

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Spartanburg County  
Roger L. Couch, Circuit Court Judge

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**RECEIVED**

JAN 27 2014

**S.C. Supreme Court**

THE STATE,

PETITIONER,

V.

ASHLEY EUGENE MOORE,

RESPONDENT.

APPELLATE CASE NO. 2013-002309

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INDEX

INDEX ..... 1

COUNTERSTATEMENT OF QUESTION PRESENTED FOR REVIEW ..... 2

COUNTERSTATEMENT OF THE CASE ..... 3

COUNTERSTATEMENT OF THE FACTS ..... 4

ARGUMENT ..... 12

The Court of Appeals correctly held the Trial Court erred in refusing to suppress the evidence found in the vehicle Respondent was driving at the time of his arrest where: (1) the officer’s continued detention of Respondent exceeded the scope of the traffic stop and constituted a seizure for purposes of the Fourth Amendment; and (2) the evidence presented by the State did not establish that the officer had reasonable and articulable suspicion of a serious crime when he chose not to conclude the traffic stop.

CONCLUSION ..... 17

**COUNTERSTATEMENT OF QUESTION PRESENTED FOR REVIEW**

Whether the Court of Appeals correctly held the Trial Court erred in refusing to suppress the evidence found in the vehicle Respondent was driving at the time of his arrest where: (1) the officer's continued detention of Respondent exceeded the scope of the traffic stop and constituted a seizure for purposes of the Fourth Amendment; and (2) the evidence presented by the State did not establish that the officer had reasonable and articulable suspicion of a serious crime when he chose not to conclude the traffic stop?

## COUNTERSTATEMENT OF THE CASE

On October 22, 2010, Respondent Ashley Eugene Moore was indicted by the Spartanburg County Grand Jury for: (1) trafficking cocaine base, first offense; and (2) possession of a weapon during the commission of a violent crime. R. 176.

On April 25, 2011, Moore proceeded to trial before the Honorable Roger L. Couch and a jury. R. 1. Moore was represented by Robert Hall, and the State was represented by Assistant Solicitor Eddie Hunter. R. 1. The jury found Moore guilty as charged. R. 285, l. 13 – 286, l. 22. Judge Couch sentenced Moore to: (1) twenty-five years imprisonment on the trafficking cocaine base conviction; and (2) five years imprisonment on the possession of a weapon during the commission of a violent crime conviction. R. 289, l. 23 – 290, l. 4. The sentences were to run concurrently. R. 177.

On April 27, 2011, Moore timely filed and served a notice of intent to appeal. On July 17, 2013, the South Carolina Court of Appeals reversed Moore's convictions and sentences, holding Moore's continued detention during a traffic stop was unlawful where the State did not present sufficient evidence to establish the police officer's reasonable and articulable suspicion of a serious crime. The Court of Appeals further held that because the continued detention was illegal, the drugs discovered during the search of the vehicle must be suppressed. See Opinion No. 5160.

The State filed a Petition for Rehearing *En Banc* on July 29, 2013 which was denied by the Court of Appeals on September 17, 2013. The State has now filed a Petition for Writ of Certiorari to which Moore responds.

## COUNTERSTATEMENT OF THE FACTS

### **Background**

On June 30, 2010, Officers Dale Owens and Ken Hancock of the Spartanburg County Sheriff's Office performed a traffic stop on the vehicle Moore was driving for speeding and failing to maintain his lane. R. 30, l. 18 – 34, l. 10. After Moore had been informed he was receiving a warning citation and had declined Officer Owens' request to search the vehicle, Officer Owens continued to detain Moore for an *additional* fifteen to sixteen minutes so that the "drug detection K-9" could conduct a sniff search of the vehicle. R. 62, l. 18 – 71, l. 6. After thirty-two minutes into the traffic stop, the police dog alerted to an odor and Moore was arrested for evidence found during a search of the vehicle. R. 71, l. 10 – 73, l. 14; (DVD of traffic stop).

Pre-trial, Moore moved to suppress the evidence seized from the vehicle on the basis that Officer Owens did not have reasonable suspicion for extending the stop. R. 27, l. 20 – 28, l. 6.

### **Suppression Hearing**

Officers Owens and Jason Carraway testified at the suppression hearing. R. 30, l. 9 – 97, l. 25. Thus, the following evidence was elicited at the suppression hearing regarding the traffic stop and the evidence seized during the search of the vehicle.

