and informed the trial court that his client was not present, had always been available in the past, had a non-working phone number on which counsel had left messages, and was currently being sought by his bondsman. (Tr. 4, lines 14-17.) When the trial court suggested picking the jury right then, defense counsel stated, "I'll have to pick without a client." (Tr. 5, lines 4-7.) He then stated, "I'm fine to go ahead and pick a jury. I would just ask, in an abundance of caution, if the murder case does take too long, that we don't swear the jury." (Tr. 5, lines 20-23.) The trial court inquired what time Appellant was told to be there, and the solicitor indicated the letters defendants receive request they arrive on Monday morning at 9:00. (Tr. 6, lines 6-9.)

The trial court began Appellant's suppression hearing at 1:30 p.m., noting counsel's vehement objection to continuing without his client present. (Tr. 10, lines 11-20.) After beginning his argument to suppress, defense counsel stated, "I feel like I've - - I've done something wrong because he's not here, because I know he wants to be present. I understand this Court's position too. He has a letter and all. But I've usually never had a problem reaching him." (Tr. 11, line 23-Tr. 12, line 2.) (emphasis added.) The trial court asked where the bonds person was, and counsel explained the bondsman had been trying to locate Appellant since 8:30 that morning. (Tr. 12, lines 3-16.) Following this discussion, the State called Investigator Sean Engles and began the suppression hearing. At 2:33 p.m., the trial court suspended the hearing to pick a jury for another case. (Tr. 44, lines 15-25.) At 2:50 p.m., the proceedings continued and Appellant was still not present. (Tr. 44, line 24-Tr. 45, line 1.) The following exchange took place:

> [Defense counsel]: I do need to put on the record that I've asked you for a continuance because my client is not present, and that you've ruled against me and that we're going forward.
>
> The Court: All right. At this stage and at every stage from now on, Mr. Smiley, I'm going to give you a continuing objection.
>
> [Defense counsel]: Thank you.
>
> The Court: We are continuing without your client, but I have heard nothing that indicates to me that [Appellant] was not given notice of today. So we are going to - - here's what we're going to do. We're going to pick the jury, let the jury go, and we'll start in the morning. We're going to finish our pretrial motions and then give you a chance to e-mail your client.

(Tr. 45, lines 3-18.) The trial court then began jury selection. (Tr. 45, line 23-Tr. 46, line 8.)

At 3:51 p.m., Appellant arrived at the courthouse. (Tr. 77, lines 6-11.) Defense counsel explained to the trial court:

> [Appellant] arrived when I was downstairs, and I had an opportunity to explain to him what has happened so far and the details. He's now present. He just didn't know. The bondsman found him; he came immediately. He apologizes, even though, I guess, technically, I need to have gotten in touch with him. He did get a letter from me. But he'd gotten so many of them, he didn't realize this case would be first this morning. We apologize, your Honor.

(Tr. 77, lines 9-17.) (emphasis added.) The trial court continued the suppression hearing. (Tr. 77, line 20.) Ultimately, the jury found Appellant guilty. (Tr. 250, lines 14-19.) During sentencing, Appellant told the trial court:

> I just feel like I made a mistake. And that mistake, you know, the roads were rocky. It goes like this: I didn't get my suppression. I didn't get to pick my jury. I don't even know half of those people in this room. I don't even know who those people was [sic]. My suppression was hold [sic] without me. I - - I ain't even get to hear my whole suppression. I feel like - - as an example, I had fired my attorney, and you still give me him. And with that being said, I feel as if I get - - I get railroaded - - I get treated unjustly in this courtroom today. But I understand we have all got to go through and how you got to do your job. But understand that I got kids too. And with that, the questions that I would need to ask, for the jury, to hear my side, I didn't - - I didn't get that. And on top of that, I got sodomized. But I can understand, and pray for everybody, and everybody to do the same.

(Tr. 257, lines 2-18.) Judge Harrington sentenced him to twenty-five years' imprisonment. (Tr. 258, lines 7-11.)

ARGUMENT

To the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review because Appellant raised no objection to the trial court failing to make findings on the record before proceeding in his absence. Regardless, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in absentia because Appellant was aware of his right to be present for trial and the fact the trial would proceed without him. Furthermore, even if the trial court did err, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant was present for most of the trial and fully able to present his defense.

