STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Beaufort County

Thomas W. Cooper, Jr., Circuit Court Judge

RECEIVED

MAY 27 2014

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

DEMETRIUS PRICE,

PETITIONER

BRIEF OF PETITIONER

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR PETITIONER.

INDEX

TABLE OF AUTHORITIES

Cases

Statutes

Rules

ISSUE PRESENTED

Did the Court of Appeals err in failing to find that the trial judge committed reversible error, based on State v. Belcher, when, in charging the jury on the law of assault and battery with intent to kill [ABWIK], he instructed the jury that "inferred malice may arise when the deed is done with a deadly weapon" when evidence was presented that would reduce the ABWIK to assault and battery of a high and aggravated nature [ABHAN] and the judge instructed the jury on the law of the lesser included offense of ABHAN?

STATEMENT

In December of 2008, the Beaufort County Grand Jury indicted Price for assault and battery with intent to kill [ABWIK], burglary first degree and possession of a weapon during the commission of a violent crime, indictments #2009-GS-07-66, 68, 68.[1] In June of 2009, the Beaufort County Grand Jury indicted Price for unlawful possession of a handgun by a prohibited person. Indictment #2009-GS-07-1365. On November 16, 2009, Price and his co-defendant, Luscious Simuel, proceeded to jury trial before the Honorable Thomas W. Cooper Jr. Attorney Christopher J. Geier represented Price at trial. Attorney Ian C. Deysach represented the co-defendant, Simuel. On November 20, 2009, the jury returned verdicts of guilty on all charges. Both men were sentenced to life without parole based on S.C. Code §17-25-45. A timely notice of intent to appeal was served on November 25, 2009.

The direct appeal was perfected. On June 19, 2012, the case was argued before a three judge panel of the South Carolina Court of Appeals. On September 5, 2012, a majority of the panel affirmed the sentence and conviction. Both Price and the State filed petitions for rehearing. On October 18, 2012, both petitions for rehearing were denied. On December 17, 2012, Price filed a petition for writ of certiorari with this Court. The State did not file a petition for writ of certiorari. On March 5, 2014, this Court granted the petition for writ of certiorari. This brief of petitioner follows.

[1] It is unclear why the indictments contain a GS number of 2009 if the grand jury true billed in December of 2008.

ARGUMENT

The Court of Appeals erred in failing to find that the trial judge committed reversible error, based on State v. Belcher, when, in charging the jury on the law of assault and battery with intent to kill [ABWIK], he instructed the jury that "inferred malice may arise when the deed is done with a deadly weapon" when evidence was presented that would reduce the ABWIK to assault and battery of a high and aggravated nature [ABHAN] and the judge instructed the jury on the law of the lesser included offense of ABHAN.

The jury convicted Price and Simuel of shooting Deon and Deverol Cannick at the apartment the brothers shared. During the charge conference the trial judge indicated that he would charge the lesser included charge of ABHAN. (R. p. 731, lines 6-20). The judge stated, "There is some evidence in the record from which some of the testimony has indicated, indirectly though it might be, that this was something perhaps other than just a knocking down the door and going in there and shooting up everybody. As so there may be something there that is sufficient to indicate the absence of malice in this particular case." (R. p. 731, lines 8-14). The judge declined, however, to instruct the jury on the law of self defense. (R. p. 745, 746, 747 lines 1 -22). The judge charged the jury with the lesser included offense of ABHAN. (R. p. 830, lines 10 – p. 831, lines 1-17; p. 843, lines 11-19).

When instructing the jury on the law of ABWIK, the judge told the jury that malice aforethought was an element of ABWIK. (R. p. 827, lines 20-23). The judge instructed the jury that malice could be expressed or inferred. (R. p. 828, lines 11-12). The judge further instructed the jury, "Now, malice may be inferred from the conduct of a person if that conduct shows a total disregard for human life. Inferred malice may arise when the deed is done with a deadly weapon." (R. p. 828, lines 24 – p. 829, lines 1-2). The judge then defined deadly weapon. (R. p. 829, lines 2-6). The judge erred in instructing the jury that malice could be inferred from the use of a deadly weapon.