#### **Officer Dale Owens**

At the suppression hearing, Officer Owens maintained that on June 30, 2010, he and Officer Hancock "were around the lower end of [Spartanburg] County on [interstate] 85 around the 60-mile marker sitting stationary observing traffic at that time." R. 33, ll. 9-15. Officer Owens claimed at "[a]pproximately 1:10 in the morning[,]" he and Officer

Hancock “observed [Moore] operating at above the posted speed limit” based on his “visual estimation” that Moore was driving above 70 miles-per-hour (mph) in a posted 60 mph speed zone. R. 34, ll. 1-2. Without the assistance of a radar gun, Officer Owens asserted that he “pulled up behind [Moore’s] vehicle” and “paced”<sup>1</sup> Moore’s speed at 70 mph. R. 34, ll. 4-21. Officer Owens further stated that while he was “pacing” Moore’s speed, Moore “drove over the white dotted line.” R. 34, ll. 8-10.

Officer Owens stated that the camera system in his patrol car is “probably one of the oldest systems . . . it’s VHS recorded.” R. 35, ll. 20-23. Officer Owens also stated that, although the camera system in his patrol car had been fixed on several occasions, the audio portion of Moore’s traffic stop was not recorded. R. 36, l. 4 – 38, l. 7. Officer Owens noted that he converted the VHS recording of the traffic stop to DVD. R. 37, l. 17 – 38, l. 3. The video of the traffic stop was then played corresponding with Officer Owens’ testimony.

Officer Owens admitted that he did not know whether Moore accidentally or purposefully initiated the left turn signal prior to hitting the right turn signal, but based on his “training and experience . . . this appeared to [him that Moore] was preparing to flee.” R. 40, l. 16 – 41, l. 8. Notably, Moore did not flee from police. Officer Owens recalled that the right turn signal stayed on after Moore had pulled the car off the road. R. 42, ll. 2-5. Officer Owens claimed that leaving the turn sign on is “one of our criminal

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<sup>1</sup> Officer Owens maintained that pacing is “a way to measure speed.” R. 34, ll. 11-12. Officer Owens stated, “[I]f you’re operating a vehicle with a certified speedometer, . . . all [of] our vehicles . . . have certified speedometers, and are calibrated, we use that for our measuring device. In maintaining the same speed and distance, then you determine what speed [the car in front of you is going].” R. 34, ll. 16-21.

indicators. When you leave the [turn] signal on, basically your heart rate's gotten [ ] so accelerated that you've lost audio . . . ." R. 42, ll. 5-15. Officer Owens further claimed, "[I]t took me a little longer to get out of my vehicle and walk up there because I am concerned that [Moore] may put [the car] in drive . . . and decide to take off [be]cause that's a practice of, of fleeing felons." R. 42, l. 20 – 43, l. 3. Again, Moore never attempted to flee the police.

Officer Owens asserted that Moore was talking on the phone when he approached the passenger side of the vehicle and that he had to ask Moore to hang up the phone. R. 44, ll. 1-4. Officer Owens maintained, "On many times that I've been involved in criminal cases . . . most innocent people hang up the phone when you walk up." R. 44, ll. 8-12. Although the purpose of the traffic stop was for speeding and failing to maintain his lane, the assistant solicitor asked Officer Owens, "Specifically, with drug trafficking cases, what does that indicate?" and Officer Owens speculated:

Well, a lot of times . . . they're having to answer to a higher person, and they're having that higher person on the phone hearing what's happening. Sometimes they have an auto answer. Sometimes . . . they don't even hang the phone up . . . [to] let them know that, you know, what's happening or . . . if they're deciding they're gonna (sic), it's gonna (sic) be a foot pursuit, they let them know the area that they're in just in case they get separated from communication so somebody can come and get them as well.

R. 44, ll. 14-25.

Yet again, although the traffic stop was for speeding and for failing to maintain his lane, Officer Owens proceeded to give detailed explanations as to the differences between alleged "escort" vehicles, "decoy" vehicles, and "protection" vehicles in drug trafficking cases. R. 45, ll. 1-17. Officer Owens admitted that he "*had no indication at*

*the time*” Moore’s car fell within one of these three purported vehicles used for drug trafficking. R. 45, ll. 18-20 (emphasis added).