Appellant argues Appellant's right to be present at all critical stages of the proceedings against him, as guaranteed by the Sixth and Fourteenth Amendments to the United States and South Carolina Constitutions, was violated when the trial court, over objection, conducted all of jury selection and much of a pretrial suppression hearing prior to his arrival at the courthouse. Appellant asserts the trial court erred in proceeding with the trial in absentia because it failed to make factual findings that Appellant received notice of his right to be present and was warned the trial would proceed in his absence if he failed to appear. Initially, to the extent Appellant is challenging the trial court's decision to begin trial without Appellant based on its failure to make specific findings regarding whether Appellant knowingly waived his right to be present, this issue is not preserved for appellate review because it was not raised to the trial court. Regardless, notwithstanding any issue preservation concerns, the trial court did not err in denying Appellant's continuance motion and proceeding with the trial in absentia because Appellant had notice of when his trial would begin and was warned of the consequences of his failure to appear. Furthermore, even if the issue was preserved for appellate review

and the trial court erred in proceeding with the trial, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant suffered no prejudice as a result of the trial proceeding in his absence. Therefore, Appellant's conviction should be affirmed.

A. Issue Preservation

"Generally, an issue must be both raised to and ruled upon by the trial court in order to be preserved for appellate review." In re Walter M., 386 S.C. 387, 392, 688 S.E.2d 133, 136 (Ct. App. 2009). If an error is not presented to and ruled upon by the trial court, it cannot be raised for the first time to the appellate court. State v. Freiburger, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005). The appellate court will not consider any issues that were not presented to or passed upon by the trial court. State v. Fleming, 254 S.C. 415, 421, 175 S.E.2d 624, 627 (1970). "Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it considered all relevant facts, law, and arguments." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 725 (2000).

In the case sub judice, Appellant contends the trial court erred in denying his continuance motion and proceeding with a trial in absentia because it did not make specific factual findings regarding Appellant's waiver of his right to be present for trial. However, because Appellant raised no objection to the trial court's failure to make specific factual findings regarding Appellant's waiver of his right to be present for trial, Appellant is precluded from raising such an objection for the first time on appeal. See State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) ("Appellant is limited to the grounds raised at trial."); State v. Adams, 354 S.C. 361, 380, 580 S.E.2d 785, 795 (Ct. App. 2003) ("[A] defendant may not argue one ground below and another on appeal.") .

Therefore, to the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review. See State v. Holland, 385 S.C. 159, 172, 682 S.E.2d 898, 905 (Ct. App. 2009) ("[The appellant] did not raise this specific ground before the trial court. Therefore, this specific argument is not preserved for this Court's review.").

Appellant asserts the trial court erred in proceeding with the trial in absentia because it failed to make the required factual findings that Appellant received notice of his right to be present and was warned the trial would proceed in his absence if he failed to appear. (App. Br. p. 11). This Court examined this issue in State v. Ravenell, 387 S.C. 449, 692 S.E.2d 554 (Ct. App. 2010). In Ravenell, Ravenell was present for jury selection on the first day of his trial but failed to appear at the beginning of the trial's second day. Id. at 452-53, 692 S.E.2d at 556. Based on Ravenell's absence, defense counsel moved for a continuance but did not specifically object to a trial in absentia. Id. at 453, 692 S.E.2d at 556. The trial court then proceeded with the trial in Ravenell's absence only after making specific factual findings that Ravenell had notice of the trial and was warned the trial would proceed without him, and Ravenell was ultimately convicted at the conclusion of the trial in absentia. Id. at 453-54, 692 S.E.2d at 556-57. On appeal, this Court instructed:

> In order to claim the protection afforded by the rule of law that a criminal defendant may be tried in his absence only upon a trial court's finding that the defendant has received the requisite notice of his right to be present and advisement that the trial would proceed in his absence if he failed to attend, **a defendant or his attorney must object at the first opportunity to do so**, and failure to so object constitutes waiver of the issue on appeal.

Id. at 456, 692 S.E.2d at 558 (emphasis added). However, although Ravenell failed to object to his trial in absentia, this Court decided to address the merits of the issue

because: (1) defense counsel moved for a continuance; **and** (2) the trial court made findings on the record that Ravenell was given notice the trial would proceed without him and he would be tried in absentia if he failed to appear. Id. at 456-57, 692 S.E.2d at 558. Thereafter, this Court found the trial court did not abuse its discretion in denying Ravenell's continuance motion because Ravenell's absence from trial appeared to be deliberate. Id. at 458-59, 692 S.E.2d at 559.

