THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM CHEROKEE COUNTY
Court of General Sessions

Roger L. Couch, Circuit Court Judge

Case No. 2010-GS-11-00607

The State of South Carolina,.. Respondent,

v.

Hayword Tony Chambers,.. Appellant.

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ARGUMENT

I. The State incorrectly argues that Douglas's testimony of an alleged "prior bad act" by Appellant was proper rebuttal evidence under Rule 404(a)(1).

A. Appellant did not introduce evidence of his own character.

Rule 404(a)(1), SCRE, provides that the prosecution in a criminal case may rebut evidence of "a pertinent trait of character offered by an accused." The State's right to introduce rebuttal evidence is conditioned upon the defendant first introduction evidence of his own character. However, Appellant did not meet this condition in this case. The State incorrectly argues that Appellant offered evidence regarding "a pertinent trait of character" when he testified about the reason he obtained a gun. (State's Init. Brief at 12.)

The State's argument fails because it is based only on Appellant's testimony regarding: (1) obtaining a concealed weapons permit, and (2) the reasons he obtained a gun, but the reason a person purchases something is not a character trait. The word "character" is defined as "the way someone thinks, feels, and behaves: someone's personality." Character, Merriam-Webster, http://www.merriam-webster.com/dictionary/character (last visited May 9, 2014). Character evidence is "[e]vidence regarding someone's personality traits or propensities, or a praiseworthy or blameworthy nature; evidence of a person's moral standing in a community." *Black's Law Dictionary* 636 (9th ed. 2009). Character evidence does not include the fact of having a concealed weapons permit or the reason a person purchases something. Therefore, Appellant's testimony does not entitle the State to introduce a witness with no relevance to or knowledge of the incident at issue, simply to impugn Appellant's character with testimony of an unrelated, prior incident.

Appellant's trial counsel explained to the court the reasons he introduced the evidence of Appellant's concealed weapons permit and the reason he obtained a gun, and it had nothing to do with Appellant's character:

> 2 And, Your Honor, I went into the fact that he had
> 3 a concealed weapons permit simply to show that he had the
> 4 right to carry a gun.
> 5 They went into some of the –
> 6 And that he got it for the purpose of defending
> 7 his family or protection of his family, which is a
> 8 legitimate reason. I don't think that in and of itself
> 9 rises to the level to combat or rebut that with this kind of
> 10 evidence on character, Your Honor.

(Tr. p. 828.)

To find that Appellant's testimony constituted "a pertinent trait of character offered by an accused" would be an excessively broad interpretation of Rule 404(a)(1) and would have an unfortunate chilling effect on the willingness of criminal defendants to testify. Such a finding would set a precedent for defendants who testify regarding an immeasurable spectrum of topics to be subjected to "rebuttal" testimony attacking the defendants' characters. For example, a defendant in a reckless driving case who testified that he had a driver's license and owned an economical car to drive to work would be subjected to testimony that he once had road rage and acted aggressively toward another driver. The evidence has no relation to the case at hand other than an inappropriate attempt by the State to characterize the defendant as having a propensity toward a certain type of behavior.

B. <u>Even if Appellant did introduce evidence of his own character, the State was only allowed to introduce evidence of alleged "prior bad acts" on cross examination of Appellant or by extrinsic evidence of prior convictions, not by extrinsic evidence in the form of a surprise rebuttal witness testifying about an unrelated incident in which there was no criminal charge, much less a conviction.</u>

South Carolina law is clear that, if the State attempts to introduce evidence of a prior bad act under Rule 404(a)(1) to rebut "a pertinent trait of character offered by an accused," the State may do so <u>only</u> by cross-examining the accused (*i.e.*, Appellant) regarding the alleged prior bad act or by introducing extrinsic evidence of a prior conviction. *State v. Outlaw*, 307 S.C. 177, 179-80, 414 S.E.2d 147, 148 (1992) ("prior convictions may be proved by extrinsic evidence if the defendant denies them, but prior bad acts may not"); *State v. Major*, 301 S.C. 181, 185-86, 391 S.E.2d 235, 238 (1990) (same).

The State appears to argue in its appellate brief that the prohibition of extrinsic evidence other than prior convictions was set forth in case law before the Rules of Evidence were enacted and may not have continued after the Rules of Evidence took effect in 1995. (*See* State's Init. Brief at 13-14.) However, this argument contravenes both the Rules themselves and case law interpreting the Rules.

