

ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Roger L. Couch, Circuit Court Judge

Appellate Case No. 2011-197607

THE STATE,RESPONDENT

v.

CHRISTOPHER JEROME SHIPPY,APPELLANT.

BRIEF OF RESPONDENT

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RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

The trial court properly denied Appellant's motion to suppress an in-court identification of Appellant by an eyewitness when the identification was not tainted by suggestive identification procedure and when the identification was reliable.

STATEMENT OF THE CASE

Respondent concurs with Appellant's procedural statement of the case.

STATEMENT OF FACTS

Before the jury was sworn, Appellant wanted clarification that the eyewitness, Rita Chapman, had not made an out-of-court identification of him but only of the shirt he was wearing at the time of the crime. R. 37, lines 21 – 15. The prosecutor confirmed that there was no out-of-court identification in the discovery material provided but that after reviewing the incident with Chapman, including photographs, and after seeing Appellant in person in the courtroom that day, Chapman recognizes Appellant as the person she saw committing the crime. (R. 38, lines 1 – 11). Appellant then moved to suppress a shirt seized from the home where Appellant was found when he was arrested, arguing the shirt was illegally seized and that Chapman’s prior identification of the shirt constituted an “unduly suggestive lineup.” (R. 38, lines 12 – 16; 40, lines 3 - 5). He requested a hearing pursuant to Neil v. Biggers based on Chapman’s out-of-court identification of Appellant’s shirt. (R. 33). The prosecutor clarified that Chapman had not previously identified Appellant as the perpetrator but only the shirt the perpetrator was wearing at the time of the crime and which was seized at a different location. (R. 38, lines 11 – 22). Appellant concurred. (R. 39, line 23 - 25).

In response to Appellant’s motion, the prosecutor advised the trial court that he had spoken with Chapman earlier that day, shown her pictures. The prosecutor state that Chapman may or may not be able to identify Appellant during the trial. (R. 38). The prosecutor also explained that police officers collected a shirt from the home where Appellant was located at his arrest. (R. 35). The police officers presented the shirt to Chapman and she identified the shirt as the one the perpetrator was wearing during the commission of the crime (R. 39). The trial judge granted the Appellant’s motion to suppress the shirt and concluded that Chapman had not made a previous identification of Appellant but convened a hearing on the question of whether Chapman had never been asked to identify Appellant before trial, noting the difference between identifying

the shirt as the one worn by the perpetrator and identifying the Appellant as the person who wore the shirt. (R. 37; 39; 42).

At the hearing, Chapman testified that she returned to her job at an apartment complex after her lunch break on April 21, 2010, around 2.00 p.m. (R. 42-43). Chapman explained it was a sunny day and she could see clearly. (R. 43; 54). Upon her arrival at the apartment complex, she parked her car and observed Appellant pulling what appeared to be a wire out of an air conditioning unit. (R. 43). She watched Appellant for several minutes. (R. 43). Then, Appellant stood up, turned and faced her, and she looked at his face for a few seconds. (R. 44). Chapman explained she had an unobstructed view of Appellant from approximately fifty yards away. (R. 43-44). Following the encounter, Chapman went into the apartment office and called 9-1-1. (R. 43; 45). She described Appellant as a black male with an orange shirt. (R. 44; 49). She could not recall if she provided a description of his “build” or anything else. Chapman explained the police did not present her with a photographic lineup or bring the perpetrator to her in person prior to trial, and she had not seen Appellant in person since the date of the incident. (R. 45). Chapman testified that she reviewed photographs with the prosecutor in preparation for trial right before the trial convened, including at least one photograph of Appellant. (R. 47; 51-52). . She also testified that she and the prosecutor reviewed her statement before trial as well. . (R. 47). After observing Appellant in person, Chapman was able to identify Appellant as the perpetrator, with one hundred percent certainty. (R. 45-46; 52- 54).

On redirect examination, Chapman clarified that this was her first appearance in court for this case and that the only time she saw photographs of Appellant was on the day of the trial. (R. 51). She explained that she identified Appellant because she recognized him, and the shirt was not the basis for the identification. (R. 53 - 54). She testified that she recognized Appellant’s

side profile, haircut, and build. (R. 55). She also reiterated that she had a clear view of the perpetrator on the date of the incident and she was one hundred percent certain Appellant was the perpetrator. (R. 55-56).

