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SC COURT OF APPEALS

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM RICHLAND COUNT  
Court of Common Pleas

Paul Burch, Circuit Court Judge

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WILLIE RITTER

Appellant,

vs.

STATE OF SOUTH CAROLINA

Respondent.

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REPLY BRIEF

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## ARGUMENT

The State argues that this matter should be brought in a post-conviction relief application and not on direct appeal. (Resp't Br. 4). This is contrary to past rulings of the Supreme Court of South Carolina. The Supreme Court has held an error, which could be reviewed on direct appeal, should be brought forward at that time and not in an application for post-conviction relief. *Peeler v. State*, 283 S.E.2d 826 (S.C. 1981).

The State next argues that this matter is not properly before this Court because no objection was made. (Resp't Br. 4). While Mr. Ritter was entering his plea, counsel advised the trial court, "[s]o we—we also enter this plea, Your Honor, with the understanding that the Court, as you have stated, believes that the statute under which my client is pleading is a suspendible statute." (R. 11). After the trial court sentenced Mr. Ritter on September 21, 2009, Mr. Ritter's attorney filed a Motion to Reconsider on September 25, 2009. (R. 2). The trial court listened to arguments based on this motion on October 31, 2012. (R. 1). Mr. Ritter advised the trial court that he was seeking a reduction in his sentence or for the court to vacate his sentence. (R. 35). The State is incorrect in its contention that no objection was made. As the Supreme Court of

South Carolina has held, the word objection is not even required to place the court in error. *State v. Byers*, 710 S.E.2d 55, 59 (S.C. 2011). The Court stated, “[t]he rationale behind the requirement of a contemporaneous objection is to ‘enable trial judges to make reasoned decisions by appropriately developing issues by way of argument, both for or against any particular legal proposition.’” *Id.* at 58 (quoting *State v. Torrance*, 406 S.E.2d 315, 327 (S.C. 1991)).

Mr. Ritter timely made his objections in this case. (R. 11)(R. 35). Furthermore, Mr. Ritter is only required to place the trial court on notice of their error and allow them an opportunity to correct said error. In this case, Mr. Ritter placed the trial court on notice and the trial court had ample opportunity to correct the error. (R. 36).


In this case, the trial court was advised that Mr. Ritter did not enter into his plea voluntarily and knowingly. The fact that the trial court, the State, and previous defense counsel believed this sentence could be suspended shows that the plea was not entered into knowingly.

**CONCLUSION**

The Appellant hereby requests this Court to reverse the Order of the Trial Court. Furthermore, the Appellant requests that the Court reverse his conviction and remand this matter consistent with the law and facts contained herein and all other relief or orders as this Court deems appropriate.

Respectfully Submitted,

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*April 10*  
~~March~~, 2012

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CERTIFICATE OF COUNSEL

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The undersigned certifies that this Reply Brief of Appellant complies with Rule 208.

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