

ORIGINAL  
ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Union County

John C. Hayes, III, Circuit Court Judge  
\_\_\_\_\_

RECEIVED

SEP 30 2014

S.C. Supreme Court

Opinion No. 2014-UP-217 (S.C. Ct. App. filed 6/11/2014)

11-GS-44-0552-0553  
\_\_\_\_\_

THE STATE,

RESPONDENT,

V.

DOUGLAS BRET BISHOP,

PETITIONER

APPELLATE CASE NO. 2012-212240  
\_\_\_\_\_

PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF APPEALS  
\_\_\_\_\_

SUSAN B. HACKETT  
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

INDEX.....	1
CERTIFICATE OF COUNSEL.....	2
QUESTIONS PRESENTED.....	3
STATEMENT OF THE CASE.....	4
STATEMENT OF FACTS .....	5
ARGUMENT	
I. The Court of Appeals erred in refusing to apply <i>State v. Logan</i> , 405 S.C. 83, 747 S.E.2d 444 (2013) retroactively to Petitioner’s case where the issue was preserved for appeal and pending when the <i>Logan</i> opinion was issued.....	9
II. The Court of Appeals erred in refusing to apply <i>State v. Logan</i> , 405 S.C. 83, 747 S.E.2d 444 (2013) retroactively to Petitioner’s case where the issue was preserved for appeal and pending when the <i>Logan</i> opinion was issued.....	15
CONCLUSION .....	18

CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on September 4, 2014. App. 12.

## QUESTIONS PRESENTED

- I. Did the Court of Appeals err in refusing to apply State v. Logan, 405 S.C. 83, 747 S.E.2d 444 (2013) retroactively to Petitioner's case where the issue was preserved for appeal and pending when the Logan opinion was issued?
  
- II. Did the Court of Appeals err in affirming Petitioner's conviction where the trial judge failed to instruct the jury regarding how to analyze circumstantial evidence violating Petitioner's state and federal constitutional rights requiring the prosecution prove his guilt beyond a reasonable doubt because the charge given confused the jury regarding how to evaluate circumstantial evidence?

## STATEMENT OF THE CASE

On June 9, 2011, a Union County grand jury indicted Petitioner for two counts of sexual exploitation of a minor in the second degree and two counts of sexual exploitation of a minor in the third degree (2011-GS-44-0552 & 2011-GS-44-553). R. 485. The prosecution called the case for trial on May 14, 2012 before the Honorable John C Hayes, III and a jury. John Anthony represented the state, and Kenneth Sowell represented Petitioner. R. 1. The jury found Petitioner guilty of two counts of sexual exploitation of a minor in the third degree. R. 474, lines 3 – 6. Judge Hayes sentenced Petitioner to ten years on each charge, to run concurrently. R. 479, lines 12 – 14; R. 485. On May 18, 2012, Petitioner moved the court for reconsideration. R. 481. By order dated May 22, 2012. Judge Hayes denied Petitioner's motion. R. 483.

Petitioner filed a timely notice of appeal, which was perfected. On June 11, 2014, the Court of Appeals affirmed Petitioner's convictions and sentences in an unpublished opinion. *State v. Bishop*, Op. No. 2014-UP-217 (Ct. App. 2014); App. 1-2. Petitioner filed a timely petition for rehearing. App. 3-11. The Court of Appeals denied the petition on September 4, 2014. App. 12.

Petitioner now files this petition for writ of certiorari seeking review of the Court of Appeals' decision.

## STATEMENT OF FACTS

On May 6, 2010, Investigator Roxie Belue seized two computer towers, a flash drive, a camera, external hard drives, and personal data devices from Petitioner's residence pursuant to a search warrant. R. 16, lines 7 – 14; R. 20, lines 4 – 22; R. 24, lines 18-19; R. 26, lines 5-10; R. 32, lines 20-24. She returned several items, including two personal data devices, a VHS tape, and an external reader with a disc because the items lacked evidentiary value. R. 33, line 22 – R. 34, line 18. After the seizure of the items, measures were taken by the South Carolina Law Enforcement Division (SLED) for analysis of the items. Bart Cave, an employee of SLED, created mirror images of the hard drives submitted by the local sheriff's office. R. 90, lines 6 – 7; R. 94, lines 6 – 9. R. 95, line 23 – R. 96, line 3.