City of Spartanburg Code Officer Tillerson testified that he responded to the call, observed what appeared to be blood on the unit, and saw Appellant in the vicinity of the crime wearing an orange shirt matching the description given of the shirt the perpetrator was wearing. He also observed that Appellant appeared to have cuts and fresh blood on his arms. Tillerson knew Appellant. (R. 57-63).

Shortly after being seen by Tillerson, law enforcement officer Boggs found Appellant at his brother's home sweating profusely and bleeding from cuts on his arm. (R. 71-73).

At the conclusion of the hearing, Appellant argued Chapman's identification should be suppressed because it was based solely on her identification of the shirt. (R. 74-75). In addition, Appellant argued that the prosecutor conducted a prior out-of-court identification procedure when he displayed Appellant's photograph to Chapman the day of trial. (R. 77-78). The trial court denied the motion to suppress finding the shirt was not the basis Chapman's identification. (R. 76 – 77). The trial court also ruled, first, that there was no prior out-of-court identification procedure when Chapman reviewed the photographs in the prosecutor's file earlier in the day. (R. 77, lines 13 – 15). The trial court noted that Chapman testified that she recognized Appellant from her observations of him at the time of the crime. The trial court alternatively ruled that the in-court identification of Appellant was reliable despite the fact that Chapman was shown Appellant's photograph and even if there was a prior identification procedure, again relying on Chapman's testimony that her identification was based on her observations of Appellant at the time of the crime. (R. 75; 77, lines 15 – 24; 78, lines 7 – 11; 78, lines 17 - 15).

Following opening statements at trial, the State called Chapman as its first witness. (R. 100). Chapman testified to the events on the date of the incident and, over Appellant's objection, identified Appellant as the man she observed pulling wire out of the air conditioning unit (R. 101-106). Chapman confirmed that on the date of the incident she observed the Appellant for about three minutes and face-to-face for a few seconds and that she did not wear corrective lenses or have any other obstruction to her ability to clearly observe Appellant. (R. 109; 113). Chapman called 9-1-1 and described the perpetrator as a black male wearing an orange striped shirt. (R. 111). Also, Chapman testified that she had never seen someone commit a crime like that before, that it was very unusual, and the incident stood out in her mind. (R. at 114) In addition, Chapman noted she was one hundred percent sure Appellant was the perpetrator, a man she described as black and wearing an orange shirt with thin, dark-colored stripes. (R. at 115-116). She also stated that she recognized Appellant when she looked at him in court. (R. 112). She testified that she was not presented with a photographic lineup or a show-up. Chapman acknowledged that she saw a photograph of Appellant the morning of trial. (R. 114 – 115). She was certain Appellant was the perpetrator based upon seeing him in person in court. (R. 115-116).

ARGUMENT

I. **The trial court properly denied Appellant's motion to suppress an in-court identification of Appellant by an eyewitness when the identification was not tainted by suggestive identification procedure and when the identification was reliable.**

The trial court properly admitted Rita Chapman's in-court identification of Appellant because no prior identification procedure was conducted and the identification of Appellant it was reliable under the totality of the circumstances.

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). The decision to admit eyewitness identification testimony is a matter within the trial judge's discretion and will not be disturbed on appeal absent an abuse of that discretion, or the commission of prejudicial legal error. State v. Brown, 356 S.C. 496, 502, 589 S.E.2d 781, 784 (Ct. App. 2003); see also State v. Mansfield, 343 S.C. 66, 77, 538 S.E.2d 257, 263 (Ct. App. 2000). "To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice such that there is a reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof." Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005).

An out-of-court identification procedure of a defendant conducted by law enforcement violates due process and must be suppressed when the identification procedure used was impermissibly suggestive and conducive to a substantial likelihood of misidentification. State v. Dukes, 404 S.C. 553, 745 S.E.2d 137 (Ct.App. 2013); State v. Liverman, 398 S.C. 130, 727 S.E.2d 422 (2012); see also State v. Brown, 356 S.C. 496, 589 S.E.2d 781 (Ct App. 2003) (*citing Stovall v. Denno*, 388 U.S. 293, 87 S Ct. 1967, 18 L.Ed.2d 1199 (1967)); State v. Patterson, 337 S.C. 215, 522 S.E.2d 845 (Ct.App.1999); State v. Moore, 343 S.C. 282, 540 S.E.2d 445 (2000).