Comparing Ravenell to Appellant's case, Appellant's defense counsel, much like Ravenell's defense counsel, moved for a continuance after Appellant failed to appear in court for trial but did not specifically object to the trial proceeding in Appellant's absence on the basis of the trial court's failure to make specific factual findings regarding waiver. However, unlike in Ravenell, the trial court in Appellant's case did not specifically make factual findings that Appellant had notice of his trial and was warned of the consequences of his failure to appear like the trial court did in Ravenell's case, which is exactly the alleged error Appellant is now raising on appeal. Instead, the trial judge merely noted she had heard nothing to indicate Appellant was not given notice. Accordingly, because the trial court in Appellant's case did not make the specific factual findings the trial court in Ravenell's case made, Appellant's continuance motion was not sufficient to preserve any issue related to the trial court's failure to make specific factual findings regarding Appellant's waiver of his right to be present for trial. Cf. Id. at 456-57, 692 S.E.2d at 558 ("However, because Ravenell's counsel did move for a continuance, **and in light of the fact the trial judge made findings on the record that Ravenell was given notice the trial would proceed without him and he would be tried in absentia should he fail to appear**, we find it proper to address the matter on the merits." (emphasis added)). Therefore, as this Court instructed in Ravenell, Appellant was required to object at his

first opportunity to do so in order to preserve for appellate review any challenge to his trial in absentia based on the trial court's failure to make factual findings. Because Appellant failed to do so, the issue should not be considered for the first time on appeal. Otherwise, Appellant would be permitted to potentially obtain a reversal of his conviction based on the trial court's failure to make specific factual findings Appellant never asked the trial court to make. Appellant's conviction should be affirmed.

B. Propriety of the Denial of the Continuance Motion and the Trial Proceeding in Appellant's Absence

A decision on whether to grant or deny a motion for continuance rests in the sound discretion of the trial court. State v. Yarborough, 363 S.C. 260, 266, 609 S.E.2d 592, 595 (Ct. App. 2005). Appellate courts in South Carolina typically show great deference to the trial court regarding these decisions. State v. Colden, 372 S.C. 428, 435, 641 S.E.2d 912, 916 (Ct. App. 2007). The denial of a motion for continuance will not be disturbed on appeal absent a clear abuse of discretion. Ravenell, 387 S.C. at 455, 692 S.E.2d at 557. "The granting or refusal of a motion for continuance is within the discretion of the trial judge and his disposition of such a motion will not be reversed on appeal unless it is shown that there was an abuse of discretion to the prejudice of appellant. . . . [R]eversals of refusal of continuance **are about as rare as the proverbial hens' teeth**." State v. Lytchfield, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957) (emphasis added).

In State v. Wright, 304 S.C. 529, 531, 405 S.E.2d 825, 826 (1991), Wright was not present for his trial on a charge of distributing cocaine. At the outset of trial, Wright's defense counsel moved for a continuance, asserting he had recently been in contact with Wright and believed Wright could be located. Id. at 532, 405 S.E.2d at 827.

The trial court denied the continuance motion and proceeded with a trial in absentia. Id. Following his conviction, Wright appealed, arguing the trial court erred in denying the continuance motion. Id. On appeal, the Supreme Court affirmed the trial court's ruling, finding the trial court did not abuse its discretion in denying Wright's continuance motion because the record reflected Wright was aware of the term of court in which he was set to be tried and knew he would be tried in his absence if he failed to appear. Id.

In the case at bar, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in Appellant's absence because Appellant knowingly waived his right to be present for trial by not appearing at trial when he had full awareness of the fact he had a right to be present, his trial was scheduled to begin, and he would be tried in his absence if he failed to appear. See State v. Goode, 299 S.C. 479, 481, 385 S.E.2d 844, 845 (1989) ("[T]he right to be present at trial can be waived if done knowingly and voluntarily.").

