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IN THE COURT OF APPEALS OF SOUTH CAROLINA

SC Court of Appeals

The State, Respondent, v. Tyreek Lorenzo Robinson, Appellant. Appellate Case No. 2022-000874 Lower Court: Beaufort County ---

PRO SE PETITION FOR REHEARING

TO THE HONORABLE CLERK OF THE COURT OF APPEALS:

Appellant, Tyreek Lorenzo Robinson, proceeding *pro se*, respectfully petitions this Court to rehear the appeal dismissed on May 6, 2026, in Unpublished Opinion No. 2026-UP-208. This petition is timely filed pursuant to Rule 221(a) of the South Carolina Appellate Court Rules (SCACR).

I. JURISDICTION AND TIMELINESS

This petition is submitted within fifteen (15) days of the filing of the Court's opinion. As an incarcerated person, Appellant utilizes the prison's official legal mail system to ensure timely submission to this Court and service upon the State.

II. GROUNDS FOR REHEARING

Pursuant to Rule 221(a), SCACR, Appellant asserts that this Court overlooked or misapprehended critical points of constitutional law and uncontroverted trial facts regarding **identity** and **forensic exclusion**, rendering an *Anders* dismissal a manifest injustice. Specifically, the Court overlooked the following structural errors in the State's case:

1. Misapprehension of Identity and Third-Party Guilt Evidence

The Court misapprehended the legal insufficiency of the State's identity evidence. The record establishes that the victim **completely failed** to identify Appellant out of a photo lineup.

Under long-standing constitutional principles, where identity is the central triable issue, the exclusion or misapprehension of evidence pointing to a third party violates a defendant's right to present a complete defense. In *Holmes v. South Carolina*, 547 U.S. 319 (2006), the United States Supreme Court held that a defendant's right to a meaningful opportunity to present a complete defense is violated when rules are applied mechanically to exclude strong evidence of third-party guilt.

Here, the record shows that another specific individual, "Kareem," was in active possession of the cell phone in question during the critical dates of the alleged offense. By dismissing this appeal as frivolous, this Court overlooked the clear application of *Holmes*, as the evidence firmly

links a third party to the primary piece of circumstantial evidence used to secure Appellant's conviction.

2. Overlooking Uncontroverted Forensic DNA Exclusion

This Court overlooked the profound, exculpatory impact of the forensic testing performed by the State Law Enforcement Division (SLED). The trial record establishes that SLED analysts **officially and completely excluded Appellant as a contributor** to the DNA mixtures recovered from every primary item at the crime scene, including:

- The Crown Royal bottle;
- The victim's wallet; and
- The entry door knob.

In South Carolina jurisprudence, scientific evidence must assist the trier of fact in resolving core disputes like identity, as articulated in *State v. Council*, 335 S.C. 1, 515 S.E.2d 508 (1999) and reaffirmed in *State v. Phillips*, 430 S.C. 319, 844 S.E.2d 651 (2020). While *Council* and *Phillips* address when DNA *implicates* a defendant, they establish that forensic profiles are highly deterministic of identity.

When the State's own expert scientific analysis definitively concludes that a defendant *could not have been the donor* of the biological materials left on handled surfaces at the scene, an appellate court cannot dismiss an appeal as "wholly frivolous". This Court misapprehended the record by failing to recognize that total forensic exclusion raises a legitimate, appealable issue regarding the sufficiency of the evidence required to sustain a conviction beyond a reasonable doubt.

III. PRAYER FOR RELIEF

Because the uncontroverted trial record contains both a total failure of eyewitness identification and conclusive DNA exclusion—while actively implicating a third party—Appellant's case presents deeply meritorious issues.

Appellant respectfully requests that this Court grant this Petition for Rehearing, vacate the dismissal entered on May 6, 2026, and restore this case to the active docket for a full review on the merits.

Respectfully submitted,

Tyreek Lorenzo Robinson SCDC #388321

Ridgeland Correctional Institution **Date:** May 15, 2026



AMA/cc

Enclosures

APPELLANT'S MERITORIOUS PRO SE BRIEF
IN THE COURT OF APPEALS FOR THE STATE OF SOUTH CAROLINA

Appellate Case No.: 2022-000874

Appeal From: Beaufort County, Honorable Robert J. Bonds, Circuit Judge

THE STATE OF SOUTH CAROLINA, Respondent,

v.

TYREEK L. ROBINSON, Appellant.