Collin Duncan, another employee of SLED, analyzed the imaged hard drives. R. 114, lines 9 – 12. On one of the imaged hard drives, Duncan located approximately thirty images of "graphic, and explicit nature with what appeared to be young teens, young children prepubescent, males, females, involved in sexual acts with other children or other adults." Additionally, he found approximately the same number of the videos that were of the same nature on the imaged hard drive. R. 117, lines 3 – 15; R. 184, line 24 – R. 185, line 6.

According to Duncan, the computer did not require a password for access. He found no evidence that Petitioner actually downloaded the pornographic images or even knew the images were present on the hard drive. R. 158, lines 3-25; R. 179, line 8 – R. 180, line 20. Duncan's analysis revealed someone had tried to delete the pornographic images from the hard drive. R. 181, lines 11-17; R. 182, lines 18-21; R. 184, lines 13-15; R. 193, line 25 – R. 194, line 5.

Destiny Cipriano and her sister, Denise Cipriano, frequently visited Petitioner's stepdaughters at Petitioner's home. According to Destiny, she, Denise, Petitioner's stepdaughters,

and Petitioner used the computer, which was identified by Duncan as having downloaded images of child pornography. R. 49, lines 22-23; R. 50, lines 8-15; R. 51, lines 4-6; R. 51, line 24 – R. 52, line 2; R. 52, lines 3-11; R. 53, line 20 – R. 54, line 6; R. 54, lines 13-19. Nevertheless, Destiny testified she never saw child pornography on the computer. R. 54, lines 20-24.91. According to Denise, she, Destiny, Petitioner's stepdaughters, and Petitioner used the computer. Denise also recalled seeing an unidentified man use the computer previously. R. 56, lines 1-2; R. 56, lines 12-19; R. 57, lines 9-22; R. 58, lines 5-7; R. 59, lines 15-16; R. 60, lines 1-8; R. 61, lines 2-13.

Chance Williams frequently visited Petitioner and used the computer. He further testified that a large number of teenagers used the computer. The computer belonged to Petitioner's stepdaughters and Petitioner did not use it. R. 211, lines 3-4; R. 211, line 21 – R. 212, line 3; R. 212, line 20 – R. 213, line 21; R. 214, lines 1-19; R. 233, line 18 – R. 234, line 24. Dennis Tucker, Petitioner's neighbor and friend, saw Petitioner's stepdaughters using the computer, Petitioner only used a laptop. Additionally, he observed approximately nine different teenagers using the computer. R. 241, lines 9-21; R. 244, lines 14-25; R. 245, lines 1-23; R. 250, lines 5-7; R. 251, lines 9-13. Another neighbor, Robert Warr, never saw Petitioner use the computer; rather, he only observed Petitioner use the laptop. Additionally, he saw teenagers at Petitioner's home almost every day using the computer. R. 256, lines 11-15; R. 257, line 17 – R. 258, line 13; R. 259, lines 11-23; R. 260, lines 1-6; R. 260, lines 11-19; R. 262, line 6 – R. 263, line 3.

Finally, Petitioner testified that the two desktop computers were for his stepdaughters, and everyone in his family and his stepdaughters' friends had access to the computer. For example, the Cipriano sisters stayed at his home for weeks at a time and had unlimited access to the computer. Additionally, he listed numerous individuals who had access to the computer and used the computer. R. 281, line 6 – R. 289, line 20. He did not use the, except on rare occasions when his

laptop was not working. He simply had no reason to use the desktop computer because of the convenience of his laptop. Neither Petitioner nor his wife restricted access or use of the computer. Further, he did not monitor what his stepdaughters or their friends were doing on the computer. R. 296, line 20 – R. 297, line 9; R. 310, line 22 – R. 311, line 6; R. 312, lines 6-24; R. 350, line 1 – R. 353, line 11. Petitioner had no idea there was any pornography on the computer. R. 294, lines 23-25; R. 295, lines 20-22.

In closing, Petitioner admitted the images were of child pornography, and argued the question for the jury was who downloaded the images. The state presented no evidence Petitioner downloaded the images or was aware of the presence of the images. Repeatedly, Petitioner emphasized the lack of evidence that Petitioner actually downloaded the images or was even aware the images were on the computer's hard drive. Petitioner's closing argued the reasonable inference that one of the teenagers who had unlimited and unmonitored access to the desktop computer downloaded the images of child pornography. R. 424, line 6 – R. 426, line 7; R. 428, line 18 – R. 430, line 3; R. 432, line 2 – R. 433, line 2; R. 435, line 14 – R. 437, line 2.