Initially, Appellant unquestionably received notice regarding when his case was set to be tried prior to the trial going forward in his absence. When the trial court asked what time Appellant was told to be there, the solicitor stated the letter told him to be in court at 9:00 Monday morning, and Appellant's defense counsel confirmed Appellant had received a dozen letters over the last year and a half and had shown up every time. (Tr. 6, 6-15.) Defense counsel further stated the matter had been on the docket for more than a year and that Appellant had a letter. (Tr. 11, line 10-Tr. 12, line 1.) When Appellant finally appeared, defense counsel confirmed again that Appellant did get a letter from him but acknowledged Appellant had gotten so many letters that he did not realize his case would be first that morning. (Tr. 77, lines 8-17.) See, e.g., Ellis v. State, 267 S.C. 257, 261, 227 S.E.2d 304, 306 (1976) ("In our courts of general sessions, defendants are

generally only given notice of the term of court in which they will be tried and do not know the exact date and time of their trial until shortly before the trial begins. We think such notice is sufficient to enable a defendant to make an effective waiver of his right to be present at his trial.").

Furthermore, Appellant was also fully aware the trial would proceed in his absence when he failed to appear at the courthouse for the trial. Most tellingly, prior to his release on bond, Appellant personally signed an acknowledgement form affirmatively stating that he understood: (1) he had "a right and obligation to be present at trial"; and (2) "should [he] fail to attend the court, the trial [would] proceed in [his] absence."[1] (R. * Bail Proceeding Order, dated May 28, 2011). Through his signature on the acknowledgement form, Appellant unequivocally demonstrated his full understanding of the consequences of his failure to appear at the scheduled time of his trial. See State v. Fairey, 374 S.C. 92, 101, 646 S.E.2d 445, 449 (Ct. App. 2007) ("A bond form that provides notice that a defendant can be tried in absentia may serve as the requisite notice."). Also on the Bail Proceeding form, Appellant initialed a section that read, "If no disposition is made during [the term specified on the form], the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his

[1] The bail proceeding order containing Appellant's signature acknowledging his awareness of his right to be present during trial and the consequences of his failure to appear for trial was not directly referenced by counsel or the trial judge during Appellant's trial. However, the bail proceeding order was properly before the trial court due to the fact the order was signed during the bond hearing that took place before Appellant's trial, was filed with the Charleston County clerk of court approximately twenty months before Appellant's trial, and was a part of the clerk's file associated with Appellant's criminal case. See Rule 210(c), SCACR ("The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal."); see South Carolina Dep't of Soc. Servs. v. Janice C., 383 S.C. 221, 227, 678 S.E.2d 463, 467 (Ct. App. 2009) ("These documents were filed with the family court; therefore, they were part of the record."). Furthermore, even assuming the order was not before the trial court as required by Rule 210(c), SCACR, this Court should take judicial notice of the order due to the indisputable nature of the signed, filed, and certified court document. See Wise v. Wise, 394 S.C. 591, 601, 716 S.E.2d 117, 122 (Ct. App. 2011) ("[A]n appellate court can take judicial notice of something that was not before the trial court if it is indisputable.").

case, unless otherwise ordered by the court." Therefore, by his own agreement, Appellant was aware he was expected to appear in court each weekly term until otherwise notified rather than simply wait for notification from the court before appearing. Additionally, Appellant's substantial prior experience with the criminal justice system, which included seven prior convictions over the course of a twelve-year criminal career, provided him with sufficient knowledge and experience to understand the consequences of his failure to attend his trial. Cf. Graves v. State, 309 S.C. 307, 310, 422 S.E.2d 125, 127 (1992) (considering Graves' "extensive criminal background" when reviewing a determination of whether Graves validly waived his right to counsel); State v. Cash, 309 S.C. 40, 43, 419 S.E.2d 811, 813 (Ct. App. 1992) (listing the factors different courts have considered in determining whether a defendant had a sufficient background to waive his right to counsel, which included whether the defendant was previously involved in criminal trials).

In light of the representations of the solicitor and Appellant's defense counsel regarding Appellant's awareness of when his trial was set to begin and Appellant's act of signing the acknowledgement form before he was released on bond, it is clear Appellant was fully aware of his right to be present for his trial, the scheduled date and time of his trial, and the consequences of his failure to appear for trial. Accordingly, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in absentia after Appellant failed to appear at the courthouse for the beginning of his trial. See Wright, 304 S.C. at 532, 405 S.E.2d at 827 (1991) (finding no abuse of discretion in the denial of Wright's continuance motion raised before Wright's trial in absentia because the record reflected Wright was aware of the term of court in which his case was set to be tried and was aware the trial would proceed in his absence);

see also State v. Williams, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996) ("The trial court's refusal of a motion for continuance in a criminal case will not be disturbed absent a clear abuse of discretion."). Appellant's conviction should be affirmed.