A subsequent in-court identification by a witness is inadmissible “if a suggestive out-of-court identification procedure created a very substantial likelihood of irreparable misidentification.” State v. Traylor, 360 S.C. 74, 81, 600 S.E.2d 523, 526 (2004); see also Manson v. Braithwaite, 432 U.S. 98, 97 S.Ct. 2243, 53 L.Ed.2d 140 (1977); State v. Cheeseboro, 346 S.C. 526, 552 S.E.2d 300 (2001). “The purpose of a strict rule barring evidence of unnecessarily suggestive confrontations would be to deter the police from using a less reliable procedure where a more reliable one may be available” State v. Tidsale, 338 S.C. 607, 614, 527 S.E.2d 389, 393 (2000) quoting Neil v. Biggers, 409 U.S. at 199; see also Perry v. New Hampshire, ___ U.S. ___, 132 S. Ct. 716, 721 n.1 (2012). However, the suggestive nature of the procedure, in and of itself, does not mandate exclusion. State v. Tidsale, 338 S.C. 607, 527 S.E.2d 389 (2000). Reliability is the key to admission of identification testimony. Manson v. Braithwaite, 432 U.S. at 98. The in-court identification will be deemed reliable and admissible if based upon information independent of the out-of-court procedure. State v. Govan, 372, S.C. 552, 643 S.E.2d 92 (2007); State v. Carlson, 363 S.C. 586, 611 S.E.2d 283 (2005).

In Neil v. Biggers, the United States Supreme Court developed a two-prong inquiry to determine the admissibility of an out-of-court identification. 409 U.S. 188, 193 (1972). First, a trial court must determine whether the identification process used by police was unnecessarily suggestive. Perry v. New Hampshire, ___ U.S. ___ n.1, 132 S. Ct. 716, 721 n.1 (2012); State v. Brown, 356 S.C. at 503, 589 S.E.2d at 784; State v. Moore, 343 S.C. 282, 540 S.E.2d 445 (2000). If the trial court determines the identification was not the result of an impermissibly suggestive police procedure, the inquiry ends. State v. Dukes, 404 S.C. at 557, 745 S.E.2d at 139. If the procedure is deemed impermissibly suggestive, the trial court must then determine whether the identification was still reliable such that no substantial likelihood of irreparable

misidentification exists. Id. Although single person show-ups have been criticized and are considered inherently suggestive, “[i]dentifications resulting from single person show-ups have been upheld by the United States Supreme Court and our Supreme Court.” State v. Brown, 356 S.C.at 504, 589 S.E.2d 785; Simmons v. U.S., 390 U.S. 377 (1968) “[A]n identification may be reliable under the totality of the circumstances even when a suggestive procedure has been used. The burden of proving an identification procedure was impermissibly suggestive creating a substantial likelihood of irreparable misidentification lies with the appellant. See State v. Dukes, 404 S.C. 553, 561-62, 745 S.E.2d 137, 141-42 (Ct.App. 2013) and cases cited therein.

1. Appellant failed to establish that a prior identification procedure occurred

First, the State submits that Appellant failed to argue or establish at trial that the prosecutor’s act of reviewing the photograph exhibits with Chapman in preparation for trial was an identification procedure. Thus, Appellant’s protections under the Due Process Clause were not invoked and an analysis of the Biggers reliability factors is unnecessary.

Appellant now argues that the prosecutor’s showing Chapman a photograph immediately before trial constituted an identification procedure, because “without question,” the only purpose the prosecutor may have had was for Chapman to engage in an identification procedure. However, Appellant does not point to any specific instances reflecting that notion in the record. Appellant cites to language in People v. Herner that warns against prosecutors using photographs of a defendant to refresh recollections during trial preparation. 607 N.Y.S.2d 822 (N.Y. App. Div. 1994). However, the court in Herner did not classify this practice as an identification procedure. Id. In fact, the defendant in Herner, similar to Appellant, argued the prosecutor’s showing the witness a photograph of an earlier lineup during preparation of her trial testimony was an identification procedure requiring the suppression of the witness’s in-court identification.

Id. The court disagreed, reasoning the procedure did not require the witness to identify the defendant and the witness's testimony was not suggestive. Id.

