ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of General Sessions

The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-001159

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

MICHAEL TYRONE QUARLES,

APPELLANT.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

CHRISTINA J. CATOE
Assistant Attorney General
SC Bar No. 73562

Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

RECEIVED
AUG 26 2014
SC Court of Appeals

J. STROM THURMOND, JR.
Solicitor, Second Judicial Circuit

Post Office Drawer 3368
Aiken, South Carolina 29802
(803) 642-1557

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.. 1

STATEMENT OF THE CASE 2

ARGUMENT 3

CONCLUSION 14

AUTHORITIES CITED

Cases:

Old Chief v. United States, 519 U.S. 172 (1997) 9

State v. Baccus, 367 S.C. 41, 625 S.E.2d 216 (2006) 12

State v. Cheeseboro, 346 S.C. 526, 552 S.E.2d 300 (2001) 9

State v. Collins, 398 S.C. 197, 727 S.E.2d 751 (Ct. App. 2012) 9, 11

State v. Dennis, 402 S.C. 627, 742 S.E.2d 21 (Ct. App. 2013) 9

State v. Dial, 405 S.C. 247, 746 S.E.2d 495 (Ct. App. 2013) 8

State v. Dunbar, 356 S.C. 138, 587 S.E.2d 691 (2003) 8

State v. Fletcher, 379 S.C. 17, 664 S.E.2d 480 (2008) 12

State v. Haselden, 353 S.C. 190, 577 S.E.2d 445 (2003) 12

State v. Lee, 399 S.C. 521, 732 S.E.2d 225 (Ct. App. 2012) 8

State v. Myers, 359 S.C. 40, 596 S.E.2d 488 (2004) 8

State v. Samuel, 400 S.C. 593, 735 S.E.2d 541 (Ct. App. 2012) 8

State v. Sherard, 303 S.C. 172, 399 S.E.2d 595 (1991) 12

State v. Shuler, 353 S.C. 176, 577 S.E.2d 438 (2003) 11

State v. Simmons, 352 S.C. 342, 573 S.E.2d 856 (Ct. App. 2002) 10

State v. Sims, 387 S.C. 557, 694 S.E.2d 9 (2010) 13

State v. Stephens, 398 S.C. 314, 728 S.E.2d 68 (Ct. App. 2012) 8-9, 12

State v. Wiley, 387 S.C. 490, 692 S.E.2d 560 (Ct. App. 2010) 12

State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001) 9

Rules and Statutes:

Rule 403, SCRE 8

S.C. Code 16-11-330 10

STATEMENT OF ISSUE ON APPEAL

The trial judge properly admitted the audio recording of the victim's 911 call made immediately after the armed robbery where the 911 recording had clear probative value in the State's case and any prejudice to Appellant resulting from the emotional nature of the call was minimal. Further, even assuming it was error to admit the 911 recording, such error was harmless beyond a reasonable doubt considering the overwhelming evidence of Appellant's guilt.

STATEMENT OF THE CASE

Appellant was indicted in Aiken County in May 2013 for armed robbery and kidnapping. On May 14-15, 2013, Appellant's case proceeded to trial before the Honorable Doyet A. Early, III, and a jury. The jury found Appellant guilty as indicted, and Judge Early sentenced Appellant to twenty-eight years on each charge, with the sentences to run concurrently. A timely notice of appeal was served and filed.

ARGUMENT

The trial judge properly admitted the audio recording of the victim's 911 call made immediately after the armed robbery where the 911 recording had clear probative value in the State's case and any prejudice to Appellant resulting from the emotional nature of the call was minimal. Further, even assuming it was error to admit the 911 recording, such error was harmless beyond a reasonable doubt considering the overwhelming evidence of Appellant's guilt.

