THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

THE STATE,

RESPONDENT,

V.

STEVEN BARNES,

APPELLANT

Appellate Case No. 2010-178247

Appeal from Edgefield County

R. Knox McMahon, Circuit Court Judge

Opinion No. 27322

RESPONSE TO REPLY TO RETURN TO PETITION FOR REHEARING

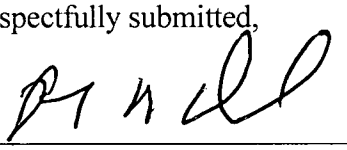
The state filed a reply to appellant's return in this case which Appellant Barnes can only discern is an attempt to make the straightforward seem complicated. The state strangely asserts appellant "concedes and/or perpetuates" some "misapprehension" that it claims exists on the part of the majority of this Court. State's reply at 1. Appellant has not conceded anything, and it is clear from the opinion in this case that the majority and the dissent both clearly understood the position of the other as to Faretta[1], Indiana v. Edwards, 554 U.S. 164 (2008), and whether South Carolina

[1] Farretta v. California, 422 U.S. 806 (1975)

would follow Indiana v. Edwards and the ability to insist upon counsel for a severely mentally ill defendant who is nonetheless competent to stand trial. Indiana v. Edwards, 554 U.S. 164, 178 (1975). This Court determined it would not follow Indiana v. Edwards, and because the trial judge applied that standard appellant was entitled to a new trial. No "misapprehension" of any legal principle or factual scenario exists this case, and the petition for rehearing is, again, merely a rehash of the state's argument in its brief of respondent that it is apparent from the opinion in this case that both the majority and the dissent understood. See State v. Steven Barnes, Shearouse's Adv. Sh. No. 44 at 16-52 (Filed October 16, 2013).

In sum, appellant showed an uncanny understanding of the rules of evidence and the court rules that he would have to operate under if he represented himself. Appellant was nothing like the severely mentally ill defendant in Edwards, and it is equally apparent under Faretta that appellant knowingly, intelligently, and voluntarily waived his right to counsel "with eyes open" State v. McLauren, 349 S.C. 488, 494, 563 S.E.2d 346, 349 (2002); Wroten v. State, 301 S.C. 293, 294, 391 S.E.2d 575, 576 (1990). The petition for rehearing should be denied

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

This 20th day of November, 2013.

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THE STATE,

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Response to Reply to Return to Petition for Rehearing in the above-entitled case has been served upon Melody J. Brown, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 20th day of November, 2013.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 20th day
of November, 2013.

(L.S.)
Notary Public for South Carolina

My Commission Expires: August 21, 2023.