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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Beaufort County
Court of General Sessions
The Honorable Marvin Dukes, Circuit Court Judge

The State,

Appellant,

v.

Messiah Kasheef Anderson,

Respondent.

Appellate Case No. 2026-001889

STATE'S MEMORANDUM IN SUPPORT OF APPEALABILITY

On August 27, 2026, this Court requested memoranda from the parties "addressing the issue of appealability[.]" This is the State's memorandum. In short, the order is appealable under the provisions of S.C. Code Ann. § 14-3-330(2)(a). The order was final; the notice was timely served; and the right to appeal is shown because the lower court's ruling substantially impairs the State's case. In support of this position, the State respectfully submits:

1. "In the absence of a timely served notice of appeal, this court has no jurisdiction." *State v. Devore*, 416 S.C. 115, 119, 784 S.E.2d 690, 692 (Ct. App. 2016). The notice here was timely served. The Honorable Marvin Dukes denied the State's motion regarding its evidence on August 25, 2026. There is no other order, *i.e.,* a written order, anticipated. Rather, the ruling was set out in adequate detail on the record which is expected to be reflected in the transcript which has been ordered. The notice of appeal was served on defense counsel that same day, and the proof of service was subsequently filed with this Court that same day, as well. There could be no

question the notice was timely served, and jurisdiction is properly with this Court. *See* Rule 203(b)(2), SCACR (10 days to appeal in a general sessions matter); Rule 205, SCACR ("[u]pon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal"). Moreover, the appeal from this particular pre-trial ruling is viable.

2. "'The right of appeal arises from and is controlled by statutory law.'" *State v. Ledford*, 422 S.C. 244, 247, 810 S.E.2d 868, 869 (2018) (quoting *Hagood v. Sommerville*, 362 S.C. 191, 194, 607 S.E.2d 707, 708 (2005)). "The determination of whether a party may appeal an order issued before or during trial is governed primarily by section 14-3-330 of the South Carolina Code." *Ledford*, at 248, 810 S.E.2d at 870.

3. "In South Carolina, the State may immediately appeal an interlocutory order 'granting the suppression of evidence which significantly impairs the prosecution of a criminal case.'" *State v. Looper*, 421 S.C. 384, 387, 807 S.E.2d 203, 204 (2017) (quoting *State v. McKnight*, 287 S.C. 167, 168, 337 S.E.2d 208, 209 (1985)).[1] Such a ruling falls under S.C. Code Ann. § 14-3-330(2)(a), which provides that appealability is shown when there is: "An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action[.]"

4. A ruling— whether suppressing evidence based on the defense's motion or disallowing evidence based on the State's motion to admit— that prohibits use of critical evidence in the State's case is immediately appealable. *McKnight, supra; State v. Henry*, 313 S.C. 106, 107, 432 S.E.2d 489, 490 (Ct. App. 1993) (finding denial of State's motion to admit prior bad acts immediately appealable where it significantly impaired the State's case). Further, a ruling that

[1] Such an order must be made pretrial. Our Supreme Court has not applied "the right of appeal to an adverse mid-trial ruling." *State v. Ledford*, 422 S.C. 244, 248, 810 S.E.2d 868, 870 (2018).

prohibits the State from exercising its prosecutorial function may qualify. *See Reed v. Becka*, 333 S.C. 676, 681, 511 S.E.2d 396, 399 (Ct. App. 1999) (allowing appeal from "an order which prohibits the State from withdrawing a plea offer"). In sum, if the ruling substantially impairs the prosecution, it falls under the provision allowing an interlocutory order. This appeal involves the suppression of evidence that substantially impairs the State's case.

5. The ruling being appealed was set out in the notice of appeal: "The State of South Carolina appeals the ruling of the Honorable Marvin Dukes, with respect to the denial of the State's Motion for the Introduction of Testimony of Witness, Jimmie Green, pronounced orally on August 25, 2026." The State offers this factual basis to place the appeal in context for purposes of this memorandum.

