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**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to the Court of Appeals  
Appeal from Florence County  
Honorable D. Craig Brown, Circuit Court Judge

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Opinion No. 2025-UP-136 (S.C. Ct. App. Filed April 23, 2025)  
Lower Court Case No. 2021-GS-21-00472

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THE STATE,

PETITIONER,

V.

QUINTERRIS JAVON CARMICHAEL,

RESPONDENT

APPELLATE CASE NO. 2025-001214

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RETURN TO PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF APPEALS

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ATTORNEY FOR RESPONDENT

## INDEX

|                                                                                                                                                                                                                                                                                       |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| INDEX .....                                                                                                                                                                                                                                                                           | i        |
| QUESTION PRESENTED .....                                                                                                                                                                                                                                                              | 1        |
| STATEMENT OF THE CASE.....                                                                                                                                                                                                                                                            | 2        |
| STANDARD OF REVIEW .....                                                                                                                                                                                                                                                              | 3        |
| ARGUMENT                                                                                                                                                                                                                                                                              |          |
| <b>The Court of Appeals correctly reversed Respondent’s convictions where the trial court denied Respondent’s request to individually poll the jurors, since a poll must be taken if a request for polling is made .....</b>                                                          | <b>4</b> |
| A. Security and jury/witness tampering concerns presented during trial. One juror was released because he was contacted and instructed to convict the defendants. When the verdicts were announced, the trial court refused Respondent’s request to individually poll the jurors..... | 4        |
| B. The trial court’s refusal to conduct individual polling of the jurors was error and reversible per se. The security problems and jury tampering concerns only highlight the importance of polling .....                                                                            | 7        |
| CONCLUSION.....                                                                                                                                                                                                                                                                       | 11       |

### **PETITIONER'S QUESTION PRESENTED**

Does existing precedent in *State v. Wright*, 439 S.C. 101, 886 S.E.2d 206 (2023), and the Court of Appeals' application thereof in its reversal, conflate the nature of procedural error with that of structural error, where the jury was polled to ensure the unanimous verdict, where there is absolutely no evidence tending to suggest that the defendant received a nonunanimous verdict, and where extraordinary circumstances at trial demonstrated the need for the rare exception in the method of polling?

### **RESPONDENT'S QUESTION PRESENTED**

Whether the Court of Appeals correctly reversed Respondent's convictions where the trial court denied Respondent's request to individually poll the jurors, since a poll must be taken if a request for polling is made?

## **STATEMENT OF THE CASE**

During the May term of 2021, a Florence County Grand Jury indicted Quinterris Carmichael, Respondent, for murder and possession of a weapon during the commission of a violent crime. Respondent was tried jointly with his codefendant, Tirik Johnson-Epps, before the Honorable D. Craig Brown and a jury, from January 23 – 27, 2023. Respondent was represented by William “Josh” Edgeworth, III. Gregory Ammons represented Johnson-Epps. J. Ryan White and Todd Tucker prosecuted the case. Respondent was convicted as indicted, and he was sentenced to life imprisonment without parole for murder. No sentence was imposed for the weapons charge. R. 539 – 542; R. 1; R. 226; R. 514, ll. 6-14; R. 536, ll. 5-20; R. 543 – 546.

On January 31, 2022, Respondent served his notice of intent to appeal. On April 23, 2025, Respondent’s convictions were reversed when the Court of Appeals held the trial court erred by denying Respondent’s request to poll the jury. *State v. Carmichael*, Op. No. 2025-UP-136 (S.C. Ct. App. filed April 23, 2025). On May 8, 2025, the State filed a petition for rehearing. On May 22, 2025, the Court of Appeals denied rehearing. On July 8, 2025, the State filed a petition for writ of certiorari to the Court of Appeals. This return follows.

### **STANDARD OF REVIEW**

The appellate courts of South Carolina review questions of law de novo. *State v. Adams*, 409 S.C. 641, 647, 763 S.E.2d 341, 344 (2014); *Jordan v. State*, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013). “We clarify that appellate courts review questions of law de novo, with no deference to trial courts.” *Smalls v. State*, 422 S.C. 174, 181, 810 S.E.2d 836, 840 (2018).