Background Facts

About a week and half prior to February 19, 2013, Appellant's co-defendants, Carlos Williams and Jamaques Salley, hatched a plan to rob the Quick Cash in Aiken. (R. p. 74). Williams and Salley went to Wal-Mart three or four days prior to the robbery to purchase BB guns to use in the robbery. (R. p. 76). The State produced photographic evidence of the two of them walking out of Wal-Mart. (R. p. 76, lines 6-17). After they acquired the BB guns, Williams and Salley purchased a taser or "stun gun" at the Augusta barn yard flea market. (R. p. 77-78). Prior to the robbery, they told Appellant they had a place they were going to "hit" (meaning rob) and they needed his assistance. (R. p. 74-75; p. 78-79). According to their plan, they would pick up Appellant in the morning on February 19, 2013, and he would enter the Quick Cash and scope out the place to see where the light switches were and how many people were working. (R. p. 79).

On the morning of the robbery, Williams, wearing a white hoodie sweatshirt and jeans, went to Appellant's house and picked him up. (R. p. 82-83; p. 85, lines 10-11). Appellant was wearing a black hoodie and jeans. (R. p. 83). When Appellant got in Williams' truck they had some discussions about what Appellant was supposed to do once inside the Quick Cash. (R. p. 83). The two of them then went to go pick up Salley from his house. (R. p. 84). Salley was also wearing a black hoodie. (R. p. 84, lines 8-9).

After Salley got in the truck he placed the BB guns and the taser on the back seat. (R. p. 84, lines 18-20). The "orange spots" had been removed from the BB guns "to make them look real." (R. p. 111, line 21 – p. 112, line 2). At that point, they realized they would need a bag in which to put the stolen money, so they stopped by a Roses store and Salley purchased a bag. (R. p. 84-85). The State produced photographic evidence of all three men inside the Roses store on February 19, 2013. (R. p. 86-87). After leaving Roses, Williams drove to the Quick Cash area and parked in a dirt lot behind a day care center which was across the street from the Quick Cash. (R. p. 88). After parking, the men again reviewed with Appellant what he was supposed to do inside the Quick Cash. (R. p. 88). Also, Appellant switched sweatshirts with Williams - who was planning to be one of the actual robbers - because Williams' white sweatshirt was more noticeable than Appellant's black one. (R. p. 89, lines 9-24). Appellant then exited the truck, walked across the street, and entered the Quick Cash. (R. p. 89).

Around midmorning, the victim, the sole employee in the Quick Cash store, encountered a "very big" light-skinned black male wearing a white hoodie who entered the Quick Cash and inquired about a loan. (R. p. 29-30). The victim later identified this man as Appellant. (R. p. 41-42). The man did not have any paperwork with him. (R. p. 31, lines 2-4). He requested that the victim make a list of all the documents necessary to obtain a loan. (R. p. 31). The man stood directly across the counter from the victim while she wrote out the list and talked with him for four to five minutes. (R. p. 32). The man accepted the list of documents and then left the store. (R. p. 32-33). Shortly thereafter the victim noticed two black males walking towards the store, both wearing black hoodies and "looking very, very hard at the store." (R. p. 33-34). However, around

that time the mailman arrived. (R. p. 33, lines 8-9). The two black males then proceeded down toward the neighboring hotel. (R. p. 33, lines 9-11). When the mailman came in the store, the victim mentioned the men to him because she was suspicious of them and she asked the mailman to go and find out where they were. (R. p. 34, lines 18-23; p. 48, lines 17-23). He took a few steps outside and saw two black gentlemen in black clothing and hoodies walking down towards the Days Inn. (R. p. 48-49). When he came back inside he provided the victim with the phone number for Aiken Public Safety in case she saw the men again and got nervous. (R. p. 34-35; p. 49-50). After the mailman left, the victim decided to call public safety, and an audio recording of that call was entered into evidence at trial without objection. (R. p. 35-36).