Submitted By: Tyreek L. Robinson, #388321

Ridgeland Correctional Institution

P.O. Box 2039

Ridgeland, S.C. 29936

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TABLE OF AUTHORITIES

Cases

- *Bell Hall Plantation Homeowners Association, Inc. v. Murray*, 799 S.E.2d 310 (S.C. Ct. App. 2017)
- *David Sandstrom v. State of Montana*, 99 S.Ct. 2450 (1979)
- *Ex Parte Messervy*, 61 S.E. 445 (S.C. 1908)
- *Hayes County et al. v. Wileman*, 82 Neb. 669, 118 N.W. 478 (Neb. 1908)
- *In re Kimberly Deane (Kimberly Harris v. Kimberly Doane, Kimberly Harris and Rebecca Connelly, U.S. Trustee)*, 102 Fed. Appx. 312, 2004 WL 1433436, 58 Fed. R. Serv. 3d 898 (4th Cir. 2004)
- *Innovative Waste Management, Inc. v. Crest Energy Partners, LLC*, 815 S.E.2d 780 (S.C. Ct. App. 2018)
- *Joseph Lowry v. State of South Carolina*, 657 S.E.2d 760 (S.C. 2008)
- *Margaret P. Ware v. Ralph D. Ware*, 743 S.E.2d 817 (S.C. 2013)
- *McCullough v. Hicks, County Auditor*, 41 S.E. 761 (S.C. 1902)
- *Soileau v. Bowman*, 382 S.W.3d 883 (Ky. Ct. App. 2012)
- *State v. Brown*, 602 S.E.2d 392 (S.C. 2004)
- *State v. Kevin Cornelious Odems*, 720 S.E.2d 48 (S.C. 2011)
- *State v. Sanderock*, 114 N.E.3d 262 (Ohio Ct. App. 2018)
- *State of Ohio v. Joseph Elliott*, 2006 WL 2520336 (Ohio Ct. App. 2006)

- *The People of the State of Illinois v. Dennis Edwards*, 2012 IL App (1st) 102515-U, 2012 WL 1860343 (Ill. App. Ct. 2012)
- *Wells Fargo Bank, N.A. v. AMH Roman Two NC, LLC*, 859 F.3d 295 (4th Cir. 2017)
- *William Fiore v. Gregory White*, 121 S.Ct. 712 (2001)

Constitutional Provisions

- United States Constitution, Fifth Amendment
- United States Constitution, Fourteenth Amendment

STATEMENT OF ISSUES ON APPEAL

1. Is Tyreek Robinson entitled to have his convictions and prison sentences vacated, and be discharged from unlawful restraint, because the state of South Carolina failed as a matter of law to prove beyond a reasonable doubt the identity of the person who burglarized Angela Norcia's home?
2. Is Tyreek Robinson entitled to have his convictions and consecutive prison sentences of 16 years, 6 years, and 5 years vacated because the State failed to prove his guilt beyond a reasonable doubt, rendering the judgments void and a nullity under the Due Process Clause?
3. Did the trial court err by denying Appellant's motion for a directed verdict of acquittal on the charges of Burglary First Degree, Assault and Battery First Degree, and Voyeurism?

STATEMENT OF THE CASE

On April 15, 2021, the Beaufort County Grand Jury indicted Appellant, Tyreek Lorenzo Robinson, under Indictment Nos. 2020GS0702061, 2020GS0702062, 2020GS0702063, and 2021GS0700037. The charges included Burglary First Degree, Assault and Battery First Degree, Aggravated Voyeurism, and Petit Larceny, stemming from an incident in the early morning hours of September 19, 2020.

Appellant's jury trial took place from June 13 through June 15, 2022, before the Honorable Robert J. Bonds. Juan Tolley, Esq., represented Appellant, and Hunter Swanson, Esq., represented the State. At the close of the State's case, the defense moved for a directed verdict of acquittal, which was denied.

On June 15, 2022, the jury found Appellant guilty of Burglary First Degree, Assault and Battery First Degree, and Aggravated Voyeurism, but acquitted him of Petit Larceny. The trial court sentenced Appellant to consecutive terms of 16 years for Burglary First Degree, 6 years for Aggravated Voyeurism, and 5 years for Assault and Battery First Degree, totaling 27 years of imprisonment. The court granted credit for 607 days of time served, placed Appellant on the sex offender registry, and entered a permanent restraining order regarding the complaining witness. This timely appeal followed.