## ARGUMENT

The Court of Appeals correctly reversed Respondent's convictions where the trial court denied Respondent's request to individually poll the jurors, since a poll must be taken if a request for polling is made.

- A. Security and jury/witness tampering concerns presented during trial. One juror was released because he was contacted and instructed to convict the defendants. When the verdicts were announced, the trial court refused Respondent's request to individually poll the jurors.**

At approximately 3:30 a.m. on September 12, 2019, eighteen-year-old Tydrecus Williams (Decedent) was shot and killed outside the Tiger Mart in Florence. Decedent and his friend, Kareem Jones (Jones), were there to buy cigars. The State alleged surveillance footage from cameras outside the Tiger Mart captured the following: Respondent and his codefendant, Johnson-Epps, arrived in a car with two women. Respondent and Johnson-Epps got out of the car. Respondent and Jones argued, and Respondent struck Jones. Johnson-Epps fired shots at Decedent. Decedent ran toward the road and collapsed. The surveillance system, which was motion-triggered, stopped recording. When recording resumed, Decedent was gone, out of frame. State's Exhibit #3; R. 248, l. 6-7; R. 403, l. 2 – 407, l. 3; R. 88, l. 15 – 92, l. 9; R. 101, l. 6 – 115, l. 3; R. 101, l. 15 – 133, l. 21; R. 184, l. 6 – 192, l. 23; R. 1.

The State alleged Johnson-Epps and Respondent went around the corner of the building. Shortly thereafter, Johnson-Epps got back in the car with the women, drove a short distance away, and stopped to wait for Respondent to get back in the car. All four left. Law enforcement arrived and found Decedent's body near the store. Decedent had been shot approximately eight or nine times and died at the scene. Authorities collected a pair of jeans from Johnson-Epps's home that had a spot of Decedent's blood on them. State's Exhibit #3; R. 111, l. 12 – 116, l. 4; R. 181, l. 4 – 182, l. 20; R. 282, l. 17 – 290, l. 17; R. 320, l. 22 – 328, l. 3; R. 19, l. 6 – 20, l. 11.

Atypical problems occurred during trial. Prior to the jury being sworn a discussion transpired between the judge and the lawyers over a “concern[] about the number of people” in the courtroom. The solicitor told the court the allegations in the case were not gang-related, but there was “some bad blood here.” Defense counsel stated the “victim’s family obviously holds a lot of grudges.” The solicitor further offered that witnesses had been getting repeated hang up phone calls. The court then instructed the approximately thirty people in the gallery that attempts to influence or intimidate witnesses would be met with “up to 10 years in jail.” R. 75, ll. 2-19; R. 76, l. 25 – 78, l. 19.

After the first witness testified, Juror #133 was removed and an alternate was substituted because Juror #133 had been contacted through Facebook, apparently by someone in the gallery, and instructed to convict the defendants. The juror was messaged: “Eric, both them boys killed Mrs. Betty’s grandson, bug son. Shot him 11 times and one in the head. I had to leave to go to work. Please give them the justice they deserve.” After Juror #133 was released, he was given a police escort off the premises. R. 139, l. 1 – 156, l. 21.

The court subsequently decided to allow only immediate family members of the parties in the audience based on the solicitor’s claim that Respondent was heard on a jail phone call “discussing with another individual don’t worry about looking for Dee’s girlfriend anymore, she’s the one that was excused yesterday.” The court stated, “I couldn’t make out the entire discussion but was able to make out there was someone as part of the jury pool that was prepared to vote not guilty who was not seated on this jury.” R. 176, l. 7 – 178, l. 13. Later during trial, defense counsel was stopped outside the courthouse during a break and asked by an unknown individual in a car if the jurors were going to lunch. R. 410, l. 19 – 411, l. 5.