First, by citing to *State v. Major* for the proposition that Rule 404(a)(1) is "identical to the federal rule and is consistent with the law in South Carolina," the official notes to Rule 404 confirm that extrinsic evidence of a defendant's alleged prior bad acts is limited only to prior convictions. *See* Rule 404, SCRE, official notes. *Major*, which the State quoted in its appellate brief, held that admissibility of alleged prior bad acts to rebut a defendant's testimony of his own character was limited to: (1) cross-examination of the defendant, without extrinsic evidence, and (2) "prior convictions, which may be

proven by extrinsic evidence." *Major,* 301 S.C. at 185, 391 S.E.2d at 238 (citing *State v. Allen*, 266 S.C. 468, 482-83, 224 S.E.2d 881, 886 (1976)). Therefore, this provision was incorporated directly into Rule 404(a)(1). The "consistent" South Carolina law when Rule 404(a)(1) took effect also included *State v. Outlaw*, in which the Supreme Court held that "the Court of Appeals incorrectly equates prior convictions with prior bad acts. As stated above, prior convictions may be proved by extrinsic evidence if the defendant denies them, but prior bad acts may not." 307 S.C. at 179-80, 414 S.E.2d at 148.

Second, the State's own appellate brief quoted case law confirming that extrinsic evidence of a defendant's alleged prior bad acts is limited only to prior convictions. (*See* State's Init. Brief at 13-14.) The State first quoted *State v. Young*, 378 S.C. 101, 106, 661 S.E.2d 387, 389 (2008), which stated:

> Evidence of a defendant's character is generally not admissible to show a propensity to act accordingly. Rule 404(a)(1), SCRE. However, when the accused offers evidence of his good character regarding specific character traits relevant to the crime charged, the solicitor has the right to cross-examine him as to particular bad acts or conduct. *State v. Major*, 301 S.C. 181, 391 S.E.2d 235 (1990). The State is restricted to showing bad character only for the traits initially focused on by the accused, and impeachment may be done by introducing prior convictions with extrinsic evidence. *Id.* at 185, 391 S.E.2d at 238.

Id. at 106, 661 S.E.2d at 389. However, contrary to the State's claim, *Young* did not "remain silent" as to whether Rule 404 limits extrinsic evidence of prior bad acts to those which resulted in a conviction. Rather, *Young* held that "[t]he State is restricted to showing bad character only for the traits initially focused on by the accused, and *impeachment may be done by introducing prior convictions with extrinsic evidence.*" *Id.* (emphasis added). Therefore, because extrinsic evidence of "prior bad acts" is limited

only to prior convictions, the court erred in allowing Douglas to testify regarding an unrelated incident in which there was no criminal charge, much less a conviction.

II. The State incorrectly argues that Appellant opened the door to Douglas's testimony of an alleged "prior bad act."

A. The open-the-door doctrine does not apply.

The open-the-door doctrine, as stated in *State v. Stroman* and quoted in the State's appellate brief, provides that "'[w]here one party introduces evidence *as to a particular fact or transaction*, the other party is entitled to introduce evidence in explanation or rebuttal thereof, even though [the] latter evidence would be incompetent or irrelevant had it been offered initially.'" 281 S.C. 508, 513, 316 S.E.2d 395, 399 (1984) (emphasis added). However, this principle does not apply to Douglas's testimony in this case.

The State claims Appellant opened the door to Douglas's testimony merely by testifying regarding: (1) obtaining a concealed weapons permit, and (2) the reasons he obtained a gun. Douglas's testimony, however, had nothing to do with Appellant's obtaining a concealed weapons permit or the reasons he obtained a gun. Douglas testified about a specific incident that occurred approximately nine months before the incident for which Appellant was charged and tried in this case. Appellant did not offer testimony or evidence related to the alleged Douglas incident, and Douglas did not offer testimony or evidence related to the incident in this case. Therefore, Appellant did not open the door for the State to introduce evidence of the Douglas incident.

B. The case law cited in the State's appellate brief is inapposite.

The State relied on three cases for its argument that Appellant opened the door to Douglas's testimony, but all three cases are distinguishable and do not apply in this case.