STANDARD OF REVIEW

A void judgment is a nullity that carries no legal effect from its inception. Under South Carolina law, a judgment is void if the issuing court lacked jurisdiction or failed to provide proper due process.

- *Innovative Waste Management, Inc. v. Crest Energy Partners, LLC* establishes that void judgments are those issued by courts that fail to afford due process.
- *Wells Fargo Bank, N.A. v. AMH Roman Two NC, LLC* confirms an order is void if a court acts contrary to due process of law.

- J.M. Ford v. First National Bank of St. Joseph holds that a judgment void for lack of due process may be set aside at any time, notwithstanding any applicable statutes of limitations.
- A void conviction or sentence is not subject to waiver and may be raised by an appellant for the first time on appeal. Appellate courts maintain an independent duty to vacate void orders *sua sponte*.

STATEMENT OF THE FACTS

On September 18, 2020, the victim, Angela Norcia (identified in portions of the record as A.M.N.), went to sleep around 10:00 p.m. at her home located at 3 Wildlife View in the Waterside by Tansy Leaf neighborhood on Hilton Head Island, South Carolina. At approximately 6:00 a.m. the following morning, she awoke to a noise and observed a young Black male standing at the foot of her bed holding a phone over the banister with a bright light pointed directly at her. When she screamed, the intruder stated, "I just wanted to let you know your garage door was open," and fled out of the house through the garage staircase.

Ms. Norcia immediately called 911. While she was speaking with dispatchers, the intruder returned to the front porch, grabbed the handle, twisted it, and attempted to force his way back into the house. Ms. Norcia put in her contact lenses and, aided by the illuminated front porch light, observed the suspect staring at her, giving her a clear look at his physical appearance. She described the perpetrator to law enforcement as a young Black male with dreadlocks, wearing a red shirt, and lacking facial hair.

Deputy Nicholas Whaling of the Beaufort County Sheriff's Office arrived at the residence at 6:19 a.m.. He completed a walk-through of the home with the victim. Ms. Norcia noted that several items were disturbed: her car had been rummaged through, a Halloween flag was missing, \$100 was taken from her wallet, and a partially eaten breakfast sandwich alongside an empty Crown Royal liquor bottle had been left on the kitchen counter. Deputy Whaling collected the Crown Royal bottle and took DNA swabs from the wallet and the interior garage doorknob. Deputy Whaling testified that the suspect had already fled the area prior to his arrival and that he did not see anyone matching the description in the neighborhood.

On September 21, 2020, forensic artist Lora Gorick met with Ms. Norcia to generate a detailed composite sketch based on the victim's eyewitness description. William Redman later contacted police after seeing the sketch, stating he believed it resembled a man he assisted following a bicycle accident on Marshland Road in June 2020. Mr. Redman had no personal knowledge of the burglary itself.

On September 20, 2020, Investigator William Wiech presented Ms. Norcia with a photographic lineup containing Appellant's picture. Ms. Norcia failed to identify Appellant as the intruder, completely excluding him from the photographic lineup.

On October 7, 2020, Sergeant Adam Paul responded to an abandoned, wrecked vehicle and recovered a Samsung Galaxy cell phone from the interior. The device was transferred to Derrick Nelson, a digital forensic examiner for the 14th Circuit Solicitor's Office. Investigator Nelson extracted a video from the device depicting an unknown individual touching the genitalia of a sleeping female. The device also contained outgoing text messages signed "Tyreek" from mid-

September, alongside text messages and notices from GEICO Insurance dated September 20, 2020, addressed to an individual named "Kareem," indicating that "Kareem" was in possession of the phone during and immediately following the night of the offense.

ARGUMENT I

THE STATE FAILED TO PROVE THE ELEMENT OF IDENTITY BEYOND A REASONABLE DOUBT, VIOLATING APPELLANT'S FIFTH AND FOURTEENTH AMENDMENT DUE PROCESS RIGHTS.

THE CONVICTIONS AND SENTENCES ARE REQUISITELY VOID.

The State of South Carolina failed to produce sufficient legal evidence to establish that Appellant was the individual who committed the crimes at Ms. Norcia's residence. In a criminal prosecution, the Due Process Clause protects the accused from conviction unless the State proves every element of the charged offense, including the identity of the perpetrator, beyond a reasonable doubt.

