

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from Darlington County
The Honorable R. Kirk Griffin, Circuit Court Judge

RECEIVED
Oct 29 2026
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

DARIUS GRANT DICKEY,

APPELLANT.

Appellate Case No. 2024-000145

RETURN TO THE PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, counsel for Appellant petitioned this Court for rehearing. On October 19, 2026, this Court requested that Respondent file a Return to the petition. Respondent herein submits this brief Return and argues that the Petition be denied.

I. Accomplice Liability

This Court's findings of fact and conclusions of law in affirming the trial court's charge of accomplice liability were proper. Petitioner has failed to demonstrate any valid basis for rehearing and the Petition should be denied.

Petitioner asserts that this Court has "overlooked and/or misapprehended that there was no evidence Collins was a shooter and there was no evidence Petitioner had a mutual plan with McCall (or Collins);" therefore the accomplice liability charge was improper. Petitioner's assertion of error

on the part of this Court is mistaken. There was sufficient evidence to warrant the accomplice liability charge and this Court was correct to affirm the trial court's ruling. This is primarily demonstrated in the fact that there was evidence suggesting Collins (DiCaprio), who was friends with Petitioner and accompanied Petitioner in their visit to the bar, was the individual involved in the initial violent altercation with McCall. In conjunction with that evidence and suggestive that Collins instigated that altercation, is the fact that *prior* to the fight breaking out Petitioner had brought his gun with him and cocked his weapon for use just prior to fight. This was circumstantial evidence that the initial fight and shooting were anticipated and even sought out by the pair. However, no one was able to definitively identify Petitioner as the shooter, no matching gun was found for the .40 caliber casings recovered, and forensics matched the .40 caliber shell casings from the scene to casing in Petitioner's vehicle. These facts are reflected in the Court's opinion and support its holding. See *State v. Campbell*, 443 S.C. 182, 194, 904 S.E.2d 441, 447 (2024); *State v. Johnson*, 444 S.C. 442, 449, 908 S.E.2d 102, 105 (2024). Moreover, this Court was correct to point out that Petitioner's own arguments in closing arguably characterized the evidence in such a way as to further necessitate the charge. Given the facts and circumstantial evidence, this Court's opinion correctly decided the issue and rehearing is unwarranted.

II. Body-camera Footage

Petitioner argues error by this Court in affirming the trial court's decision to admit the officer's body-cam footage. Petitioner's argument essentially just reiterates his disagreement with the Rule 403 analysis, but he does nothing to demonstrate legal or factual error on the part of this Court's decision, nor does he demonstrate abuse of discretion on the part of the trial court. Petitioner's arguments present no deserving basis for rehearing.

First, Petitioner fails to address the basis for which the evidence was deemed admissible and how it relates to its probative value. As the evidence was admitted as an excited utterance, it is highly corroborative to the witnesses' testimonies then offered at trial. The trial court noted, and this Court correctly agreed, that the video evidence was corroborative of witness testimony. The Petition suggests that the State should have just relied on corroboration elsewhere in the evidence, but nothing is more corroborative of testimony than comparing it to the witnesses' statements and behaviors at the scene. Moreover, corroboration of witness testimony and the building of credibility is established on a spectrum; it not a checklist item. Similarly, this Court was correct to note the probative value of depicting the size and layout of Mac's Lounge, and to collectively hold that the trial Court's application of the law was appropriate. The evidence was neither substantially outweighed by the danger of unfair prejudice nor cumulative.

Finally, Petitioner's argument strays from controlling law. The well-established standard for admissibility under Rule 403 is that the probative value of the evidence not be substantially outweighed by the danger of unfair prejudice, confusion of issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Rule 403, SCRE; *State v. Horton*, 359 S.C. 555, 568, 598 S.E.2d 279, 286 (Ct. App. 2004). Petitioner's attempt to emphasize "essential" evidence as a pseudo-standard improperly distorts the established standard for exclusion of evidence under Rule 403. Petitioner likewise fails to demonstrate or discuss why the admission of the evidence is such that would constitute an *abuse of discretion*. This failure is especially pronounced in the context of Rule 403, where the standard of review is especially deferential to the trial court's decision and reversal is only warranted in exceptional circumstances. *Id.*, at 569.

This Court's holding was correct and its opinion was thorough. The Petition for Rehearing should be denied.

CONCLUSION

Based upon the above arguments, Respondent asserts that the Petition for Rehearing should be denied.

Respectfully Submitted,

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Attorney General

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October 29, 2026

By: s/W. Joseph Maye
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PROOF OF SERVICE

The undersigned certifies that pursuant to Rule 262(c)(3), SCACR and the Supreme Court Order of April 24, 2024, the Return to Petition for Rehearing, along with the Proof of Service, have been forwarded to Appellant's counsel, Joanna Delany via email today, October 29, 2026, to JDelany@sccid.sc.gov and to Ms. Caudy's assistant, Catherine Walkup, CWalkup@sccid.sc.gov

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

This is the 29th day of October 2026.

s/W. Joseph Maye

W. Joseph Maye

S.C. Bar No. 11644

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ATTORNEY FOR RESPONDENT

RECEIVED

Brandy Rankin

Oct 29 2026

SC Court of Appeals

From: Brandy Rankin
Sent: Thursday, October 29, 2026 4:27 PM
To: jdelany@sccid.sc.gov
Cc: Joe Maye; cwalkup@sccid.sc.gov
Subject: The State v. Darius Grant Dickey - Return to Petition for Rehearing - Appellate Case No. 2024-000145
Attachments: 1 DICKEY Return to Petition for Rehearing - Darius Dickey.pdf; 2 Proof of Service to Pet for Rehearing DICKEY.pdf

Dear Ms. Delany,

We are resending our Return to Petition for Rehearing with correction of the parties. Please find attached the Return to Petition for Rehearing in the above-captioned case together with the Proof of Service. These documents will be filed with the South Carolina Court of Appeals today, October 29, 2026, along with a copy of this email. Thank you.

Sincerely,

Brandy Rankin

Brandy Rankin, Legal Assistant to W. Joseph Maye
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