First, in *State v. Bennett*, 328 S.C. 251, 493 S.E.2d 845 (1997), the court did not address the open-the-door doctrine at all. At trial, the defense objected to testimony by a third-party witness that the defendant sold drugs. *Id.* at 259-60, 493 S.E.2d at 849-50. The defense stated merely "Objection, Your Honor. We object." *Id.* The defense did not state any basis for the objection. *Id.* The solicitor responded "Your Honor, They've opened that door. You've already discussed that prior." *Id.* This was the full extent of the discussion. The court did not rule on the objection, but merely stated "Well, proceed from this point. Let's go forward." *Id.* On appeal, the South Carolina Supreme Court found that no issue was preserved for review because the objection was too vague and did not address the merits of any issue related to this subject matter. *Id.* The court stated only that "as Bennett stated no grounds for his objection, there is nothing for this Court to review." *Id.* The court then went on to state, in *dicta*, that the testimony about selling drugs was "relevant" because the defendant's girlfriend had earlier testified regarding her interactions with the defendant on the date of the victim's disappearance. *Id.* The court found that the inference to be drawn from the girlfriend's testimony was that the defendant was opposed to drugs and that the third party witness's "reply testimony that Bennett was not as adamantly opposed to drugs was claimed by [the girlfriend] was therefore *within realm of permissible reply*." *Id.* (emphasis added). However, a *dicta* statement that testimony was within the realm of permissible reply is far from a finding of admissibility. The court did not address the open-the-door doctrine at all and, importantly, did not find that the testimony at issue was admissible.

The *Bennett* court's *dicta* statements were based in part on *State v. Doby*, 273 S.C. 704, 258 S.E.2d 896 (1979), which is highly distinguishable from the current case and

confirms that the open-the-door doctrine does not apply. Unlike this case, the relevant issue in *Doby* involved cross-examination of the defendant and his psychiatric witnesses about his two prior convictions for trespassing in public women's restrooms. The court held that the defendant "opened the door to this cross examination by direct testimony regarding his passive character and lack of mature sexual desires." *Id.* at 710, 258 S.E.2d at 900. The *Doby* ruling, which served as the basis for the *dicta* finding of "relevant" in *Bennett*, involved both: (1) cross examination of the defendant about prior bad acts, and (2) prior convictions, neither of which are present in this case. Therefore, *Bennett* and *Doby* are inapplicable to the current case.

Second, *State v. Bell*, 263 S.C. 239, 209 S.E.2d 890 (1974), is equally inapposite, because the rebuttal testimony directly involved the same facts to which the defendant testified. Like the court in *Bennett*, the court in *Bell* did not address the concept of opening the door. Bell was convicted of rape. He testified that he had known the victim for about three years and he had been dating her. *Id.* at 245, 209 S.E. 2d at 892. However, the victim testified that she did not know Bell and had not seen him before the incident. *Id.* To support his claim, Bell produced a watch and testified that the victim gave him the watch. *Id.* at 246, 209 S.E. 2d at 892-93. In reply, the State introduced testimony of a police officer who testified that he had been called to the victim's residence about five weeks before the alleged rape to investigate a burglary and that the victim reported a watch had been stolen. *Id.* The trial court allowed the officer's reply testimony into evidence, and the South Carolina Supreme Court affirmed. *Id.*

Unlike the prior incident in *Bell*, the alleged Douglas incident in this case was not related to Appellant's testimony. The *Bell* incident was admissible because Bell

introduced tangible evidence directly related to the reply testimony at issue. Bell claimed the victim gave him the watch, but the reply testimony was that Bell stole the watch. However, in this case, Appellant did not introduce any evidence related to the Douglas incident. Appellant testified merely that he had a concealed weapons permit and that he obtained a gun because he lived in a dangerous area. The Douglas incident was not related to Appellant's concealed weapons permit or to the reason Appellant obtained a gun. Rather, it was merely intended as negative character evidence to portray Appellant as a dangerous person, and it should not have been allowed.

Third, *State v. Dunlap*, 353 S.C. 539, 579 S.E.2d 318 (2003) is also distinguishable because the door-opening occurred when the defendant's counsel made claims in his opening statement that were directly contradicted by the defendant's criminal record. The defendant was convicted of distributing crack cocaine, but his counsel argued he had never sold it. This opened the door to evidence of prior convictions for the defendant's efforts "to 'elevate' his status to that of a drug dealer," including distribution of an imitation substance and conspiracy to possess crack cocaine with intent to distribute. *Id.* Therefore, because *Dunlap* involved both claims made in opening statement and evidence of prior convictions, neither of which are present in this case, *Dunlap* is inapplicable to the current case.

III. The State misconstrues Appellant's argument that the trial court erroneously equated "clear and convincing evidence" with "preponderance of the evidence."