First, the issue presented is preserved for appellate review although Price did not **initially** object to the improper charge. See State v. Taylor, 261 S.C. 437, 200 S.E.2d 387 (1973)(Error not to charge self defense when there was evidence presented of self defense even though self defense charge was not requested until after the jury began deliberations and returned with a question about self defense). In the present case, after the initial jury instruction and after deliberations began, the jury requested a written summary of the conditions of ABWIK. (R. p. 847, lines 8-10). In response to the jury's request, the judge re-charged the law of ABWIK and the lesser included offense of ABHAN. In his recharge on the law of ABWIK the judge again improperly instructed the jury, "Malice may be inferred from the conduct which shows a total disregard for human life. Inferred malice can arise when the deed is done with a deadly weapon." (R. p. 851, lines 24 – p. 852, line 1).

The jury retuned to deliberations and the judge asked if there were any exceptions to the re-charge. (R. p. 856, lines 2-7). Counsel for Price objected stating, "Yes, Your Honor. I just wanted to ensure that you[r] instruction on the ABWIK didn't include the language that was excluded by State v. Belcher." (R. p. 857, lines 21-23). The judge replied, "Well, it did to some extent because the facts in State v. Belcher I don't think are applicable here. State v. Belcher is limited to those situations involving self-defense, things that nature. However, I did in my instruction emphasize that the defendant intentionally commits an act, which were concerns that were laid out in the Belcher case obviously, the Belcher instructions." (R. p. 857, lines 24 – p. 858, lines 1-6). The judge further discussed the Belcher case and then noted the exception. (R. p. 858, 869, 870, lines 1-15). The judge erred in finding that Belcher is limited to those cases in which the defendant is entitled to a self-defense instruction.

The Court of Appeals addressed the merits of the issue because the issue was properly preserved. The majority in the Court of Appeals wrote, "We recognize there is a substantial

question as to whether Price preserved this issue for appeal. However, we choose to address the merits of the issue. Cf. Atl. Coast Builders & Contractors, LLC v. Lewis, Op. No. 27044 (S.C. Sup. Ct. filed May 16, 2012) (Shearouse Adv. Sh. No. 17 at 15, 21) (stating "we . . . resolve the issue on preservation grounds when it clearly is unpreserved")." State v. Price, 400 S.C. 110, 113,732 S.E.2d 652, 653 (Ct.App. 2012). The majority decided the issue on the merits but noted there was a substantial question as to whether the issue was preserved for appellate review. Petitioner submits that there is not a substantial question as to whether the issue was preserved for appellate review. As noted by the dissent in Price:

> Here, Price specifically excepted to the inferred malice charge immediately after the trial judge recharged the jury the allegedly offending language. The trial judge proceeded to address Price's concerns pursuant to Belcher, ultimately finding Belcher inapplicable. Thus, the matter was clearly raised to the trial judge, and the trial judge clearly ruled upon the matter. Additionally, I find Price did not waive any objection to the charge by failing to object when the matter was initially charged by the court. This matter involves two separate charges. While Price may very well have waived his objection to the initial inferred malice charge by failing to contemporaneously object, he specifically objected to the recharge and did not waive his subsequent objection to this allegedly erroneous instruction. Hence, a contemporaneous objection was made to the second charge that malice could be inferred from the use of a deadly weapon, and this issue is therefore preserved as to the second charge. Neither do I find Price's failure to object after the initial charge and prior to the jury initially retiring for deliberations constitutes waiver of his right to subsequently challenge the recharge pursuant to Rule 20(b), SCRCrimP. This rule provides in part as follows: "Notwithstanding any request for legal instructions, the parties shall be given the opportunity to object to the giving or failure to give an instruction before the jury retires. . . . Failure to object in accordance with this rule shall constitute a waiver of objection." Rule 20(b), SCRCrimP. Our supreme court has specifically declined to give a strident interpretation to Rule 20(b), instead finding an objection to a jury charge preserved under the rule where an on-the-record ruling was made after an opportunity for discussion, in spite of the fact that the objection to the charge

> was not renewed after the conclusion of the charge. *See* State v. Johnson, 333 S.C. 62, 64 n.1, 508 S.E.2d 29, 30 n.1 (1998) (holding, where appellant's request to charge was denied on-the-record after an opportunity for discussion, Rule 20(b), SCRCrimP did not require appellant to renew his request at the conclusion of the charge in order to preserve the issue on appeal). Further, I disagree with the State's assertion that Price could have suffered no prejudice from the alleged error because the charge had previously been presented to the jury without objection. Once Price objected to the recharge, it was incumbent upon the trial judge to correct any error in his charge. Thus, assuming the charge was erroneous pursuant to Belcher and required correction, it cannot be said Price suffered no prejudice when the trial judge failed to give a corrected charge.

