

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUN 26 2014

SC Court of Appeals

Appeal from Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

The State,

Respondent,

vs.

Forrest Kelly Samples,

Appellant.

RETURN TO PETITION FOR REHEARING

Respondent objects to the petition for rehearing, and would argue the petition for rehearing is not in compliance with Rule 221, SCACR. Rule 221 requires a petition for rehearing to “state with particularity the points supposed to have been overlooked and misapprehended by the court.” The Petition for Rehearing fails to do this. Instead, it appears that Appellant has cut and pasted the same argument from their Final Brief. Respondent reserves the right to challenge any attempt for review with the Supreme Court as being procedurally defaulted on the failure to follow Rule 221.

Respondent believes that the Court did not overlook Appellant’s entire brief and therefore, the petition for rehearing should be denied. Respondent, rather than reiterating every point made in its Final Brief, would crave reference for this Court and incorporate Respondent’s the Statement of Facts and Argument previously presented in the Final Brief. Respondent has full confidence that the Court understood each party’s arguments in issuing

its memorandum opinion on the matter and consideration of Appellant's rehashed argument is unnecessary.

CONCLUSION

For all of the foregoing reasons, the petition for rehearing should be denied.

Respectfully submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General

E. L. CLEMENTS, III
Solicitor, Twelfth Judicial Circuit

BY: _____

DAVID SPENCER

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ATTORNEYS FOR RESPONDENT

June 26, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County
Honorable G. Thomas Cooper, Jr., Circuit Court Judge
Appellate Case Tracking No. 2012-212342

The State,

Respondent,

vs.

Forrest Kelly Samples,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the Return to Petition for Rehearing on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

Carmen V. Ganjehsani, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 26th day of June, 2014.



ELLEN R. DUBOIS
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

June 26, 2014

VIA HAND DELIVERY

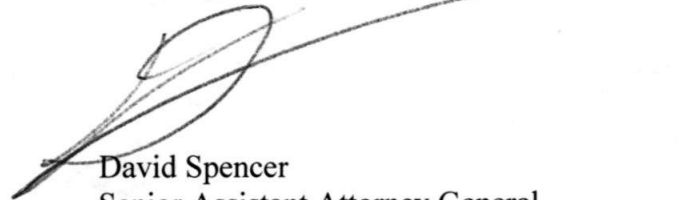
The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State v. Forrest Kelly Samples,
Appellate Case Tracking No. 2012-212342

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of a Return to Petition for Rehearing along with proof of service for filing in the above-referenced appeal.

Sincerely,



David Spencer
Senior Assistant Attorney General

Enclosures

cc: Carmen V. Ganjehsani, Esquire
Victim Services

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