1. Eyewitness Exclusion and Lack of Trial Identification

The record proves that Ms. Norcia was the sole eyewitness to the crimes. She testified she had multiple distinct opportunities to observe the intruder and provided a detailed description to law enforcement. However, when presented with a photographic lineup containing Appellant's photograph, **she did not select Appellant**. Furthermore, during her trial testimony before the jury, Ms. Norcia testified that she did not know who Tyreek Robinson was and **failed to identify Appellant in open court** as the perpetrator.

As a matter of law, the only eyewitness directly excluded Appellant as the burglar. Under *State v. Sanderock*, establishing that a defendant shares a name or general traits with an alleged offender is legally insufficient; there must be a definitive nexus or an in-court identification connecting the man on trial to the crime. No such nexus was established here.

2. Definitive Exclusion via Forensic DNA Evidence

The State's case is entirely invalidated by the forensic results. The trial testimony of Lead Investigator William Wiech confirmed that the items handled by the lone intruder yielded clean DNA profiles. The state forensic testing explicitly **EXCLUDED Tyreek Robinson** from:

- The Crown Royal liquor bottle handled and consumed by the suspect.
- The victim's personal wallet, which the suspect opened to steal \$100.
- The interior garage doorknob touched and turned by the suspect to enter the living quarters.

The evidence presented at trial established that a single intruder acted alone. Applying the rule from *State of Ohio v. Joseph Elliott*, where the evidence shows a single intruder, forensic results that decisively exclude a defendant from the biological materials left at the scene by that intruder must effectively exclude him as the perpetrator of the entire sequence of related crimes.

3. Insufficiency of the Cell Phone Evidence

The State relied heavily on a Samsung Galaxy cell phone found inside an abandoned vehicle weeks after the crime. While the device contained historic text messages referencing the name "Tyreek," Investigator Nelson's forensic extraction proved that between September 19 and September 20, 2020—the critical window encompassing the crime—the device was actively receiving communications addressed to a person named "Kareem".

Additionally, Sergeant Paul and Investigator Nelson admitted to the jury that they could not identify the individual whose hand was depicted in the explicit video recovered from the phone dump. Investigator Seth Reynells attempted to visually compare scars on the hand in the video to

photographs of Appellant's hand. However, the trial court **did not qualify Investigator Reynells as an expert witness** in scar or mark comparison. His testimony was purely speculative, lacked scientific foundation, and failed to establish proof beyond a reasonable doubt. Because the State failed to present substantial evidence of identity, the trial court lacked a lawful constitutional framework to enter judgments of conviction. In accordance with *William Fiore v. Gregory White* and *State v. Brown*, a conviction obtained absent proof of an essential element violates basic due process. The convictions and sentences are consequently void *ab initio*, carry no legal effect, and must be completely vacated.

ARGUMENT II

THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION FOR A DIRECTED VERDICT OF ACQUITTAL ON ALL CHARGES.

At the conclusion of the State's case-in-chief, defense counsel Juan Tolley moved for a directed verdict of acquittal, arguing that the State failed to meet its burden of proof because there was an absolute absence of physical or identification evidence connecting Appellant to the scene. The trial court erred by denying the motion and allowing the case to go to the jury.

When reviewing a motion for a directed verdict, the trial court must view the evidence in the light most favorable to the State. However, if the State fails to present substantial competent evidence reasonably tending to prove the guilt of the accused, the court must direct a verdict of acquittal.

As argued extensively in Argument I, the trial record contains zero direct or substantial circumstantial evidence identifying Tyreek Robinson as the individual who entered Ms. Norcia's home:

- The single eyewitness **excluded** Appellant via a photo lineup and failed to identify him in court.
- Every piece of recovered physical evidence—the liquor bottle, the wallet, and the doorknob—conclusively **excluded** Appellant through forensic DNA analysis.
- No fingerprints, footwear impressions, or hair samples linked Appellant to the scene.
- The cell phone extraction demonstrated third-party possession by "Kareem" during the exact timeframe of the offense.

Under the controlling authority of *State v. Kevin Cornelious Odems*, circumstantial evidence that generates mere suspicion or speculation is insufficient to sustain a conviction or submit a case to a jury. When the evidence yields an inference of guilt that is speculative, the trial court has a clear directive to remove the case from the jury's consideration. Because the State's evidence did not reasonably tend to prove identity, Appellant was entitled to a directed verdict of acquittal as a matter of law.