State v. Price, 400 S.C. 110, 122, 732 S.E.2d 652, 658 (Ct.App. 2012). Petitioner did not waive the objection by failing to object to the initial charge prior to jury deliberation. As discussed below, the judge erred in charging the jury that malice could inferred from the use of a deadly weapon. Petitioner objected the second time the judge improperly charged the jury during the recharge based on the jury's question about the ABWIK charge. Once the challenge was made to the improper charge, it was incumbent upon the judge to correct the erroneous charge through further instruction. As noted by the dissent in footnote six, "The court could have instructed the jury to disregard its previous charge concerning inferred malice and the use of a deadly weapon and then properly charged the jury or perhaps fashioned some other instruction to correct the matter." Price, 400 S.C. at 123, 732 S.E.2d at 659. The issue is properly before this Court.

Addressing the merits of the issue, "An appellate court will not reverse the trial judge's decision regarding a jury charge absent an abuse of discretion." State v. Mattison, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010) (citing State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007)). "An abuse of discretion occurs when the ruling is based on an error of law or a factual conclusion that is without evidentiary support." Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C.

19, 26, 609 S.E.2d 506, 509 (2005). The judge's charge to the jury that malice could be inferred from the use of a deadly weapon constitutes an error of law, pursuant to State v. Belcher, 385 S.C. 597, 610, 685 S.E.2d 802, 809 (2009), because evidence was presented that would have reduced the charge from ABIK to ABHAN and the judge properly charged the jury on the law of ABHAN.

In State v. Belcher, 385 S.C. 597, 610, 685 S.E.2d 802, 809 (2009), decided in October of 2009, one month prior to the November 2009, trial date in the present case, the South Carolina Supreme Court wrote, "Under our policy-making role in the common law, we hold that the "use of a deadly weapon" implied malice instruction has no place in a murder (or assault and battery with intent to kill) prosecution where evidence is presented that would reduce, mitigate, excuse or justify the killing (or the alleged assault and battery with intent to kill)."

"ABIK [ABWIK] is an unlawful act of violent nature to the person of another with malice aforethought, either express or implied. State v. Foust, 325 S.C. 12, 479 S.E.2d 50 (1996)." State v. Sutton, 340 S.C. 393, 396, 532 S.E.2d 283, 285 (2000). "ABHAN . . . requires an unlawful act of violent injury accompanied by circumstances of aggravation. State v. Sprouse, 325 S.C. 275, 286 n. 2, 478 S.E.2d 871, 877 n. 2 (Ct.App.1996). Such aggravating circumstances include the use of a deadly weapon, the infliction of serious bodily injury, the intent to commit a felony, great disparity between the ages and physical conditions of the parties involved, and the difference in the sexes. State v. Murphy, 322 S.C. 321, 324-25, 471 S.E.2d 739, 740-41 (Ct.App.1996)." State v. Coleman, 342 S.C. 172, 176, 536 S.E.2d 387, 389 (Ct.App. 2000). The judge correctly found there was evidence from which the jury could have concluded that Price was guilty of ABHAN rather than ABWIK.