The jury deliberated for two hours. The verdicts were handed up and the judge announced the guilty verdicts by reading them aloud. R. 513, l. 7 – 514, l. 2; R. 514, ll. 6-22. After announcing the verdicts, the court conducted the common practice of collectively addressing the jury about the verdicts. It addressed the jury as a body, asking: “if this was and still is your verdict, please indicate by raising your right hand.” The court then stated,

All right, let the record reflect that all 12 jurors have raised their hand pursuant to the question that I’ve asked of this jury. All right, at this time anything, Mr. Edgeworth, at this time?

MR. EDGEWORTH: **Your Honor, I’d move to have each of the jurors individually polled.**

THE COURT: All right, Mr. Ammons?

MR. AMMONS: I join in that motion, your Honor.

THE COURT: All right. Can the lawyers approach please?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right, defense counsel has asked that each individual juror be polled. **I have previously asked this jury whether or not this is their verdict and whether or not it is still their verdict, as I indicated on the record, each of those 12 jurors have raised their hands. I believe that that is sufficient under the circumstances, and therefore I’m not going to individually poll each juror.** I’ve given an opportunity for them to respond pursuant to my question, and they’ve responded and I think that’s appropriate under the circumstances.

R. 514, l. 23 – 515, l. 23 (emphasis added).

After the jury left the courtroom, the court heard post-trial motions and heard from the attorneys and from family members of the parties regarding sentencing. In response to the solicitor’s argument that Respondent was on the jail telephone “seemingly tampering with this jury,” the court stated the following: “I want to make it abundantly clear. There’s no evidence—

right now there's no evidence that either one of these defendants had anything to do with the things that happened this week." R. 516, l. 1 – 532, l. 5; R. 531, l. 24 – 532, l. 10.

The court detailed the concerns that occurred throughout the week and its efforts to ensure an impartial trial. The court further noted that after the case went to the jury, four rounds of ammunition were found in the men's bathroom of the courthouse and the court stated law enforcement cleared the building and had everyone come back through security. The court stated it also had law enforcement search the courtroom, and a dog from the U.S. Marshall's Office went through the courtroom as well. R. 532, l. 6 – 535, l. 17; R. 534, l. 19 – 535, l. 17.

The Court of Appeals held "the trial court erred by denying Carmichael's request to individually poll the jurors because the denial of his right to an individual poll of each juror is reversible per se." The Court of Appeals cited the holding of *State v. Wright*, 439 S.C. 101, 102, 886 S.E.2d 206, 207 (2023), that the denial of a defendant's timely request the jury be individually polled is reversible per se. *State v. Carmichael*, Op. No. 2025-UP-136 at 2. Because it reversed on the jury<sup>1</sup> polling error, the Court of Appeals declined to address Respondent's remaining arguments.<sup>1</sup> *State v. Carmichael*, Op. No. 2025-UP-136 at 2.

**B. The trial court's refusal to conduct individual polling of the jurors was error and reversible per se. The security problems and juror tampering concerns only highlight the importance of polling.**

Polling is a means to ensure the validity of the verdict, by addressing each juror separately as to his or her concurrence in the verdict. "Polling is a practice whereby the court determines from the jurors individually whether they assented and still assent to the verdict."

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<sup>1</sup> In addition to the jury polling error, Respondent also raised an error regarding the admission of statements he made during his recorded interrogation, wherein Respondent requested a lawyer five times but Officer Shelley informed him he could not have a lawyer unless he "ha[d] one on retainer," and continued the recorded interrogation. Respondent additionally raised an error regarding the admission of "investigative" hearsay. Brief of Appellant at 6 – 16; 17 – 21.

*State v. Linder*, 276 S.C. 304, 308, 278 S.E.2d 335, 338 (1981) (citing *Sanders v. Charleston Consol. Ry. & Lighting Co.*, 154 S.C. 220, 151 S.E.2d 438 (1930)). “‘Individual’ polling requires each juror to be individually questioned as to whether they ‘assented and still assent to the verdict.’” *State v. Wright*, 439 S.C. 101, 102, 886 S.E.2d 206, 207 (2023) (quoting *Linder*, *supra*). “Individual polling is commonly accomplished by separately asking each juror, ‘Was this your verdict?’ If the answer to that question is ‘yes,’ the customary follow-up question is, ‘Is this still your verdict?’” *Wright*, 439 S.C. at 102–03, 886 S.E.2d at 207.