There is nothing in the record indicating Chapman made an identification of Appellant during the prosecutor's act of reviewing photographs as trial preparation immediately before trial. Chapman merely acknowledged that she saw photographs at least one of which was of Appellant. Appellant's notion that it was clearly an identification procedure is not supported by the record.

The record reflects the prosecutor presented Chapman with her statement and the photographs in the case the day of trial as trial preparation. The prosecutor was likely reviewing Chapman's potential trial testimony and, in doing so, reviewed potential trial exhibits, and matters that would be introduced as evidence at trial. Showing Chapman the photograph in preparation for trial did not constitute an identification procedure nor was it unduly suggestive or unnecessary. See People v Alexander, 235 P.3d 873 (Cal 2011); Hamilton v. State, 435 S.E.2d 61 (Ga. 1993); People v. Lawrence, 533 N.Y.S.2d 899 (NY 1988); State v. Overstreet, 694 S.W.2d 491 (Mo.App. 1985). The record reflects that the State moved photographs into evidence by the State depicting what appeared to be fresh blood stain on the air conditioning unit. Photographs were also admitted of Appellant revealing cuts and fresh blood on his arms. (R. 163; 189; 222-232). The photographs were significant in connecting Appellant to the crime scene and not for Chapman's identification. Appellant failed to establish that the photographs were presented to Chapman during trial preparation the day of trial was to determine whether Chapman was able to identify Appellant or to influence the identification. See State v. Nolan, 807 N.W.2d 520 (Neb. 2012) (pretrial inquiry not required in the absence of evidence to establish the prosecutor attempted to influence an identification by showing photographs before

trial). Appellant also failed to argue or show why the interaction between the prosecutor and Chapman was suggestive or in any way supported a basis for finding a due process violation. See U.S. v. Shavers, 693 F.3d 363, 386(3rd Cir. 2012). Appellant never argued that display of the photograph to the Chapman tainted her in-court identification and did to establish why it did so. In fact, the specific photographs reviewed with Chapman were never identified.

Moreover, the circumstances were disclosed to Appellant and Appellant was able to engage in full cross-examine Chapman about the photographs, her ability to identify Appellant in court and, had he desired, the circumstances surrounding the prosecutor's interaction with her about that portion of the pretrial preparation. He was also fully free to argue these matters to the jury in his opening and closing argument to the jury.

Because Appellant failed to establish that showing photographs as a matter of the prosecutor's trial preparation under the facts of this case constituted a prior out-of-court identification procedure invoking the Due Process Clause requiring this Court to inquire into the Biggers reliability factors. Nevertheless, even if this Court finds otherwise, Chapman's identification of Appellant was reliable under the totality of the circumstances.

2. The in-court identification was reliable

Assuming *arguendo* there was an unduly suggestive identification procedure, the in-court identification by Chapman was reliable such that no substantial likelihood of misidentification exists "Reliability is the linchpin in determining admissibility of identification testimony." Manson v Braithwaite, 432 U.S. 98, 114 (1977). The reliability of identification is determined by the facts State v. Ford, 278 S.C. 384, 296 S.E 2d 866 (1982), State v Scipio, 283 S.C. 124, 322 S E 2d 15, 17 (1984) (holding identification reliable despite the fact Appellant was the only individual to appear in a photographic and physical lineup presented to the witness prior to

trial) In determining the reliability of an identification, the following factors must be considered: (1) the opportunity of the witness to view the perpetrator at the time of the crime; (2) the witness's degree of attention; (3) the accuracy of the witness's prior description; (4) the level of certainty demonstrated by the witness at the confrontation; and (5) the length of time between the crime and the confrontation. State v. Moore, 343 S.C. at 289, 540 S.E.2d at 449; State v. Lewis, 363 S.C. 37, 609 S.E.2d 515 (2005). The central question is whether under the totality of the circumstances the identification was reliable even though the confrontation procedure was suggestive. State v. Traylor, 360 S.C. 74, 600 S.E.2d 523 (2004).