Additionally, Officer Owens noted that Moore was “slightly slumped in the driver’s seat behind the steering wheel” when he approached the vehicle. R. 46, ll. 4-7. Officer Owens maintained that he “smelled the odor of alcohol coming from inside the vehicle[.]” R. 46, ll. 8-11. Once more, although the traffic stop had nothing to do with drug trafficking, the assistant solicitor asked Officer Owens, “[D]oes the odor of alcohol reflected (sic) anyway on drug trafficking?” and Officer Owens replied, “[S]everal cases that I’ve been involved in, a lot of the people have been drinking alcohol and I mean I’ve even had them tell me it’s, it calms their nerves . . . .” R. 46, l. 25 – 47, l. 5.

Officer Owens recalled that Moore thought the speed limit was 70 mph, not 60 mph as posted. R. 47, ll. 13-25. Officer Owens also recalled that Moore “advised me it was a rental car” and “provide[d] me with a rental agreement, and then his driver’s license.” R. 49, ll. 5-8. Officer Owens maintained that he noticed Moore’s “hand was heavily shaking” and noted that “it’s just an indicator that we look for, and basically we’re measuring his nervousness.” R. 49, ll. 7-11. Officer Owens also claimed that Moore’s “breathing was accelerated, and the pulse in his neck also appeared to be elevated and pounding . . . .” R. 49, ll. 17-20.

Officer Owens stated that Moore admitted to having “a couple of drinks.” R. 50; ll. 9-17. Officer Owens also stated that Moore attempted to pick up his cell phone prior to exiting the vehicle, which “is consistent in many cases, with criminal behavior when people to decide to flee.” R. 51, ll. 3-9. Moore never attempted to flee the officers.

Officer Owens further maintained that based on his training, Moore tried to calm his nerves by putting a cigarette in his mouth after exiting the vehicle. R. 52, ll. 9-18.

Officer Owens noted that Moore “raised his hands voluntarily” while he conducted a pat-down search for weapons and that “[Moore] continue[d] to keep his hands . . . [in] what we call the felony position.” R. 52, l. 23 – 53, l. 18. Officer Owens also noted that during the pat-down search “[he] felt what [he] perceived as a large sum of wadded money in [Moore’s] pocket” and that “[Moore] pulled out the wad of money” and moved it to his back pocket. R. 53, ll. 8-10. When Officer Owens was asked the dollar amount of the “wad of money,” Officer Owens stated his opinion, “Well, it’s more . . . folded money than I carry . . . bordering a thousand dollars.” R. 53, l. 19 – 54, l. 1. Officer Owens claimed “that would be reason for alarm as well” because Moore told him he was unemployed. R. 54, ll. 2-11. The State later stipulated at trial that the amount of money found in Moore’s pocket was approximately six-hundred dollars, not one-thousand dollars as Officer Owens stated. R. 233, ll. 2-22.

Officer Owens stated that Moore “stuck his hand in his pocket, he’s looking down. It’s - - this is what we call the defeated look. . . . [Moore is] trying to dissipate his nervous energy . . . and [is going to] assume the felony position again, you know. [Moore is] gonna (sic) do all kind of things to try to dissipate that nervous energy.” R. 55, ll. 11-20. Officer Owens then recalled that Moore’s name was not on the rental agreement and that Moore was coming from Lawrenceville, Georgia. R. 56, l. 21 – 57, l. 4. Officer Owens noted that Lawrenceville is a suburb of Atlanta, Georgia, “[w]hich is a known drug source, [a] major drug source city” and that “[t]hird party rental vehicles are consistent in many many many (sic) cases with criminal activity.” R. 57, l. 5 – 58, l. 13.

Furthermore, Officer Owens stated that Moore informed him that he was on his way to North Carolina to visit his grandmother and provided his opinion that “[g]eneral people, are not gonna (sic) go visit grandma at one o’clock in the morning.” R. 59, l. 2 – 60, l. 11. Officer Owens also claimed that Moore “placed his hands behind his back[,]” which is what [police] call assuming the position of arrest.” R. 60, l. 21 – 61, l. 1.

Notably, when asked about his prior mention of writing Moore’s name on a warning ticket, Officer Owens testified:

[A] lot of times what we [police] do is when we’re writing that warning [ticket] is we, we’ll tell them it’s basically to put them at ease, to help calm their nerves a little bit, and I look for a reaction from that because a lot of times when you tell somebody well, I’m gonna (sic) write you a warning for that infraction, and I mean for that moving infraction, and the moving infraction only, . . . you’ll see that easiness . . . and they’re not worried anymore. That never disappeared with [Moore]:

R. 61, l. 4 – 63, l. 8. Officer Owens also testified that he conducted three field sobriety tests on Moore and ultimately found that Moore was not impaired: “*I feel like it would [have] been an injustice to [Moore] if I had arrested him for driving under the influence.*” R. 68, ll. 6-11; 72, ll. 1-3; R. 80, ll. 11-14 (emphasis added).