Meanwhile, Appellant returned to the truck after his trip into the Quick Cash and reported that one female was working in the store. (R. p. 91). Williams and Salley then donned white latex gloves and proceeded to the Quick Cash. (R. p. 92). As they got close to the store, the mailman arrived, so they continued to walk down to the Days Inn where they waited for the mailman to leave. (R. p. 95). After the mailman left, the men entered the Quick Cash and turned off the lights, and Williams pointed his gun at the victim and Salley demanded money. (R. p. 96). The men came behind the counter and one of them grabbed the victim by the shoulder of her jacket. (R. p. 36). They made the victim open the cash drawer, and, after obtaining $447 from it, they put the victim in the corner. (R. p. 36; p. 38, lines 4-5). Williams placed the money in the bag Salley purchased at Roses and Salley deployed the taser on the victim's back. (R. p. 36; p. 98-99). The victim felt a pain going throughout her body and she fell to the floor. (R. p. 36, lines 22-24). After the men left the store, the victim jumped up, locked the door, and

called 911 while hiding under the counter. (R. p. 36-37). The audio recording of this 911 call was entered into evidence over Appellant's Rule 403 objection and was played for the jury. (R. p. 39, lines 10-19).

Williams and Salley ran from the building and ran to Williams' truck, which was parked nearby with Appellant seated inside in the front passenger seat. (R. p. 99-100). After driving back to Appellant's neighborhood, the three men divided up the money, with Appellant receiving $100 and Williams and Salley receiving between $150 and $170 each. (R. p. 102-103). Appellant received less than the others because he was "basically the lookout man." (R. p. 103, lines 11-21). Salley then gave Appellant the BB guns, the taser, and the Roses bag, presumably for him to dispose of those items. (R. p. 104-105).

Williams was ultimately apprehended by police thanks to the observations of workers at the daycare where he had parked his truck.[1] (See R. p. 54-68; p. 105-106). Although he initially lied and said he had no involvement in the robbery, he eventually confessed. (R. p. 105-106; p. 122-24; p. 129). Salley was also arrested and the charges against him were still pending at the time of Appellant's trial. (R. p. 130). Appellant was arrested on March 9, 2013, after police received an anonymous tip as to Appellant's location. (R. p. 130-31). Appellant was found hiding under some clothes in the back closet of a house. (R. p. 131). Appellant was interviewed the next day and he provided a videotaped statement to Lieutenant Savage. (R. p. 131-35). The video of Appellant's

---

[1] A worker at the daycare called Aiken Public Safety to report suspicious activity around the time Williams and Salley entered the Quick Cash, and another worker was able to provide a description of Williams' truck. (R. p. 57, lines 6-8; p. 58, lines 4-9; p. 67-68). The audio recording of the daycare worker's phone call to public safety was entered into evidence without objection and played for the jury. (R. p. 67). At trial, two of the daycare workers identified Appellant as one of the three men involved in the suspicious activity. (R. p. 60; p. 66).

statement was entered into evidence without objection and was played for the jury. (R. p. 135).

Appellant elected to testify at trial and was the sole witness presented by the defense. (See R. p. 144-58). At trial, Appellant claimed that he had no idea Williams and Salley were planning to rob the Quick Cash and that he went with them solely for the purpose of trying to obtain a loan so he could pay Salley back some money he owed him. (R. p. 146-49). However, he acknowledged on cross-examination that, in his statement to Lieutenant Savage, he indicated he felt it would be appropriate to charge him with accessory before the fact for scoping out the Quick Cash and with accessory after the fact for being the getaway driver. (See R. p. 158). Appellant also acknowledged that in his statement to Lieutenant Savage he said he switched sweatshirts with Williams prior to the robbery because Williams' white sweatshirt was too "recognizable." (R. p. 154, lines 8-12).

Appellant was convicted of both armed robbery and kidnapping after the jury deliberated for less than forty-seven minutes. (R. p. 183, lines 13-20). At sentencing, the trial judge noted that "the evidence was overwhelming against [Appellant]." (R. p. 189, lines 11-12).

Discussion

The sole issue before this Court is whether the 911 audio recording was inadmissible under Rule 403, SCRE. Appellant argues the 911 call was not needed to substantiate any fact or condition since there was no dispute that the victim at the Quick Cash was robbed. (Brief of Appellant, p. 9). Appellant further contends that the only reason for the 911 tape was to "inflame the emotions of the jury to show the victim's

fear." (Brief of Appellant, p. 9). Finally, Appellant asserts that "the trial court's Rule 403 analysis was not adequately put on the record, and it was clearly erroneous." (Brief of Appellant, p. 9).