While Price may not have been entitled to a self-defense instruction, evidence was presented in this case that would reduce the ABIK to ABHAN. In one of his statements to the police the co-

defendant, Simuel, indicated that the Cannick brothers tried to set him up. (R. p. 357, lines 1 – p. 358, lines 1-17). Simuel also indicated that Deon came out of the house stating, Where is it at?" (R. p. 357, lines 17-18). Deon Cannick admitted that he and his brother were in a gang named Gangsta Disciple. (R. p. 266, lines 13 – p. 267, lines 1-20; p. 273, lines 6-8). Both Cannick brothers admitted selling drugs. (R. p. 245, lines 1-11; p. 492, lines 3-25). When police searched the Cannick apartment after the shooting they found cocaine, marijuana and hydrocodone pills. (R. p. 495, lines 4-25). Investgator Todd Calhoun with the Beaufort County Sheriff's Department testified that another brother, Malik Campbell, was present on the night of the shooting and told the investigators that he saw two subjects at the bottom of the stairs fighting with his brothers Deon and Deverol Cannick. (R. p. 700, lines 1-4). Tiah Frazier, Simuels' niece testified that Simuel told her that Deon tried to rob him. (R. p. 687, lines 9-12). Chris Battle, Simuel's nephew, testified about a drug deal between Simuel and Deon. (R. p. 691, lines 23 – p. 692, lines 1-15). The nephew testified that Simuel told him "the deal went bad and Deon and his brother got shot." (R. p. 692, lines 16-18). This is evidence of a drug deal gone wrong, evidence that could reduce the charge from ABWIK to ABHAN. The judge made a factual finding in regard to the evidence and properly charged the jury with the law of ABHAN. Pursuant to Belcher, the judge erred in instructing the jury that malice could be inferred from the use of a deadly weapon.

Neither the Court of Appeals nor this Court is asked to determine if the trial judge properly charged the jury with the lesser included offense of ABHAN. In affirming the conviction, however, the Court of Appeals disagrees with the trial judge's conclusion and ignores the State's concession that there was evidence warranting an ABHAN charge. The majority wrote:

> We disagree, however, with the court's conclusion that there was evidence of an absence of malice, which would reduce or mitigate the offense. In deciding to give the ABHAN charge, the court stated, "[S]ome of the testimony has indicated, indirectly though it might be, that this was something perhaps other than just a knocking down the door and going in there and shooting everybody. And so there may be something there that is sufficient to indicate the absence of malice in this particular case." We find no such evidence in the record. Our review of the record reveals no evidence that could reduce, mitigate, excuse, or justify the crime.

Price, 400 S.C. at 114, 732 S.E.2d at 654. The majority opinion seems to indicate that the trial judge erred in charging the jury with the lesser included offense of ABHAN. Yet, the trial judge made a factual finding that evidence was presented from which a jury could decide that the shooter acted without malice, warranting a charge on ABHAN. The issue of whether the trial judge erred in charging ABHAN is not an issue of law before this Court.

"In criminal cases, the appellate court sits to review errors of law only." State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). Thus, an appellate court is bound by the circuit court's factual findings unless they are clearly erroneous. *Id.* If any evidence supports a jury charge, the circuit court should grant the request. State v. Brown, 362 S.C. 258, 262, 607 S.E.2d 93, 95 (Ct.App.2004). The appellate court is bound by the trial court's factual finding that there was evidence presented warranting the ABHAN charge. The State agreed that ABHAN was an appropriate charge. The finding was not clearly erroneous. The Court of Appeals erred in refusing to accept the factual finding by the trial judge.

In affirming the conviction, the majority found that the only jury question created by the evidence was the identity of the shooter. The majority, citing State v. Coleman, 342 S.C. 172, 177, 536 S.E.2d 387, 389-90 (Ct.App. 2000) wrote, "There may have been conflicting evidence as to who did these things, but it is not possible to interpret the evidence to support any conclusion other than the person who shot Deon committed ABWIK. Therefore, if the jury believed Price is the

[person who shot Deon, Price is necessarily guilty of ABWIK." Price, 400 S.C. at 114 -115, 732 S.E.2d at 654. The view of the majority is just one view of the evidence and, as discussed below, ignores other important evidence.

The majority then held that:

> Belcher does not prohibit the trial court from instructing the jury that it may infer malice from the use of a deadly weapon where the only jury question created by the evidence is whether the defendant is the person who committed ABWIK. *See* Belcher, 385 S.C. at 612, 685 S.E.2d at 810 (stating "the permissive inference charge concerning the use of a deadly weapon remains a correct statement of the law where the only issue presented to the jury is whether the defendant has committed . . . assault and battery with intent to kill"). On the facts of this case, we find no error.