The co-defendant, Jimmie Green, pled guilty to his participation in the murder in which this defendant is alleged to have also participated. By way of background, three men murdered the victim in this case. Not all defendants were developed as suspects from the same evidence at the same time. The defendant at issue here—Anderson, the respondent in this appeal— was the last to be identified. That identification came from evidence developed against Green. Green, while in jail, had written to a fellow inmate, Harold Rogers. Rogers eventually turned over the letters to officials. The State had the letters analyzed by SLED to determine authenticity, and SLED confirmed authenticity, matching a writing sample from Green to the letters Rogers turned over. In Green's letter, Green identified, *for the first time*, his co-defendant (Anderson) by Green's reference to "Messiah," no last name. Before that, investigators knew only that there was a co-defendant around 15 years old and that perhaps he had a nickname of "Sy" or something along those lines. When Green identified "Messiah," officers looked to DJJ and the defendant was identified as a suspect. But that is not all. Green, also in the letters, described where Anderson

was in the vehicle. With Anderson potentially identified, investigators compared the DNA from that area of the vehicle. The result indicated Anderson. Moreover, that area of the backseat—then connected to Anderson— also had the highest level of gunshot residue. Further, Green mentioned the caliber of bullets used by Anderson, a caliber consistent with casings recovered from the scene and a fragment pulled from the murder victim. However, DNA does not come with any time indication, so while that and the other evidence noted may help corroborate the details, it is Green who provides the link to the murder. Thus, the critical link in the identification chain are the letters Green wrote or more precisely, the information Green had and revealed. Of note, in his later plea proceeding, Green admitted the facts that confirmed Anderson's involvement and his part in the murder. Green's information is pivotal in this case. Green must testify. Without Green, the critical, direct identification evidence, and level of participation evidence, is lost. Thus, the ruling which prevents the State from calling Green significantly impairs the State's case and is immediately appealable.

6. Where a pre-trial order involves suppression of evidence that revealed the witness "personally interacted with Respondent during the relevant time period and will be able to provide a first-hand account of what Respondent knew and his actions" the evidence is "critical to prove the charges against Respondent, and the suppression of … testimon[y] would significantly impair the State's case" making the "order … immediately appealable." *State v. Sterling*, 377 S.C. 475, 478, 661 S.E.2d 99, 101 (2008). In contrast, when other admissible evidence conveys "essentially the same information" the suppression does "not significantly impair the prosecution's ability to try Petitioner's case." *State v. Samuel*, 411 S.C. 602, 605, 769 S.E.2d 662, 663 (2015) (appealability not found where only one of several statements were suppressed). The facts here follow *Sterling* and not *Samuel.* There is no substitute here for the critical evidence. "[I]f this

court affirms the order of the circuit judge, the prosecution of the case against," the defendant "is eviscerated and annihilated." *State v. Pichardo*, 367 S.C. 84, 97, 623 S.E.2d 840, 847 (Ct. App. 2005). Thus, appealability is shown.

7. Appealability is a separate issue than the merits. *Id.,* (though finding the record supported the necessity of the appeal and appealability was shown, the court affirmed the suppression order on appeal). Even so, the ruling shows an almost assured reversal as it is completely contrary to settled precedent from the Supreme Court of the United States: "It is true, as a general rule, that where there can be no further incrimination, there is no basis for the assertion of the privilege." *Mitchell v. United States*, 526 U.S. 314, 326 (1999). It continues only until "the judgment of conviction has become final." *Id.* Green's plea is final and he is serving time as a result of that sentence. Green has no currently existing Fifth Amendment right to assert in this matter. The ruling is wrong and substantially impairs the State's case.

THEREFORE, based on the foregoing, the order is appealable and there is no impediment to continuing with the instant appeal.

Respectfully Submitted,

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s/Melody J. Brown
By:_____
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September 8, 2026.

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CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to Rule 262(c)(3), SCACR and the Supreme Court order of April 24, 2024, the State's Memorandum in Support of Appealability, along with Certificate of Service has been forwarded to Respondent's counsel, David Rigney, Esquire and Wanda H. Carter, Esquire, via email today, September 8, 2026 dave@rigneylawfirm.us and WCarter@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 8th day of September, 2026.

s/ Angela Brown

Angela Brown
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General

Angela Brown

From:	Angela Brown
Sent:	Tuesday, September 8, 2026 5:14 PM
To:	'David Rigney'; Carter, Wanda; Leverett, Scott
Cc:	Melody Brown
Subject:	The State v. Messiah K. Anderson (2026-001889)
Attachments:	Anderson.Memorandum of Appealability.pdf

Counsel, please find attached the State's Memorandum in Support of Appealability regarding the above referenced appeal. The memorandum will be electronically filed with the South Carolina Court of Appeals on today's date.

Sincerely,

Angela Bennett Brown, Administrative Coordinator II
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