CONCLUSION

For the reasons set forth above,

Based on the trial transcript portions and witness testimonies documented in the brief, here are the core facts that heavily undermine the prosecution's case regarding the element of identity:

1. Total Failure of Eyewitness Identification (*The State of South Carolina v. Tyreek L. Robinson*)

The victim, Angela Norcia, was the absolute sole eyewitness to the intruder. When presented with a photographic lineup containing Tyreek Robinson's picture the day after the incident, she

explicitly excluded him and did not pick him out. Furthermore, while testifying under oath before the jury at trial, Ms. Norcia stated plainly that she did not know who Tyreek Robinson was at all, entirely failing to identify him in the courtroom as the burglar. Under South Carolina state case law established in *State v. Sanderock*, a criminal conviction cannot stand when the government completely fails to demonstrate the identity of the defendant as the perpetrator beyond a reasonable doubt.

2. Definitive Forensic DNA Exclusions (*Tyreek L. Robinson v. The State of South Carolina / United States Constitutional Protections*)

The State's own evidence and trial testimony established that the crime was committed by one single, lone intruder. Despite this fact, comprehensive forensic DNA testing conducted on every major item handled by that lone intruder completely cleared the Appellant. Specifically, the state DNA testing results formally excluded Tyreek Robinson from the Crown Royal liquor bottle handled and consumed by the suspect. The state DNA testing results also formally excluded Tyreek Robinson from the victim's personal wallet, which the intruder pulled open and rummaged through to steal one hundred dollars. Finally, the state DNA testing results formally excluded Tyreek Robinson from the doorknob swab taken from the door handle leading from the garage to access the living quarters of the main house. Under United States Supreme Court precedent in *William Fiore v. Gregory White*, a criminal conviction violates the Fourteenth Amendment's Due Process Clause if the state fails to prove every essential element of the crime—including identity—beyond a reasonable doubt.

3. Proof of Third-Party Possession of the Phone (*The State of South Carolina v. Tyreek L. Robinson*)

The State attempted to tie Appellant to the crime via a video file discovered on a Samsung cell phone recovered from a completely separate, abandoned vehicle wreck weeks later. However, the State's own digital forensic extraction proved that on September 19 and September 20, 2020—the exact window of time surrounding the burglary—the phone was in the active possession of a third party named "Kareem". This individual was actively receiving personal text messages and corporate insurance notices from GEICO on the device during that timeframe. Under state evidentiary standards, this proof of third-party possession creates immediate, insurmountable reasonable doubt regarding ownership and physical proximity to the crime scene.

4. Speculative Visual Evidence (*Tyreek L. Robinson v. The State of South Carolina / United States Constitutional Protections*)

The State tried to visually connect Tyreek Robinson to an explicit video file found on the phone by having an investigator compare unique hand scars. Crucially, the trial court refused to qualify the witness as an expert on the comparison of body marks or scars. Because of this ruling, the visual comparison remained entirely non-expert speculation and was not based on any recognized forensic expertise. Allowing a jury to hand down a sentence of decades in prison based on unscientific, non-expert speculation violates United States constitutional due process protections established in *David Sandstrom v. State of Montana*. The federal Due Process Clause strictly protects the accused against conviction except upon solid proof beyond a reasonable doubt of every single fact necessary to constitute the crime.

5. Lack of Witness Connection to the Crime Scene (*The State of South Carolina v. Tyreek L. Robinson*)

Witness William Redman testified that he only contacted the Beaufort County Sheriff's Office because he thought a composite sketch resembled a man he helped on a bicycle back in June 2020—months before the incident occurred. He admitted under oath at trial that he was not

present on the night of the burglary, had absolutely no personal knowledge of the incident, and did not see anyone riding a bike near the neighborhood on the night the crime scene was targeted. Under South Carolina state law outlined in *State v. Kevin Cornelious Odems*, weak circumstantial evidence and pure conjecture that does not reasonably tend to establish a nexus to the crime is legally insufficient to go to a jury and cannot be used to sustain a conviction.

Appellant Tyreek Lorenzo Robinson respectfully requests this Honorable Court to reverse and vacate his convictions and prison sentences for Burglary First Degree, Assault and Battery First Degree, and Aggravated Voyeurism, and order his immediate discharge from the custody of the South Carolina Department of Corrections.

Respectfully submitted,

Signature: /s/ Tyreek Lorenzo Robinson

Tyreek Lorenzo Robinson, Appellant *Pro Se*

Date: June 20, 2023

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