In State v. Drayton, the appellant shot and killed the victim at close range and was convicted of murder, armed robbery, and kidnapping. 293 S.C. 417, 420, 361 S.E.2d 329, 331 (1987). On the night of her death, the victim drove her fiancé's car to work. Id. at 333, 424. The next morning, the fiancé stopped at a red light and noticed a black man leaning out of the driver's window three car lengths back in the other lane. Id. When the light changed, he moved to the left lane and waited for the car to pass him. Id. As the car passed him, he confirmed the car was his and was able to observe the appellant for thirty seconds to one minute. Id. Also, the fiancé observed the defendant several times on television following his arrest. Id. at 334, 425. The witness was also told to come to the preliminary hearing, and he happened to observe the defendant through a doorway. After observing the appellant on television and at the preliminary hearing, the fiancé insisted the appellant was the driver of the car. Id. The appellant objected to the fiancé's identification of him at trial on the ground the prior identifications were unduly suggestive. Id. However, at an *in camera* hearing, the fiancé testified his identification of appellant was solely based upon his observation of the driver the morning after the murder and nothing else after that morning influenced his identification. Id. Despite the passage of two

years between the fiancé's initial sighting of the appellant and the trial identification, our Supreme Court affirmed the trial court's ruling that the identification was sufficiently reliable based upon the totality of the circumstances. Id. The Court noted the fiancé's ample opportunity to observe the appellant and his heightened degree of attention due to the surprise seeing another man driving his car. Id. The Court further noted the fiancé's high level of certainty the appellant was the driver in affirming the trial court's ruling. Id.

In State v. Mansfield, 343 S.C. 66, 538 S.E.2d 257 (Ct.App. 2000), this Court determined that, despite the suggestive nature of single person show-up identification procedure used by the police, the witness's identification was reliable in light of the totality of the circumstances and the witness was permitted to testify before the jury. 343 S.C. at 69, 538 S.E.2d at 258. In Mansfield, the witness observed an attempted burglary of his neighbor's home. Weighing the Biggers reliability factors, this Court noted the witness "got a good look at [the defendant]" and kept [his] eyes on [the defendant] all the way." There were no obstructions to witness's view of the defendant, the crime occurred in the middle of the afternoon when the lighting was more than adequate, and the witness's attention was heightened as a result of the man's unusual behavior. Id. at 79, 264. In addition, the Court noted the witness gave an accurate description of the appellant as a whole when describing his race, height, skin tone, and shirt color, despite describing the appellant as having plaits in his hair and wearing tennis shoes when appellant really had an afro and wore boots. Id. at 80, 264. There was also a brief time between the crime and the identification, and the witness was absolutely positive the appellant was the perpetrator. Id.

Assuming *arguendo* reviewing photographs with Chapman in preparation for trial constituted an identification procedure and applying the factors to the present case, Chapman's

identification testimony was sufficiently reliable and did not violate Appellant's due process rights. First, Chapman's had a significant opportunity to view Appellant. Similar to the witnesses in Drayton and Mansfield, Chapman observed Appellant for several minutes, and Appellant looked directly at Chapman for a few seconds. Chapman had an unobstructed view, the sun's lighting allowed her to get a clear view of Appellant's face, and she was only approximately fifty yards away from Appellant and was totally focused on him the entire time. Appellant wore no disguises or coverings and there were no distractions. Chapman also did not need corrective lenses to enable her to see clearly. (R. 113).

Second, Chapman's attention was directed solely on Applicant the entire time and she had a heightened awareness because she was observing a man breaking into an air conditioning unit. Similar to the witness in Mansfield, Chapman explained she had never seen someone commit a crime like that before, it was very unusual, and the incident stood out in her mind. (R. at 114).

Third, Chapman provided a sufficient description of Appellant to allow for his immediate apprehension. Chapman described Appellant as a black man wearing an orange shirt with thin, dark-colored stripes. Appellant's argument concerning any lack of detail is unavailing. Similar to the witness in Mansfield, Chapman provided a sufficient and accurate description of Appellant. In Mansfield, this Court did not discount the witness's description of the defendant even though he completely misidentified the appellant's hairstyle and shoes. See State v. Patterson, 337 S.C. 215, 522 S.E.2d 845 (Ct.App. 1999) (stating that although the description was not detailed, it was accurate). Chapman also testified that she was able to identify Appellant in court based upon her recollection of his hair, "build," and side profile.

Fourth, Chapman testified, both at the *in camera* hearing and trial, she was one hundred percent certain Appellant was the perpetrator. Chapman specifically testified that her in-court identification was based solely upon her observation of Appellant in person in the courtroom and her recollection of the incident, particularly Appellant's side profile, hair and "build." Thus, Chapman demonstrated the highest level of certainty when she identified Appellant as the perpetrator.