Contrary to Appellant's contentions, the trial judge properly admitted the 911 audio recording under Rule 403.[2] Rule 403 states that "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Rule 403, SCRE. In exercising its discretion on a Rule 403 objection, a trial court must balance the unfair prejudice of the challenged evidence against the probative value. State v. Dial, 405 S.C. 247, 260, 746 S.E.2d 495, 502 (Ct. App. 2013). However, "[a] trial court has particularly wide discretion in ruling on Rule 403 objections." State v. Lee, 399 S.C. 521, 527, 732 S.E.2d 225, 228 (Ct. App. 2012). "A trial judge's decision regarding the comparative probative value and prejudicial effect of relevant evidence should be reversed only in exceptional circumstances." Dial at 260, 746 S.E.2d at 502 (citation omitted); see also State v. Myers, 359 S.C. 40, 48, 596 S.E.2d 488, 492 (2004) ("This [c]ourt reviews 403 rulings pursuant to the abuse of discretion standard, and gives great deference to the trial judge's decision."). In that vein, "[a] trial judge's balancing decision under Rule 403 should not be reversed simply because an appellate court believes it would have decided the matter otherwise because of a differing view of the highly subjective factors of the

---

[2] The State would note that any argument that the trial court's ruling was not sufficiently placed on the record is not preserved for review since this argument was not made below and Appellant made no request that the judge further explain his reasoning. (See R. p. 38, lines 11-21; p. 70, lines 7-17). See, e.g., State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693–94 (2003) (holding that an issue must be raised and ruled upon by the trial judge to preserve it for appellate review); State v. Samuel, 400 S.C. 593, 599-600, 735 S.E.2d 541, 545 (Ct. App. 2012) (particular argument not preserved where the party "had the opportunity to request a more specific basis for the trial court's ruling, thereby preserving the argument" but failed to do so).

probative value or the prejudice presented by the evidence." State v. Stephens, 398 S.C. 314, 320, 728 S.E.2d 68, 71 (Ct. App. 2012). "If judicial self-restraint is ever desirable, it is when a Rule 403 analysis of a trial court is reviewed by an appellate tribunal." Id.

Significantly, "[a]ll evidence is meant to be prejudicial; it is only unfair prejudice which must be scrutinized under Rule 403." State v. Collins, 398 S.C. 197, 207, 727 S.E.2d 751, 757 (Ct. App. 2012) (brackets and internal quotation marks omitted), cert. granted August 8, 2013. "Unfair prejudice does not mean the damage to a defendant's case that results from the legitimate probative force of the evidence; rather it refers to evidence which tends to suggest decision on an improper basis." State v. Dennis, 402 S.C. 627, 636, 742 S.E.2d 21, 26 (Ct. App. 2013) (internal quotation marks omitted). "Evidence is unfairly prejudicial if it has an undue tendency to suggest a decision on an improper basis, such as an emotional one." State v. Cheeseboro, 346 S.C. 526, 547, 552 S.E.2d 300, 311 (2001). Regarding this definition, the United States Supreme Court of the United States has stated: "The term 'unfair prejudice,' as to a criminal defendant, speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged." Old Chief v. United States, 519 U.S. 172, 180 (1997). The determination of unfair prejudice must be based on the entire record and the result will generally turn on the facts of each case. State v. Wilson, 345 S.C. 1, 7, 545 S.E.2d 827, 830 (2001).

In Appellant's case, the 911 call was probative because in it the victim describes what happened to her just moments before, at a time when her memory is at its freshest. (See State's Exhibit # 8, 911 Call). In the call, the victim describes the two perpetrators in good detail, lays out what happened, and indicates that one of the perpetrators had a

gun pointed in her face when they walked inside. (See 911 Call). As the trial judge stated, "[w]hat is better evidence than what she's saying right then and there when she has just been robbed[?]" (R. p. 16, lines 15-17).