The State incorrectly asserts that Appellant "argues that the evidence was not clear and convincing." (State's Init. Brief at 16.) Appellant is not asking this Court to

find that Douglas's testimony was not clear and convincing. Such a determination is in the discretion of the trial court, and the Court of Appeals is not well suited to make the determination. Rather, Appellant is asking this Court to find that the trial court abused its discretion by failing even to consider whether Douglas's testimony was clear and convincing.

IV. The State incorrectly argues that Douglas's testimony of an alleged "prior bad act" by Appellant was admissible as a common scheme or plan under Rule 404(b), SCRE.

A. The State misconstrues the meaning of "common scheme or plan."

The "common scheme or plan" principle is an exception to the well-established rule that evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. Rule 404(b), SCRE; *State v. Lyle,* 125 S.C. 406, 118 S.E. 803 (1923).

This exception recognizes that evidence of one incident may be reliable and admissible in the trial regarding another incident when the two incidents are so closely intertwined that they are actually linked together. *State v. Cheeseboro*, 346 S.C. 526, 546, 552 S.E.2d 300, 311 (2001) ("[W]here the defendant's own actions link two crimes together, evidence of one crime is admissible as proof of the other under the common scheme or plan exception."). The crux of the common scheme or plan exception is that the two incidents are part of the same broader scenario, such that evidence of one incident is probative of the other. *Id.* While it is required that the two incidents must be similar to one another, it is not enough for the State merely to identify some facts that were present in both incidents.

The purpose of the common scheme or plan rule is not to allow evidence of unrelated incidents that happen to have some overlapping or similar characteristics, but to allow evidence of related incidents on the rationale that, because they are directly related, evidence of one is also evidence of the other.

> When this exception is invoked by the State, it is important to recognize that a close degree of similarity between the prior bad acts and the crime charged, by itself, does not satisfy *Lyle*. Indeed, the mere presence of similarity only serves to enhance the potential for prejudice. The foundation for admissibility transcends mere similarity, for the admission of such evidence under the common scheme or plan exception requires a connection between the extraneous crimes and the crime charged so that proof of the former tends to prove the latter. Succinctly stated, prior bad act evidence must be relevant to prove the alleged crime.

State v. Tuffour, 364 S.C. 497, 503, 613 S.E.2d 814, 817-18 (Ct. App. 2005), *vacated due to guilty plea*, 371 S.C. 511, 641 S.E.2d 24 (2007).

For a separate incident to be admissible as part of a common scheme or plan, the party introducing the separate incident must show that the two incidents were related in a way that each incident was one part of a broader system of events. For example, the South Carolina Court of Appeals held that evidence of prior crimes or other bad acts may be admissible "when it tends to establish 'a common scheme or plan *embracing the commission of two or more crimes so related to each other that proof of one tends to establish the others.*'" *State v. Edwards*, 373 S.C. 230, 235, 644 S.E.2d 66, 68-69 (Ct. App. 2007) (emphasis added) (internal citations omitted). "'The law in civil cases, as well as in criminal cases, permits proof of acts other than the one charged *which are so related in character, time and place of commission as to . . . tend to show the existence of [ ] a common plan or system.*'" *Winters v. Fiddie*, 394 S.C. 629, 649-50, 716 S.E.2d

316, 327 (Ct. App. 2011) (emphasis added) (quoting *Citizens Bank of Darlington v. McDonald*, 202 S.C. 244, 262–63, 24 S.E.2d 369, 376 (1943)).

Admitting evidence of a separate incident as part of a common scheme or plan:

> requires the State to articulate the logical connection between the other act and at least one of the five purposes listed as exceptions in the rule. In order to meet this element, the State must explain how evidence of the other act will assist the judge or the jury in understanding some material issue in the case related to one or more of the Rule 404(b) exceptions. When the State adequately explains how the evidence of the other act logically connects to an issue in the case, it demonstrates how the judge or jury can use the evidence without using it for the prohibited purpose of inferring guilt from the defendant's propensity to commit the crime.

State v. Smith, 391 S.C. 353, 361-62, 705 S.E.2d 491, 495 (Ct. App. 2011) (internal citations omitted), *overruled on other grounds*, 406 S.C. 215, 750 S.E.2d 612 (2013).