C. Harmless Error

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). "No definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case." State v. Wiley, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). "When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result." State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989). Thus, when overwhelming evidence of guilt has been presented, any trial error may be harmless. State v. Gathers, 295 S.C. 476, 480-481, 369 S.E.2d 140, 143 (1988).

In Appellant's case, even if the trial court erred in beginning the trial without Appellant in attendance, any error was entirely harmless in light of the overwhelming evidence of Appellant's guilt. The testimony presented during trial established Appellant was stopped for a valid traffic violation and arrested for driving under suspension. After officers strip searched Appellant at the jail, two bags of cocaine base were discovered between Appellant's buttocks. Anita Moore, a criminalist with the City of Charleston, testified the bags obtained from Appellant contained 5.266 grams and 7.216 grams of cocaine base. (Tr. 204-10.) Appellant's guilt was conclusively established beyond any

reasonable doubt, rendering any error in the trial initially proceeding in his absence entirely harmless. See State v. Williams, 292 S.C. 231, 233, 355 S.E.2d 861, 862 (1987) (finding errors resulting from a trial in absentia are subject to a harmless error analysis). Even if Appellant had been present for jury selection and the beginning of his suppression hearing, the result of trial would have been no different in light of the overwhelming nature of the evidence presented. Furthermore, notwithstanding the fact Appellant was not present for part of the first day of trial, Appellant was present for the rest of the trial and was able to fully and completely present his defense to the charges. Appellant makes no prejudice argument at all and it is interesting to note that because he appeared before the suppression hearing was completed, he certainly could have testified if he had wanted to.[2] Thus, he suffered no prejudice by not being present for a portion of the hearing. Therefore, any error resulting from the trial initially proceeding without Appellant does not warrant reversal of Appellant's conviction and resulted in no actual prejudice to Appellant. See State v. McLeod, 362 S.C. 73, 82, 606 S.E.2d 215, 220 (Ct. App. 2004) ("[A]n insubstantial error not affecting the result of the trial is harmless where guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached."); see also State v. Shuler, 344 S.C. 604, 625, 545 S.E.2d 805, 815 (2001) ("Although the right to be present is a substantial one, **no presumption of prejudice arises from a defendant's exclusion**." (emphasis added)). Appellant's conviction should be affirmed.

[2] As to Appellant's argument regarding his absence during jury selection, this issue was waived when defense counsel stated, "I'm fine to go ahead and pick a jury." (Tr. 5, lines 20-23.)

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

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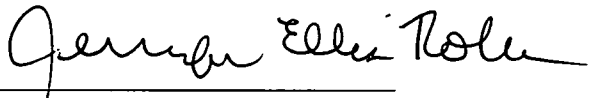
Assistant Attorney General

BY: 
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ATTORNEYS FOR RESPONDENT

October 15, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable Kristi Lea Harrington, Circuit Court Judge

Appellate Case No: 2013-000332

THE STATE,

Respondent,

v.

NORRIS T. STEPLIGHT,

Appellant.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

In addition to the matter designated by Appellant, Respondent proposes the following to be included in the Record on Appeal:

(1) Trial transcript pages 78-84, 175, 204-10, 250, 258;
(2) Bail Proceeding Order, dated May 28, 2011.

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General

BY: _____
Jennifer Ellis Roberts
Bar # 79818

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Appellate Case No: 2013-000332

THE STATE,

Respondent,

v.

NORRIS T. STEPLIGHT,

Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Jerry N. Theos, Esquire
Barry Krell, Esquire
Jeff Buncher, Jr., Esquire
Uricchio, Howe, Krell, Jacobson, Toporek, Theos & Keith, P.A.
Post Office Box 399
Charleston, SC 29402

I further certify that all parties required by Rule to be served have been served.
This 15th day of October, 2013.

Angela Bennett

ANGELA BENNETT
Administrative Assistant

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ALAN WILSON
ATTORNEY GENERAL

October 15, 2013

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RE: State v. Norris T. Steplight
Appellate Case No: 2013-000332

Dear Counsel:

I am enclosing two (2) copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

Jennifer Ellis Roberts
Assistant Attorney General
Bar # 79818

JER/ab
Enclosures

cc: Honorable Jenny A. Kitchings
(original enclosed)
Victim Services