Finally, Appellant argues the temporal factor weighs in favor of excluding Chapman's identification because the trial began over a year after the crime occurred. Neither this nor any of the other factors were offered by Appellant to the trial court in support of suppression. Nevertheless and although a shorter time between the crime and the alleged identification would be more availing, the time gap does not render Chapman's identification unreliable. (See R. 110). Even the two-year time gap between the crime and the identification in Drayton did not outweigh the totality of the circumstances after balancing the Biggers factors to determine the identification was reliable. Here, the approximate one-year time gap between the crime and the in-court identification does not undermine the reliability based upon the totality of the circumstances. The trial court properly admitted Chapman's identification testimony.

Regardless, any error was harmless in light of the overwhelming evidence of guilt presented at trial. See State v. Singleton, 395 S.C. 6, 14, 716 S.E.2d 332, 336 (Ct. App. 2011) (finding any error in the admission of a witness's in-court identification of the appellant harmless in view of the overwhelming evidence of guilt presented at trial); State v. Fields, 363 S.C. at 26, 609 S.E.2d at 509 (noting that to warrant reversal based on the admission of evidence, an appellant must demonstrate both error and prejudice). In addition to Chapman's testimony, code enforcement officer Jeff Tillerson confirmed the air conditioning unit had been ripped apart. He

also explained he had been working in that area of town for a while and was very familiar with the neighborhood. Tillerson observed what appeared to be blood stains on the air conditioning unit. Ruth Young, the owner of the property, and Melissa Boggs, the first responding officer, also confirmed there appeared to be blood stains on the unit. Tillerson responded to Chapman's 9-1-1 call and found a copper coil behind a bush adjacent to the property. He then proceeded to drive around the vicinity of the crime scene and noticed Appellant walking from the direction of the crime scene wearing an orange shirt with black or purple stripes, matching Chapman's description. Tillerson recognized Appellant from previous encounters. Tillerson also observed that Appellant appeared to have a "relatively new cut" on his arm.

Based on her experience, Boggs proceeded directly to the home of Appellant's brother on the hunch Appellant may have been the perpetrator. Upon arrival at the home, Boggs was provided permission to enter the yard and found Appellant sweating profusely and bleeding from cuts on his arms. Boggs placed Appellant in investigative detention. While Appellant claimed his dogs caused the cuts, Boggs explained Appellant's dogs acted normally and did not bark at Appellant. Moreover, the outcome of the trial did not turn on Chapman's in-court identification of Appellant as the perpetrator. Thus, any error in admitting Chapman's in-court identification of Appellant was harmless.

Respondent submits that there is no evidence in the record showing the prosecutor displayed the photograph to Chapman before trial to engage in an identification procedure or to couch her identification but, rather, to review her testimony and potential exhibits; therefore, no suggestive identification procedure took place. Nevertheless, it is clear that Chapman identified Appellant from her observations of him at the time of the crime and would have made the in-

court identification even if she had not seen the photograph. Hamilton v. State, 435 S.E.2d 61 (Ga. 1993); State v. Tunstall, 848 S.W.2d 530 (MO 1993). The conviction must be affirmed.

CONCLUSION

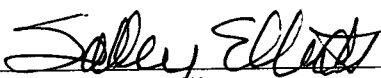
Based on the foregoing, Respondent respectfully submits that Appellant's convictions should be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
April 17, 2014

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Roger L. Couch, Special Circuit Court Judge

Appellate Case No. 2011-197607

THE STATE,RESPONDENT

v.

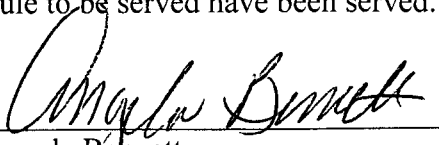
CHRISTOPHER JEROME SHIPPY,APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, Administrative Assistant, hereby certify that I have served the within *Brief of Respondent*, dated April 17, 2014, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Susan B. Hackett, Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

I further certified that all parties required by Rule to be served have been served.
This 17th day of April, 2014.



Angela Bennett
Administrative Assistant

RECEIVED

APR 17 2014

SC Court of Appeals

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