Additionally, Officer Owens testified, “*I asked [Moore] if there were any weapons, alcohol, drugs, or anything like that in the vehicle and he told me no.*” R. 68, ll. 19-22 (emphasis added). Officer Owens then admitted that Moore *declined* his request to search the vehicle. R. 68, l. 23 – 69, l. 15 (emphasis added). Officer Owens also admitted that he “*explain[ed] the warning [citation]*” to Moore and that he continued to detain Moore based on his belief that Moore was “involved in criminal activity” and “to wait for a drug detection K-9 to come to the vehicle.” R. 68, l. 6 – 70, l. 6 (emphasis

added). Specifically, Officer Owens claimed, "I'm detaining [Moore] based on my experience, my training, and everything's telling me there's more to this traffic stop than just the driving infraction." R. 71, ll. 18-23.

Fifteen to sixteen minutes later, "approximately 31 minutes and 13 seconds into the stop[,]” the K-9 unit arrived and the drug dog alerted to an odor. R. 72, ll. 1-16. The Officers then searched the vehicle and found an "alcoholic beverage" under the front passenger seat, "contraband . . . consistent with crack cocaine" in the trunk, "a semiautomatic weapon[,] and a bundle of currency [\$4,000]." R. 72, l. 17 – 73, l. 14.

On cross-examination, Officer Owens stated that "*it's not unusual* for [people who are stopped police on the interstate] *to be nervous*, [and claimed] it is unusual in the demeanor that [Moore] had that he was overly nervous, and that continued through the whole stop even after [Moore] *was advised he was gonna (sic) get a warning, even after he was told that he passed . . . the two of the three field sobriety tests.*" R. 78, ll. 1-11 (emphasis added). Officer Owens admitted that he had *informed* Moore he was receiving a warning ticket for the traffic violations and that it was not until *after* Moore declined his request to search the vehicle that Moore was told he was being detained. R. 78, ll. 12-19 (emphasis added).

#### **Officer Jason Carraway**

Officer Carraway, the K-9 handler, stated at the suppression hearing that his K-9 does "a passive alert" (sitting or laying) when detecting an odor resembling an illegal substance. R. 85, l. 16 – 86, l. 7; R. 94, ll. 2-5. On cross-examination, Officer Carraway admitted that the police dog alerted on the passenger door, not on the trunk where the drugs were found. R. 96, ll. 14-23.

### **Trial Court's Ruling**

In making his ruling, the Trial Court stated, "*I have my doubts* that the car was driven from Morganton to Lawrenceville and back to Marion to visit a grandmother. That's a long way to go around to visit your grandmother. . . . So, *it appears* that he may have been less than truthful about the purpose of his trip." R. 114, ll. 8-17 (emphasis added). The Trial Court also stated, "[F]or someone unemployed, to be carrying such a large amount of cash in their pocket also would obviously give a[n] officer reasonable suspicions." R. 114, ll. 17-20. The Trial Court ultimately ruled, "[T]he other factors as noted, I have given those the weight required, and in this case I am going to refuse to suppress." R. 114, ll. 20-22.

At trial, defense counsel renewed his prior objections to the evidence when admitted. R. 215, l. 13 – 222, l. 2. Upon completion of the State's case, Moore renewed his motion to suppress the evidence seized in the vehicle, and the Trial Court again denied Moore's motion to suppress. R. 232, l. 21 – 236, l. 11.

## ARGUMENT

**The Court of Appeals correctly held the Trial Court erred in refusing to suppress the evidence found in the vehicle Respondent was driving at the time of his arrest where: (1) the officer's continued detention of Respondent exceeded the scope of the traffic stop and constituted a seizure for purposes of the Fourth Amendment; and (2) the evidence presented by the State did not establish that the officer had reasonable and articulable suspicion of a serious crime when he chose not to conclude the traffic stop.**

In its Petition for Writ of Certiorari, the State contends that the Court of Appeals misapplied the standard of review in Fourth Amendment cases and misapprehended the totality of the circumstances test applied in Fourth Amendment cases. This Court should deny the State's Petition for Writ of Certiorari where the Court of Appeals correctly applied the established law of Fourth Amendment cases to the facts of this case to reverse Moore's convictions where the State did not present sufficient evidence to establish that the officer conducting the traffic stop had reasonable and articulable suspicion that criminal activity was afoot.

