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SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

 ORIGINAL

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Robert M. Dudek, Chief Appellate Defender
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December 3, 2013

The Honorable Daniel E. Sherouse
Clerk, S.C. Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201
Hand Delivered

RECEIVED

DEC 03 2013

S.C. Supreme Court

Re: State v. Travis Jones
Appellate Case No. 2011-205206

Dear Mr. Shearouse:

The Court will hear the above-captioned case tomorrow on Wednesday, December 4, 2013. Current counsel for Appellant was assigned this case by the Commission on Indigent Defense after the filing of Appellant's final brief. Pursuant to Rule 208(b)(7), SCACR, Appellant notifies the Court of the following court opinions, which came to counsel's attention after his assignment. The authorities are pertinent and significant because they set forth rules regarding jury instructions as to the credibility of testifying codefendants in cases comparable to this one. By email I am copying this notice to the attorney for the State.

U.S. v. Bosch, 914 F.2d 1239, 1247 (9th Cir. 1990) ("Bosch may have been entitled to an informant and/or accomplice instruction. 'Such an instruction must be given when requested by defense counsel, at least where the testimony of an accomplice is substantially uncorroborated.'" (citation omitted)).

U.S. v. Garcia, 528 F.2d 580, 587-88 (5th Cir. 1976) ("[A] defendant is entitled to a special cautionary instruction on the credibility of an accomplice or a government informer if he requests it and the testimony implicating the accused is elicited solely from the informer or accomplice. The rationale behind this requirement is to insure that no verdict based solely on the uncorroborated testimony of a witness who may have good reason to lie is too lightly reached." (citations omitted)).

U.S. v. Lee, 506 F.2d 111, 118 (D.C. Cir. 1974) (“Although a conviction may rest solely on the uncorroborated testimony of an accomplice, accomplice testimony is inherently less reliable than that of other witnesses. In some jurisdictions there is an absolute prohibition, typically set by statute, against conviction on the uncorroborated testimony of an accomplice. More generally the rulings permit a conviction on this basis provided a cautionary instruction is given.”).

Todd v. U.S., 345 F.2d 299, 300 (10th Cir. 1965) (“[I]f the incriminating testimony of an informer is uncorroborated or unsubstantiated, special cautionary instructions are surely required.”).

U.S. v. Williams, 59 F.3d 1180, 1183 (11th Cir. 1995) (“A defendant is entitled to a special jury instruction on the credibility of a Government informer if the defendant requests it and the testimony implicating the accused is elicited solely from the informer. The purpose behind such a policy is to ensure that no verdict based solely on the uncorroborated testimony of a witness who may have good reason to lie is too lightly reached.” (citation omitted)).

Sincerely,

A handwritten signature in black ink, appearing to read 'Benjamin John Tripp', written in a cursive style.

Benjamin John Tripp
Appellate Defender

cc: William M. Blich, Jr.