

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
JAN 31 2014
SC Court of Appeals

Appeal from Sumter County
William Jeffrey Young, Circuit Court Judge

Appellate Case No. 2011-199366

THE STATE,

Respondent,

v.

DANIEL D'ANGELO JACKSON,

Appellant

**MOTION TO ALLOW FILING OF INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER AS IS**

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x1
The Respondent, above-named, hereby makes a motion to allow the filing of the Initial Brief of Respondent as is. The Initial Brief of Respondent was due to be filed in January 29, 2014. However, due to the closure of state offices on January 28 and 29 and below-signed counsel inability to travel due the weather alerts, snow and an injury, the brief was not completed until January 31, 2014. Respondent requests leave of the Court to allow this filing.

A.

The Respondent further requests this Court to allow the filing of the Initial Brief of Respondent in excess of 50 pages. The Initial Brief of Respondent was completed after two recent and significant decisions on relevant issues in State v. Henson (Davontey), Op. No. 27354, __ S.C. __, __ S.E.2d __, 2014 Westlaw 229891 (January 22, 2014) concerning Bruton and redaction issues and State v. Giles, __ S.C. __, __ S.E.2d __, 2014 WL 130525 (January 15, 2014)

concerning the standard of review in Batson issues. The brief, including the statement of issues is 58 pages. Respondent’s counsel was unable to reduce the size after attempting to do so from an original draft that was over 70 pages. Respondent submits the following revealing the breadth of the issues addressed.

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ARGUMENT

I. The trial judge did not err in admitting, in the joint trial, the statements of co-defendant Reginald Canty, which were properly redacted as to Appellant Jackson’s name and did not facially incriminate Jackson.8

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Appellant’s Confrontation Rights were not violated since the method used to redact Canty’s various and inconsistent statements did not leave the jury to speculate or fill in any obvious blanks and Canty’s statements do not “facially incriminate” Appellant Jackson.23

HARMLESS ERROR30

II. The trial court did not violate the Appellant's Sixth and Fourteenth Amendment rights to confront and cross-examine witnesses pursuant to Crawford v. Washington, 541 U.S. 36 (2004), by allowing five statements by Appellant's non-testifying co-defendant into evidence, which did not directly implicate Appellant in the murder and armed robbery due to the redaction of Appellant’s name with neutral pronouns and it use only against Canty.32

III. The trial court did not abuse its discretion in denying Appellant's motion for severance.34

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II.

Respondent therefore makes this request to allow the Initial Brief of Respondent to be filed as is.

Respectfully submitted,

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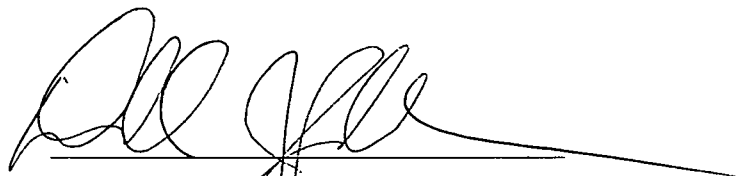
January 31, 2014.

CERTIFICATE OF SERVICE

I, Donald J. Zelenka, hereby certify that I have served the MOTION TO ALLOW FILING OF THE INITIAL BRIEF OF RESPONDENT AS IS in the foregoing action by depositing one (1) copy in the U.S.Mail, postage prepaid to:

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This 31st day of January, 2014.



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