First, the State contends that the Court of Appeals' majority opinion misapplied or misapprehended the standard of review.

On appeals from a denial of a motion to suppress based on Fourth Amendment grounds, the appellate courts of this State apply a deferential standard of review and will reverse if there is clear error. State v. Tindall, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010). This deference, however, does not bar appellate courts from conducting their own review of the record to determine whether the trial judge's decision is supported by the evidence. Id. The appellate courts will affirm if there is any evidence to support the trial court's ruling. State v. Khingratsaiphon, 352 S.C. 62, 70, 572 S.E.2d 456, 460 (2002).

The State first incorrectly argues that the Trial Court focused on Moore's explanation that he was driving to his grandmother's house at 1:00 a.m. in finding that reasonable suspicion existed. This is not a complete and accurate statement of the Trial Court's finding for his ruling. Instead, the Trial Court in denying the motion to suppress stated:

In particular, the problem I have with the or the facts that are revealed by the rental agreement indicate the rental in North Carolina on the evening, afternoon before the stop was made at one o'clock in the morning. I have my doubts that the car was driven from Morganton [North Carolina] to Lawrenceville [Georgia] and back to Marion [North Carolina] to visit a grandmother. That's a long way to go around to visit your grandmother. Morganton and Marion is a much shorter trip.

So, it appears that he may have been less than truthful about the purpose of this trip.

R.p. 89, ll. 8-17.

As the majority properly held, there was no evidence in the record to support this finding by the Trial Court. Officer Owens never testified that Moore told him that Moore had actually driven the rental car from North Carolina to Georgia and then was driving back to North Carolina. While the rental agreement may have indicated that the car was rented by a third-party in North Carolina that afternoon, there is no evidence in the record that Moore was the individual who actually drove the car from North Carolina to Georgia. R.p. 85, ll. 7-21. Moore only said that he was driving from Lawrenceville, Georgia to North Carolina. R.p. 32, ll. 1-8; 34, ll. 3-4, 15-18. There is nothing unusual about a person driving from Georgia to North Carolina in one evening. The Trial Court's finding that Officer Owens had reasonable suspicion because Moore made a trip from North Carolina, to Georgia, and back to North Carolina in one day is completely unsupported by the evidence.

The State also argues that the second fact relied upon by the Trial Court in his ruling denying the motion to suppress - that Moore had a large sum of wadded money in his pocket - was also supported by the evidence. Again, this finding was not supported by the evidence. During a patdown conducted by Officer Owens on Moore, Owens testified that he "felt what I perceived as a large sum of wadded money in his pocket." R.p. 28, ll. 9-10. Then Deputy Hancock pulled out the wad of money from Moore's pocket, but then immediately put it back in Moore's pocket. R.p. 28, ll. 11-13. Neither officer actually saw what type of bills were included in the wad of money, nor did either officer count how much money it was at that time. The officers simply did not know if Moore was carrying a large amount of cash with him or was simply carrying a number of one dollar bills.

Therefore, when the officers did not know at the time how much cash Moore was actually carrying, the Trial Court's finding that "for someone unemployed, to be carrying such a large amount of cash in their pocket also would obviously give a [sic] officer reasonable suspicions" is also unsupported by the actual evidence. R.p. 89, ll. 17-22.

The Court of Appeals' majority properly held that the two primary factors relied upon by the Trial Court in determining that the officers had reasonable suspicion of illegal activity to lengthen the traffic stop detention of Moore were not supported by any evidence. Accordingly, the Court of Appeals' majority did not misapply the standard of review and correctly reversed the Trial Court's ruling.

The State also argues that this Court misapplied or misapprehended the totality of the circumstances test used in Fourth Amendment cases. Although it may be correct that in reviewing the totality of the circumstances, individual factors of the traffic stop must not be considered piecemeal or in isolation, courts can still discuss the individual factors "one by

one as [they] put them into the mix” in evaluating “the combined strength of these factors.” United States v. Sprinkle, 106 F.3d 613, 617 (4th Cir. 1997). If the individual factors “gain little, if any, strength when put together,” reasonable, articulable suspicion of criminal activity will not exist. Id. at 618-19.

