

STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM EDGEFIELD COUNTY  
Court of General Sessions  
R. Knox McMahon, Circuit Court Judge  
Appellate Case No.: 2010-178247

**S.C. Supreme Court**

Opinion No. 27322 (S.C.Sup.Ct. filed October 16, 2013)

The State,

Respondent,

vs.

Steven Barnes,

Appellant.

**REPLY TO THE RETURN TO PETITION FOR REHEARING**

Respondent filed a petition for rehearing on October 30, 2013. Appellant filed a return to the petition on November 14, 2013. Respondent now submits this reply to bring a critical point in the return to the Court's attention.

The return from Appellant Barnes essentially concedes and/or perpetuates the very point which Respondent contends the majority misapprehends. Respondent submits the majority opinion reflects a misunderstanding of the *Edwards*<sup>1</sup> exception. (Petition, pp. 1-2). The majority opinion refers to a higher standard for waiver as opposed to whether a state court may decline acceptance of the waiver under certain discrete circumstances. (Petition, pp. 1-4). Appellant Barnes acknowledges the language in the opinion reflecting the misapprehension. (See Return, p. 2, "The opinion here noted that 'since the Court

<sup>1</sup> *Indiana v. Edwards*, 554 U.S. 164 (2008).

merely agreed that states **could set** a higher standard for waiver of counsel without offending the federal constitution, it declined to adopt a federal constitutional standard for determining whether a defendant is competent to waive his right to counsel. We decline to adopt a higher [...] competency standard for waiver of the right to counsel than that required for the waiver of other fundamental constitutional rights...”). However, he fails to address any argument as to the misapprehension, and fails to address any of the concerns that stem from the misapprehension as pointed out in the petition. Further, he fails to address the tension between the majority opinion and dissent which appears to rest on the basic misapprehension. Consequently, the return merely concedes or perpetuates the very misapprehension at issue.

If, indeed, the majority has misapprehended the *Edwards* exception (which is supported by the language in the opinion that is quoted in the petition for rehearing, and, now, quoted in the return to the petition for rehearing), then rehearing is warranted for all the reasons stated in the petition for rehearing.

#### CONCLUSION

For all of the foregoing reasons, and for all the reasons set out in the petition for rehearing, it is respectfully submitted that the Court should grant rehearing in light of the misapprehension of the scope and definition of the *Edwards* exception in this case of first impression in this Court.

Respectfully submitted,

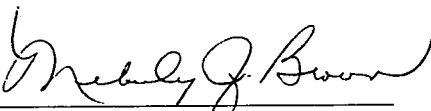
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November 15, 2013.  
Columbia, South Carolina.

ATTORNEYS FOR RESPONDENT

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**PROOF OF SERVICE**

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I, Melody J. Brown, certify that I have served the *Reply to the Return to Petition for Rehearing* on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to his attorneys of record as follows:

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This 15<sup>th</sup> day of November, 2013:



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