Further, as the solicitor pointed out in closing argument, the tape was relevant to the issue of whether or not the BB gun appeared to be a real gun. (See R. p. 167, lines 13-20; p. 170, lines 4-9). The State was required to prove that the perpetrators alleged or represented that they were armed with a deadly weapon or that they were armed with an object that the victim reasonably believed to be a deadly weapon. See S.C. Code 16-11-330 (A) ("A person who commits robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, *or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon*, is guilty of a felony . . . .") (emphasis added). The 911 call was highly probative on this element of the crime because the call reflects that the victim described the gun as a normal gun rather than a BB gun and also reveals the victim's level of fear about the gun, which is relevant to her reasonable belief about the use of a deadly weapon. (See 911 Call). While the defense may not have disputed that an armed robbery occurred, the State was still required to prove its case. See, e.g., State v. Simmons, 352 S.C. 342, 358, 573 S.E.2d 856, 864 (Ct. App. 2002) ("the State is not required to accept a defendant's stipulation of proof because the State still bears the burden of proving every element of a crime beyond a reasonable doubt"). Therefore, the 911 call had at least a moderate level of probative value in the State's case.

Moreover, the probative value of the 911 call was not substantially outweighed by the danger of unfair prejudice in this case. The 911 call lasted only about three-and-a-half-minutes in a case that took place over a period of two days. While it is true that the victim was emotional and fearful during the call, it is hardly shocking or surprising that the victim would be in this condition immediately after a robbery. More importantly, the victim in this case survived the incident and suffered no permanent injury or damage. (See R. p. 36-47). Compare State v. Shuler, 353 S.C. 176, 185, 577 S.E.2d 438, 442 (2003) (in case involving a 911 call made by a murdered thirteen-year-old prior to her death, the Supreme Court stated, "[w]hile difficult to hear, Stacy's physical and emotional distress is not so disturbing as to suggest appellant's sentence was made on an improper basis.") and State v. Collins, 398 S.C. at 208-209, 727 S.E.2d at 757 (holding that photographs of a dead young boy who had been partially eaten by hungry dogs possessed an "extreme" danger of unfair prejudice because "seeing the photos draws an intense emotional response and a level of sympathy for the dead child that does not come from the testimony" and because "[t]hese gruesome photos have an overwhelming capacity to lure the jury into declaring guilt on the emotional basis of sympathy for the boy and his mother and horror at the sight of the boy's body"). Unlike in Shuler, it was not the victim's "dying words" on the 911 tape.

While the jury might have heard the 911 call and felt some level of sympathy for the victim for having to go through a highly unpleasant and frightening experience, this level of sympathy is nowhere near the level of sympathy likely present in Shuler or Collins, cases both involving children who died. The 911 tape in this case evokes nothing more than ordinary sympathy for the adult victim of a non-fatal crime.

Therefore, any sympathy resulting from the tape would not cause the jury to decide the case on an emotional basis or to determine Appellant was guilty based upon on a ground other than the proof the State provided. Any prejudice to Appellant was minimal in the context of the entire record. Accordingly, the trial judge did not err in admitting the 911 audio recording and his balancing decision should not be reversed. (See R. p. 70, lines 8-10). See Stephens, 398 S.C. at 320, 728 S.E.2d at 71 ("If judicial self-restraint is ever desirable, it is when a Rule 403 analysis of a trial court is reviewed by an appellate tribunal.").

Harmless Error

Even assuming the trial judge erred in admitting the 911 call, such error was entirely harmless. Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). After an error is found, the appellate court must then review the other evidence considered at trial besides the erroneously admitted evidence. State v. Baccus, 367 S.C. 41, 55, 625 S.E.2d 216, 223 (2006). The harmlessness of an error in the admission of evidence generally depends on the materiality of the evidence in relation to the case as a whole. State v. Haselden, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003); see State v. Wiley, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010) ("No definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case."). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). Further, it is well-settled that error is harmless

where there is overwhelming evidence of the defendant's guilt. See, e.g., State v. Sims, 387 S.C. 557, 566-67, 694 S.E.2d 9, 14-15 (2010).