State v. Price, 400 S.C. 110, 115, 732 S.E.2d 652, 654 (Ct.App. 2012).

Identity of the shooter, however, was **not** the only jury question created by the evidence. Evidence was presented from which a jury could decide that the shooter acted without malice, warranting a charge on ABHAN. The majority opinion of the Court of Appeals ignores the evidence in the record, correctly found by the trial judge and conceded by the State at trial, that would reduce or mitigate the ABWIK charge. In deciding to charge the jury with the lesser included offense of ABHAN, the trial judge stated, "There is some evidence in the record from which some of the testimony has indicated, indirectly though it might be, that this was something perhaps other than just a knocking down the door and going in there and shooting up everybody. As so there may be something there that is sufficient to indicate the absence of malice in this particular case." (R. p. 731, lines 7-14). The State agreed stating, "No exceptions, Your Honor. I do want to inquire as to whether or not - - since the court mentioned that, based on the court's listing of the evidence, you decided to charge ABHAN to which we have no objection because of the

absence of, the absence – the jury may find that there was an absence of malice." (R. p. 732, lines 19-24).

The dissent concisely summarizes the evidence supporting a charge on the lesser included offense of ABHAN writing:

> Here, evidence was presented from which the jury could conclude Price and his co-defendant did not simply shoot Deon and Deverol while carrying out their plan to rob the two brothers. Specifically, evidence was presented that Deon had previously discussed with Simuel obtaining ecstasy pills from Simuel on Deverol's behalf, and Simuel had appeared at Deon and Deverol's home that day with Price after Deon had attempted to contact Simuel that day for the purpose of obtaining the pills. Significantly, evidence was presented that Deon pulled a gun out as Price and Simuel attempted to conduct a drug transaction with Deverol and stated "where is it at," thereby showing Price and Simuel may have, in fact, been the target of an armed robbery. Additionally, there is evidence Deon, in describing the incident to an investigator, stated he heard the two men ask if there was "*any more* iron up there," referring to guns, and indicating the victims may have, in fact, previously pulled a gun on the defendants while in the downstairs area. The investigator testified he found no evidence of forced entry to the apartment door, and Malik told the investigator that he observed two subjects at the bottom of the stairs fighting with his brothers during the incident. Also, Simuel's niece, Tiah, testified that on the day of the shooting, Deon had called her and asked to talk to her uncle, indicating he wanted to talk to Simuel about buying some pills, and later that day Simuel called Tiah and told her that Deon had tried to rob him. Chris Battle, Simuel's nephew, corroborated that Deon called Tiah that day and asked for Simuel because he wanted some pills, Tiah and Chris called Simuel and told him Deon was asking for some pills, and hours later, Simuel called and told them that "the deal went bad." Thus, evidence was presented that would reduce or mitigate the alleged ABWIK, making the charge on inferred malice from the use of a deadly weapon improper. I find very telling the fact that the trial court recognized the presence of such evidence, specifically noting the

> appropriateness of a charge on ABHAN based on evidence that the incident was something "other than just a knocking down the door and going in there and shooting up everybody" but, rather, was "sufficient to indicate the absence of malice in this particular case." As well, the State specifically conceded during the trial that the jury could find there was an absence of malice from the evidence.

State v. Price, 400 S.C. 110, 123, 126, 732 S.E.2d 652, 659, 660 (Ct.App. 2012).

(footnote omitted).

The majority's reliance on Coleman in finding that the only inference to be drawn from the evidence was that the person who shot Deon committed ABWIK is misplaced for two reasons. First, the issue on appeal in Coleman involved the trial judge's refusal to charge the lesser included offense of ABHAN. The trial judge in the present case charged the lesser included offense of ABHAN with the consent of the State. Second, Coleman and the present case are factually distinct. In Coleman the Court of Appeals found the trial judge properly refused to charge the lesser included offense of ABHAN where the defendant entered the Subway sandwich shop wearing a black ski mask and a jacket with the hood pulled over his head, jumped out at a Subway employee, pointed a gun at him, and said, "Give me all your money. Give me all your f------ money, mother f-----." The employee attempted to open the cash register but before he had the opportunity, the assailant shot him in the eye and fled. The incident was captured on video.