The State argues that the Douglas incident and the incident for which Appellant was charged and tried were part of a "common scheme or plan" without addressing what a common scheme or plan is or how the two incidents make up a common scheme or plan. The state contends that the Douglas incident should be admissible merely because: (1) both incidents occurred after Appellant gave someone a ride in his car (although the person who was given a ride was only involved in one of the incidents, not both), and (2) Appellant carried a silver-colored gun in both incidents.[1] However, testimony from two different witnesses that a defendant drove a similar-colored car and had a silver-colored gun hardly demonstrates that the incidents were related.

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[1] Contrary to the State's claim, the evidence did <u>not</u> show that it was the same gun in both incidents; only that the gun was described as the same color. As Appellant's trial counsel observed: "[O]ne of the similarities in regard to the silver pistol, maybe that would make a difference if silver or chrome pistols weren't the color of – or silver or chrome wasn't the color of half the pistols on the face of the earth." (Tr. p. 836.)

B. The alleged Douglas incident was not similar to the incident for which Appellant was charged and tried.

The Douglas incident should not have been admitted as part of a common scheme or plan because the notable inconsistencies between the proffered account of the Douglas incident and the incident in this case showed that there was not a sufficient connection between the incidents for evidence of one to be evidence of the other. For example, the incidents were approximately nine months apart, so they would not have been part of the same set of events. Also, Appellant's prior brief identified numerous material differences which lend a completely different tone and character to the two incidents. (*See* App. br. pp. 15-19.) Also, as identified in Appellant's prior brief, the State's written trial memorandum, which the State introduced into the record to persuade the trial court to admit Douglas's testimony, made factual misstatements in its effort to make the Douglas incident look more similar to the incident at issue in this case. (*Id.*)

V. Appellant did argue to the trial court that the probative value of Douglas's testimony must be balanced with the risk of undue prejudice, but the trial court did not rule on this issue.

Contrary to the State's argument on page 17 of its appellate brief, Appellant did argue to the trial court that the probative value of Douglas's testimony must be balanced with the risk of undue prejudice, but the trial court still failed to conduct this analysis. Appellant's counsel specifically pointed out to the court that the probative value must be balanced against the risk of prejudice:

> 18 MR. SLADE: Well, Your Honor, I think when you
> 19 analyze it in terms of the three hurdles that they have to
> 20 come over. They have to come over the one we just talked
> 21 about, they have to come over the character trait, and they
> 22 have to come over the prejudice versus –

23 THE COURT: Yes, sir.

24 MR. SLADE: -- probative.

25 THE COURT: Then it has to be weighed on 404.

1 MR. SLADE: The probative value.

(Tr. pp. 827-28.)

However, despite Appellant's counsel's argument that the court must balance the probative value of Douglas's testimony with the risk of undue prejudice, the court failed to do so. Nowhere in the court's assessment of Douglas's testimony did it address whether the probative value of the evidence outweighed its prejudice. (*Id.* at 838-41.) This failure was an abuse of discretion by the trial court.

VI. The State incorrectly argues that Douglas's testimony was cumulative of other rebuttal testimony, and admission of Douglas's testimony was not harmless error.

Contrary to the State's argument, Douglas's testimony was not cumulative of Roscoe Morris's testimony. Cumulative evidence occurs when the same evidence is introduced multiple times through witnesses or other evidence, so the effect of one witness is not prejudicial because the same evidence is already in the record from another source. *State v. King*, 334 S.C. 504, 514 n.6, 514 S.E.2d 578, 583 n.6 (1999) (finding witness testimony not cumulative because witnesses did not testify to same facts); *Nelson v. Taylor*, 347 S.C. 210, 218, 553 S.E.2d 488, 491-92 (Ct. App. 2001) (testimony of physical therapy and injury causation experts was not cumulative because they offered different observations and diagnoses).

Douglas's testimony was not cumulative to Morris's testimony because they did not testify about the same facts. Morris could not possibly have testified about the same

incident as Douglas because Morris was not present for the alleged Douglas incident, and there is no reason to believe Morris had any knowledge of the alleged Douglas incident. Rather, Morris simply testified, in general terms, that he had seen Appellant with a gun "[o]nly on a couple of occasions." (Tr. p. 847.) Without being asked, Morris then added his opinion that Appellant "was known to carry it at all times and draw it on a lot of people." (*Id.*) This was the full extent of the testimony that the State claims was cumulative of Douglas's testimony. Morris did not testify regarding the facts of the Douglas incident. The remainder of his testimony consisted of information that Appellant allegedly told to Morris when they were in jail together. (*Id.* at 847-76.)