A request for polling must be timely. “We note the common practice for collective polling to be conducted immediately after the verdict is published; when collective polling is conducted, the request, if any, for individual polling must take place immediately after the collective polling is concluded.” *Wright*, 439 S.C. at 103, 886 S.E.2d at 207.

Polling safeguards important rights. “The right to poll the jury is not in itself a constitutional right but a procedural protection of the defendant’s constitutional right to a unanimous verdict.” *State v. Wright*, 432 S.C. 365, 369, 852 S.E.2d 468, 470 (Ct. App. 2020), *aff’d*, 439 S.C. 101, 886 S.E.2d 206 (2023) (citing *State v. Pare*, 755 A.2d 180, 188 (Conn. 2000)). “It also safeguards the right to a public trial.” *Wright*, 432 S.C. at 369, 852 S.E.2d at 470 (citing *State v. Kelly*, 372 S.C. 167, 170–71, 641 S.E.2d 468, 470 (Ct. App. 2007)). Individualized polling “dispel[s] any doubt a party might entertain as to the propriety of a jury verdict as rendered.” *Linder*, 276 S.C. at 309, 278 S.E.2d at 338.

Whether to individually poll the jurors is not discretionary. If the request is made, polling is mandatory. “Whether a poll of the jury will be conducted is discretionary with the trial judge unless a polling is requested. If the request is made, a poll must be taken.” *Linder*, 276 S.C. at 308, 278 S.E.2d at 338. The denial of a timely request to poll the jury necessitates

reversal. “[T]he denial of a defendant’s request for individual polling is reversible per se.” *Wright*, 439 S.C. at 103, 886 S.E.2d at 207.

The State argues the judge’s use of the word “circumstances” meant the court refused to poll the jury for security reasons. Petition for Writ of Certiorari at 5 – 7; 9. The transcript reflects the judge ruled: “I have previously asked this jury whether or not this is their verdict and whether or not it is still their verdict, as I indicated on the record, each of those 12 jurors have raised their hands. I believe that that is sufficient under the circumstances, and therefore I’m not going to individually poll each juror.” R. 514, ll. 15-21. The “circumstances” referred to by the court could have simply been what it had just stated—that the jurors raised their hands when collectively addressed. However, assuming *arguendo* the court was referring to security or juror or witness tampering concerns, that was all the more reason for the court to grant Respondent’s request to individually poll the jurors. One juror had been released from service after being contacted by an audience member and told to convict the defendants. Respondent understandably sought to exercise his right to ensure the propriety of the verdict. Counsel’s request to individually poll the jurors was not a hollow formality in the abstract, and it was not one in this case.<sup>2</sup>

The Court of Appeals’ decision in *State v. Wright* was published two years prior to this trial. (This Court’s opinion affirming that decision was published a month after this trial.) As in

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<sup>2</sup> The State appears to argue in a footnote that jurors should not be individually polled because it will draw attention to their names: “It is not lost on the State that in this technological age the calling of jurors by name to serve in criminal cases creates at least ‘some’ risk to those jurors if the defendant, his family, or his associates wish to carry out vengeful acts.” Petition for Writ of Certiorari at 9, n. 1. Perhaps this is a more blanket complaint about jurors’ names being available during jury selection. Regardless, the jurors could have been individually polled by number. Moreover, jury trials occur all the time in small towns where everyone knows each other and thus it is common knowledge who is seated on a jury.