Here, the State’s reliance on factors all consistent with innocent behavior, and most of which are signs of nervousness during a traffic stop, do not when combined rise to the level of reasonable suspicion consisting of a particularized and objective basis that would lead one to suspect another of criminal activity. The indicators relied upon by the State as giving rise to a reasonable suspicion consist of the following<sup>2</sup>: (1) Moore turned on his left turn signal when he was initially pulled over; (2) Moore took a long time to pullover (although the record does not indicate exactly how long it took Moore to pullover [R.p. 15, ll. 17-23]); (3) Moore never turned his signal off – a sign of nervousness; (4) Moore admitted he had been drinking, although Officer Owens concluded that Moore was not impaired [R.p. 38, l. 25 – 43, l. 11]; (5) Moore began smoking a cigarette; (6) Moore continued to talk on his cell phone after he was pulled over; (7) Moore was nervous with hands shaking, accelerated breathing, and an elevated pulse; (8) Moore tried to pick up his cell phone once he got out of the car; (9) Moore drove a car rented by someone else; (10) Moore was driving on I-85; (11); Moore was traveling from the Atlanta area; (12) Moore said he was traveling to North Carolina to visit his grandmother even though it was 1:00

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<sup>2</sup> While the State also includes the factor that Moore had a large amount of cash in his pocket, as set forth above, there is no evidentiary support that the officers knew this before they conducted the illegal search.

a.m.; (13) Moore raised his hands in the felony position even though the officers did not ask him to do so; and (14) Moore remained nervous after receiving a warning citation.

These factors combined simply show that Moore was someone traveling late at night from the Atlanta area to North Carolina on a heavily traveled interstate who was pulled over for speeding and possibly for drinking while driving and who was understandably very nervous. The factors provided by the State gain little, if any, strength when put together. Together, they did not give the officers in this case the necessary reasonable, articulable suspicion of criminal activity, and to the extent the Trial Court's ruling relied on any of these remaining factors, there is no evidence to support a finding of reasonable suspicion. "The Government cannot rely upon post hoc rationalizations to validate those seizures that happen to turn up contraband." United States v. Foster, 634 F.3d 243, 249 (4th Cir. 2011).

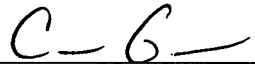
In addition, while the Trial Court made a cursory reference to these remaining factors, his ruling was primarily based on Moore's alleged driving from North Carolina to Georgia and then back to North Carolina in one day and the large amount of cash Moore was carrying, which as set forth in this Return, were findings not supported by any evidence. The Court of Appeals' majority therefore correctly reversed the Trial Court's denial of Moore's motion to suppress the contraband found during the illegal search.

## CONCLUSION

The majority Opinion of the Court of Appeals correctly held that the Trial Court erred in denying Respondent Moore's motion to suppress the contraband where Moore's continued detention after a traffic stop was unlawful when the police officers lacked reasonable suspicion of a serious crime. The Court of Appeals therefore properly concluded that Moore's convictions and sentences should be reversed where the contraband discovered during the illegal detention should have been suppressed at trial. The Opinion of the Court of Appeals is supported by well-established law and the facts present in this case. There are no special or important reasons why this Court should grant certiorari in this case, and there is no error in the Opinion for this Court to correct.

For the reasons set forth herein, Respondent Ashley Eugene Moore requests this Court to deny the State's Petition for a Writ of Certiorari.

Respectfully submitted,

  
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Carmen V. Ganjehsani  
Appellate Defender

ATTORNEY FOR RESPONDENT.

This 27th day of January, 2014

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Spartanburg County  
Roger L. Couch, Circuit Court Judge

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THE STATE,

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ASHLEY EUGENE MOORE,

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APPELLATE CASE NO. 2013-002309

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CERTIFICATE OF SERVICE

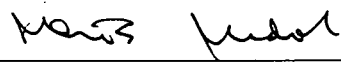
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I certify that a true copy of the return to petition for writ of certiorari in this case have been served on Julie Kate Keeney, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Mr. Ashley Eugene Moore #345798, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 27<sup>th</sup> day of January, 2014.

  
Carmen V. Ganjehsani  
Appellate Defender

ATTORNEY FOR RESPONDENT

SWORN TO BEFORE ME this 27<sup>th</sup> day  
of January, 2014.

  
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Notary Public for South Carolina  
My Commission Expires: July 3, 2023