At trial, the State's argument in favor of admitting Douglas's testimony was that the Douglas incident was allegedly factually similar to the incident in this case. It was a fact-specific assessment. However, Morris did not testify to any facts of any incident with Appellant. Nothing about Morris's testimony was cumulative of Douglas's testimony.

The case law cited in the State's appellate brief regarding cumulative evidence is inapplicable because, unlike this case, the evidence found to be cumulative in every case cited by the State consisted of the same details that had already been introduced into evidence by other witnesses. In *State v. Haselden*, 353 S.C. 190, 577 S.E.2d 445 (2003), the cumulative evidence at issue was the defendant's character and reputation for playing golf often. There was no testimony or other evidence at issue of a specific incident. In addition to the witness in question, both the defendant himself and an additional witness had testified that the defendant played golf often. Therefore, since three different people,

including the defendant, testified to the same general character and reputation, the court held the testimony was cumulative and, therefore, harmless.

In *State v. Nichols*, 325 S.C. 111, 481 S.E.2d 119 (1997), the evidence at issue was a police officer's testimony in which he read from a family court complaint for divorce accusing a third party of having adulterous relationships, including a relationship with the defendant. However, the complaint itself had already been admitted into evidence without objection, and the defendant had admitted to the adulterous relationship. Therefore, because the information to which the police officer testified was already in the record from multiple other sources the court found it was cumulative and harmless.

Finally, in *State v. Schumpert*, 312 S.C. 502, 435 S.E.2d 859 (1993), the defendant was convicted of rape. The defendant argued on appeal that it was inadmissible hearsay for a witness to testify that the victim told her the rape occurred at "Carlton Shumpert's [*sic*] lake house." *Id.* at 506-07, 435 S.E.2d at 862. However, the court observed that "two other witnesses testified without objection that the victim told them the rape occurred at 'Carlton Schumpert's house.'" *Id.* The defendant did not object to the testimony of the other two witnesses. *Id.* Therefore, since multiple witnesses testified to the same details, the testimony to which the defendant objected was cumulative and harmless. *Id.*

In this case, Douglas and Morris did not testify to any of the same facts, so Douglas's testimony was not cumulative.

CONCLUSION

The trial court erred by allowing the State to introduce testimony of Brad Douglas in its rebuttal case and by charging the jury on voluntary manslaughter when Appellant was not indicted for voluntary manslaughter or any other offense requiring the same proof as voluntary manslaughter. For the reasons set forth above and in Appellant's Initial Brief, Appellant requests that this Court reverse and remand for a new trial.

Respectfully submitted,

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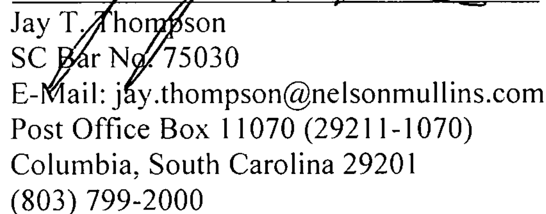
By: 

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This 13th day of May, 2014

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM CHEROKEE COUNTY
Court of General Sessions

Roger L. Couch, Circuit Court Judge

Case No. 2010-GS-11-00607

The State of South Carolina,.. Respondent,

v.

Hayword Tony Chambers,.. Appellant.

PROOF OF SERVICE

I certify that I have served the **Initial Reply Brief of Appellant Hayword Tony Chambers** on The State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, addressed to its attorneys of record, Salley Elliott and David Spencer, Senior Assistant Deputy Attorney General, P.O. Box 11549, Columbia, S.C. 29211.

This 13th day of May, 2014.

<< Signature on Next Page >>

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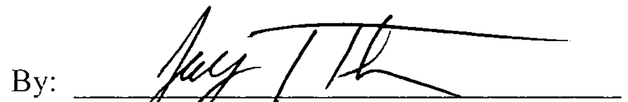
Respectfully submitted,

Nelson Mullins Riley & Scarborough, LLP

By: 

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May 13, 2014

Via Hand Delivery

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: Appeal From Cherokee County
The State, Respondent v. Hayword Tony Chambers, Appellant
Case No. 2012-213554
Our File No. 38769/01519

Dear Ms. Kitchings:

Enclosed for filing in the above referenced matter please find the original and one copy of the Initial Reply Brief of Appellant and Proof of Service. We would appreciate your returning a filed, stamped copy to us with our courier.

By copy of this letter we are serving opposing counsel with this brief today.

Very truly yours,

Jay T. Thompson

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JTT:coc

Enclosures

cc: David Spencer, Esquire
Salley Elliott, Esquire