The Court in Coleman found no error in the judge refusing to charge ABHAN because there was no evidence that Coleman committed only ABHAN rather than ABIK. As this Court noted in footnote eight of the Belcher opinion, "In many, if not most, murder cases the [inferred malice from the use of a deadly weapon] charge will be harmless, even if couched in terms of a presumption.... Obviously[,] when a defendant walks into the store [and] shoots and robs the

clerk, a charge that the jury may infer malice is not prejudicial to the defendant." (Brief of Appellant 9)." 385 S.C. at 612, 685 S.E.2d 810. The Court of Appeals in Coleman wrote:

> Coleman never asserted the gun fired accidentally or that it fired without him pulling the trigger; nor is there any apparent reason for Coleman's "panic" other than his own act of shooting victim in the head. Coleman stated that after he entered the Subway with the gun he "got scared, and started to run and heard a shot." However, the physical evidence in this case, the security videotape, directly contradicts Coleman's statement that he first ran and then the gun fired. The smoke from the fired gun is evident on the tape *before* Coleman runs out of the store. The evidence establishes Coleman fired the gun because Victim did not give him the money fast enough, not because of "a sudden, overpowering terror." The only inference that can reasonably be drawn from the evidence is that Coleman may well have panicked *after* shooting Victim, not before. Coleman's assertion that he "panicked," without more, and especially in light of the actual chain of events as captured on the videotape, is palpably insufficient evidence to justify a charge on ABHAN.

Coleman, 342 S.C. at 177-178, 536 S.E.2d at 390.

In contrast in the present, there is more than one inference than can be drawn from the evidence presented. The majority opinion relies solely on one inference and ignores other evidence presented, specifically that this was a drug deal gone bad and Petitioner was set up for robbery by the Cannack brothers. As noted by the dissent in footnote seven:

> I do not agree with the majority's position that the only conflicting evidence was as to who shot Deon, and the only possible interpretation of the evidence was that the person who shot Deon committed ABWIK. Though Deon did testify the shooter pointed a gun at him and, while Deon's hands were in the air, the man waived the gun to the left of Deon's neck and shot him, there was evidence presented from which the jury could conclude that the defendants were actually targeted for a robbery by the victims, and the defendants managed to gain the upper hand in the situation. In other words, given the conflicting evidence on why the shooting came about, the jury was free to believe or disbelieve Deon's version of the events.

State v. Price, 400 S.C. at 127, 732 S.E.2d at 661.

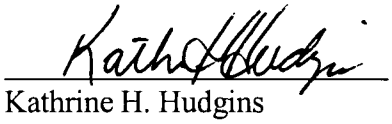
The erroneous inference of malice from a deadly weapon charge was not harmless under the facts of this case. In State v. Miller, 397 S.C. 630, 725 S.E.2d 724 (Ct.App. 2012) (cert. granted November 20, 2013), the Court of Appeals found, based on Belcher, that the trial court erred in

instructing the jury that it could infer malice from Miller's use of a deadly weapon because there was evidence from which the jury could have determined that Miller was guilty of the lesser included offense of involuntary manslaughter. The judge in the Miller case properly charged the jury with the law of involuntary manslaughter and the State did not object to the jury charge on the lesser included offense. Similarly, in the present case, based on Belcher, the trial court erred in instructing the jury that it could infer malice from Price's use of a deadly weapon because there was evidence from which the jury could have determined that Price was guilty of the lesser included offense of ABHAN. The judge in the present case charged the jury with the law of ABHAN and the State not only did not object to the charge but conceded that it was a correct charge. The State failed to present "overwhelming evidence of malice" apart from the use of the gun. As in Miller, the error is not harmless.

CONCLUSION

Based on the above argument, the conviction and sentence for ABWIK should be reversed.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR PETITIONER.

This 27th day of May, 2014.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Beaufort County

Thomas W. Cooper, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEMETRIUS PRICE,

PETITIONER

CERTIFICATE OF SERVICE

I certify that a true copy of the brief of petitioner, in this case has been served on Mark R. Farthing, Esquire, this 19th day of May, 2014.

Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 27th day
of May, 2014.

Rhonda Deneese Foxworth (L.S.)
Notary Public for South Carolina
My Commission Expires: 10/17/2021