Here, the jury could not reach any other conclusion except that Appellant was guilty under the hand-of-one-is-the-hand-of-all theory. As the trial judge pointed out at sentencing, the evidence against Appellant was "overwhelming." (R. p. 189, lines 11-12). The evidence was undisputed that Williams and Salley committed the armed robbery and kidnapping. There was also clear evidence Appellant was involved because the victim identified Appellant in a photographic lineup and in court as the man who entered purporting to inquire about a loan just before the robbery. (R. p. 41-42). Eyewitnesses at the daycare also observed Appellant's suspicious behavior and identified Appellant in court. (R. p. 60; p. 66). Appellant was apprehended after he was found hiding under some clothes in a back closet, and when he was interviewed, he gave an incriminating statement admitting some involvement in the crimes and indicating his belief that "accessory" would be a more appropriate charge for his part in the crimes. (See R. p. 158, lines 4-13; see also State's Exhibit # 27, DVD of Appellant's Statement). Appellant's dubious trial testimony denying all prior knowledge of the crimes conflicted with the statement he previously gave to police and was utterly lacking in detail and explanation so as to render it patently unbelievable.[3] (R. p. 144-58). In sum, admission of the 911 call, assuming it was error, was harmless beyond a reasonable doubt considering the overwhelming evidence of Appellant's guilt.

---

[3] For example, Appellant failed to explain why, if he had no knowledge that Williams and Salley were about to commit a robbery, he failed to question Williams about parking in a dirt lot behind a day care center instead of parking at the Quick Cash like a normal customer. (See R. p. 146, lines 8-10; p. 147, lines 3-24).

CONCLUSION

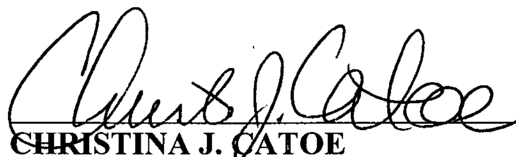
For the reasons discussed above, Respondent requests that this Court affirm Appellant's convictions and sentences.

Respectfully submitted,

ALAN WILSON
Attorney General

CHRISTINA J. CATOE
Assistant Attorney General

J. STROM THURMOND, JR.
Solicitor, Second Judicial Circuit



CHRISTINA J. CATOE
S.C. Bar No. 73562

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

August 26, 2014

RECEIVED
AUG 26 2014
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of General Sessions

The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-001159

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

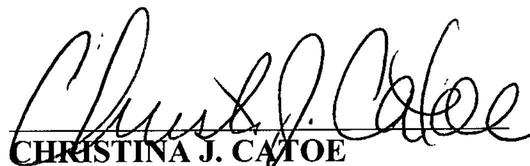
v.

MICHAEL TYRONE QUARLES,

APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's most recent **Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings**.



CHRISTINA J. CATOE

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

August 26, 2014

RECEIVED
AUG 26 2014
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of General Sessions

The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-001159

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

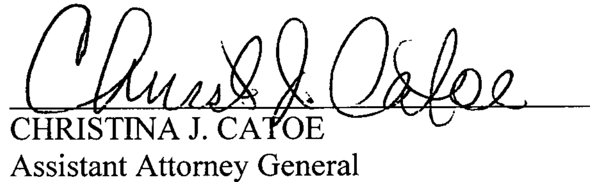
v.

MICHAEL TYRONE QUARLES,

APPELLANT.

AFFIDAVIT OF SERVICE

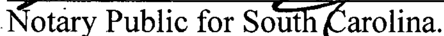
The undersigned attorney hereby certifies that the **Final Brief of Respondent** in the above-referenced case has been served upon **LANELLE CANTEY DURANT**, Division of Appellate Defense, South Carolina Commission on Indigent Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589, this **26th** day of **August, 2014.**



CHRISTINA J. CATOE
Assistant Attorney General

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

SWORN to before me this 26th day of August, 2014.



Notary Public for South Carolina.
My Commission Expires: February 28, 2018