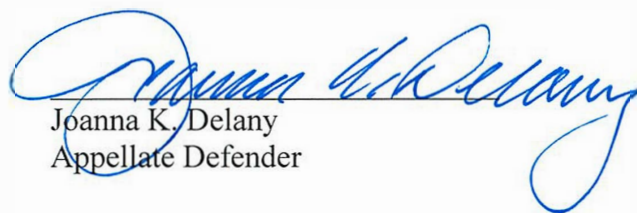
*Wright*, the State once again argues the collective instruction to the jury to raise their hands if they assented to the verdict was a “poll,” just by a different “manner” or “method.” Petition for Writ of Certiorari at 8 – 11. That argument was unavailing in *Wright* and it is unavailing now. The collective address was not an individualized poll. Nothing distinguishes this case from *Wright*, although the circumstances in this case certainly gave counsel cause to request polling. In this case, the jurors were not individually polled—they were not individually asked, “Was this your verdict?” and “Is it still your verdict?” Respondent’s request for an individual poll was timely: it was made immediately after the collective polling was concluded. It was not within the judge’s discretion to deny Respondent individual polling. The Court of Appeals correctly found error. *Wright*, 439 S.C. at 103, 886 S.E.2d at 207.

The State argues the failure to conduct an individualized poll upon request is not per se reversible error. Petition for Writ of Certiorari at 8 – 12. This Court plainly held in *Wright*: “the denial of a defendant’s request for individual polling is reversible per se.” *Wright*, 439 S.C. at 103, 886 S.E.2d at 207. *See also Wright*, 432 S.C. at 372, 852 S.E.2d at 472 (“It is our firm view that depriving a defendant of his or her polling right is not a technicality, but a material and prejudicial error); *Linder*, 276 S.C. at 309-11; 278 S.E.2d at 338-39 (setting the matter for retrial based on trial court’s refusal to poll the jury where polling was requested).

The Court of Appeals correctly reversed. *Wright*, 439 S.C. at 103, 886 S.E.2d at 207; *Linder*, 276 S.C. at 309, 278 S.E.2d at 338.

**CONCLUSION**

Respondent respectfully requests this Court deny the State's petition for writ of certiorari.



Joanna K. Delany  
Appellate Defender

ATTORNEY FOR RESPONDENT

This 28th day of July, 2025.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to the Court of Appeals  
Appeal from Florence County  
Honorable D. Craig Brown, Circuit Court Judge

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Opinion No. 2025-UP-136 (S.C. Ct. App. Filed April 23, 2025)  
Lower Court Case No. 2021-GS-21-00472

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THE STATE,

PETITIONER,

V.

QUINTERRIS JAVON CARMICHAEL,

RESPONDENT

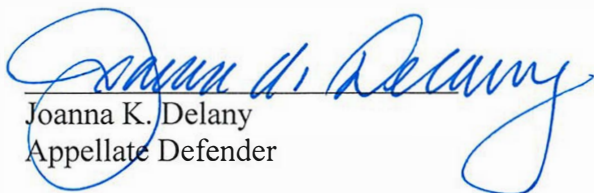
APPELLATE CASE NO. 2025-001214

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the return to petition for writ of certiorari in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Quinterris Javon Carmichael, #390085, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 28th day of July, 2025.

  
Joanna K. Delany  
Appellate Defender

ATTORNEY FOR RESPONDENT

**From:** [Mcinnis, Sara](#)  
**To:** [SC - MAYE WILLIAM](#)  
**Cc:** [Donna D'Alessio](#); [Delany, Joanna](#)  
**Subject:** 2025-001214 The State v. Quinterris J. Carmichael Return to Petition for Writ of Certiorari  
**Date:** Monday, July 28, 2025 4:50:00 PM  
**Attachments:** 2025-001214 The State v. Quinterris J. Carmichael Return to Petition for Writ of Certiorari.pdf  
AG Cover Letter - RPWC.pdf

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Good Afternoon Mr. Maye,

Attached for service in the above-referenced case is the Return to the Petition for Writ of Certiorari to the Court of Appeals, which will be filed with the Supreme Court today, July 28, 2025, via email filing.

Respectfully,

Sara McInnis  
Administrative Assistant  
South Carolina Commission on Indigent Defense  
Appellate Division  
(803) 734-1330