

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appeal from Richland County
L. Casey Manning, Circuit Court Judge
Case Nos. 08-GS-40-03948; 08-GS-40-01626; 1627, 1629, 1631, 1632

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Appellate Case No. 2013-001904

S.C. SUPREME COURT

The State,

Respondent,

v.

Johnnie Walker Gaskins,

Petitioner.

REPLY TO STATE'S RETURN TO
PETITION FOR A WRIT OF CERTIORARI

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ATTORNEY FOR PETITIONER.

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ARGUMENTS IN REPLY

ARGUMENT I

The Appellant relies on the Petition for Writ of Certiorari previously filed in this case.

ARGUMENT II

The Appellant relies on the Petition for Writ of Certiorari previously filed in this case.

ARGUMENT III

In response to the Respondent's Return the Petitioner would respectfully ask that the Court note the following.

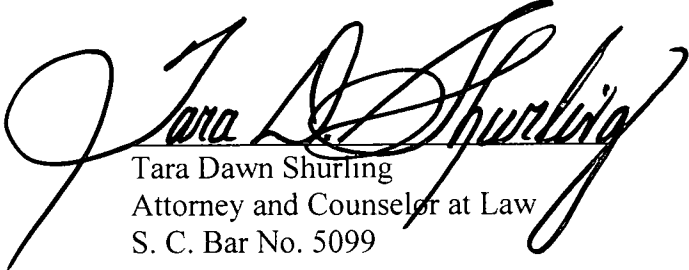
While the Court of Appeals denied relief on this issue, the holding of the Court did not find that the issue was procedurally barred due to a failure to make a contemporaneous objection. Respondent asserts that the Petitioner waived this issue when these photographs were admitted without objection. Return, pg. 1. The Respondent asserts that the Petitioner waived his objection to State's Exhibits 22, 23, 24, 26, 27, 29, 30, 31, 33, 34, 35, 36, 37, 41, 42, 44, 45 and 46 when second chair, Kathy R. Schillaci, stated "no objection" when the State moved to introduce these exhibits. In truth, the record reflects that the trial court recognized State's Exhibits No. 25, 28, 32, 38, 39, 40 and 43 as being admitted, over the objection of the Petitioner, earlier in this trial. ROA p. 289, ll. 5-12. Subsequently, the State offered State's Exhibits 22 to 46 into evidence. While it is accurate that Attorney Schillaci stated "no objection" at the time, the prosecutor then acknowledged that, "[T]here are some that are already in." ROA p. 345, ll. 12-16. Therefore, Petitioner did clearly make a timely objection as to State's Exhibits 25, 28, 32, 38, 39, 40 and 43. Further, it appears that the trial court viewed Petitioner's objections to all

these photographs as duly noted and denied. Further, as previously argued, the Court of Appeals did not decide this issue based on a failure to preserve this issue at trial. Petitioner asserts that the Respondent's position that Petitioner abandoned this issue is without merit.

CONCLUSION

For all these reasons, as well as those set forth in the Petition for Writ of Certiorari, the Petitioner asks that this Honorable Court grant him a new trial.

Respectfully submitted,



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This 17th day of April, 2014.

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L. Casey Manning, Circuit Court Judge
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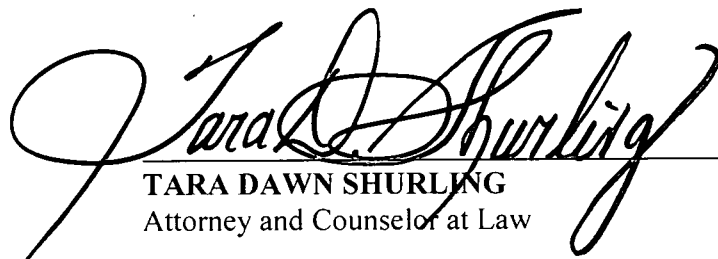
v.

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CERTIFICATE OF SERVICE

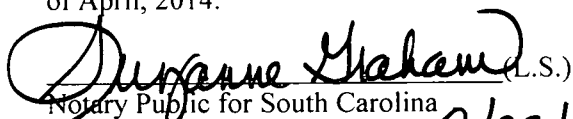
The undersigned attorney hereby certifies that a copy of the Reply to Return to Petition for Writ of Certiorari in the above-entitled case has been served upon opposing counsel, Donald J. Zelenka, Assistant Deputy Attorney General, by depositing in the U.S. Mail, postage prepaid, this 17th day of April, 2014.



TARA DAWN SHURLING
Attorney and Counselor at Law

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 17th day
of April, 2014.



(L.S.)
Notary Public for South Carolina

My Commission Expires: 2/28/24