At the conclusion of the trial, the judge charged the jury as follows concerning circumstantial evidence:

There are two types of evidence which are generally presented in a trial such as this. Those two types are direct and circumstantial evidence. Direct evidence is testimony of someone who claims to have actual knowledge of the facts such as an eyewitness. It is evidence which establishes the main fact sought to be proven.

Circumstantial evidence is proof of a chain of facts and circumstances which indicate the existence of a fact. Circumstantial evidence is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or personal observation. Our law makes absolutely no distinction between the weight or value to be given either direct or circumstantial evidence, our law does not require a greater degree of certainty to circumstantial, as opposed to direct evidence what you should do in this case is weigh all of the evidence. If you are not convinced of

[Petitioner]'s guilt beyond a reasonable doubt after weighing all the evidence, you would find him not guilty.

R. 463, line 8 – R. 464, line 4. At the conclusion of the court's jury instructions, Petitioner asked that the jury be instructed that in order to be convicted of a crime based on circumstantial evidence, the state must disprove all the other possible facts which could lead to a finding of innocence. R. 471, lines 15 – 18.

In his motion for reconsideration, Petitioner argued the trial court failed to charge the jury properly concerning circumstantial evidence. He explained the error deprived him of a fair trial. R. 481. As to this argument, the trial court found the proper circumstantial evidence instruction was given. R. 483.

## ARGUMENT

I. The Court of Appeals erred in refusing to apply *State v. Logan*, 405 S.C. 83, 747 S.E.2d 444 (2013) retroactively to Petitioner's case where the issue was preserved for appeal and pending when the *Logan* opinion was issued.

### **Reasons to grant certiorari**

Pursuant to Rule 242(b), SCACR, this Court grants certiorari “only where there are special and important reasons.” The Rule provides a list of character of reasons considered when granting certiorari. Among the list is where there is a dissent in the decision of the Court of Appeals. Rule 242(b)(2), SCACR. Although there is no dissent in Petitioner's case, the decision conflicts with that of another panel. As will be explained in greater detail infra, the Court of Appeals determined this Court's opinion in Logan did not apply retroactively to Petitioner's case. This runs contrary to the decision of a different panel of the Court of Appeals in State v. Jenkins, 408 S.C. 560, 572, 759 S.E.2d 759, 765 (2014). Further, this case presents one where substantial constitutional issues are directly involved due to the paucity of evidence against Petitioner and the judge's failure to instruct the jury regarding how to analyze circumstantial evidence. See Rule 242(b)(4), SCACR. In light of these factors, this Court should grant certiorari.

### **History of the circumstantial evidence charge**

This Court approved a circumstantial evidence charge in 1955 in State v. Littlejohn, 228 S.C. 324, 324, 89 S.E.2d 924, 926 (1955). In 1989, this Court explained the instruction found in Littlejohn was the appropriate instruction for juries when the state relied upon circumstantial evidence to prove its case. State v. Edwards, 298 S.C. 272, 275, 379 S.E.2d 888, 889 (1989). Specifically, the Edwards charge provides that a jury must not convict unless:

every circumstance relied on by the state is proven beyond a reasonable doubt; and ... all of the circumstances so proven be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis. It is not sufficient that the circumstances create a probability, even if it is a strong one and if, assuming them to be true they may be accounted for upon any reasonable hypothesis which does not include the guilt of the accused, the proof has failed.

Id. (quoting Littlejohn, 228 S.C. at 324, 89 S.E.2d at 926).

Subsequently, this Court held a jury instruction omitting the “reasonable hypothesis” phrase, as a whole, adequately conveyed the level of proof required to find a defendant guilty. State v. Grippon, 327 S.C. 79, 82-83, 489 S.E.2d 462, 463 (1997). This Court’s holding was based upon the trial court repeatedly charging the jury that the state had the burden to prove the defendant guilty beyond a reasonable doubt and properly defining reasonable doubt. Id. at 83, 489 S.E.2d at 463-464. Although this Court decided the dispositive issue in the case, the Grippon Court went on to recommend another jury instruction. Specifically, this Court recommended:

There are two types of evidence which are generally presented during a trial – direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find [the defendant] not guilty.

Id. at 83-84, 489 S.E.2d at 464.

Chief Justice Finney and then-Justice Toal concurred in the result, but wrote separately to explain trial judge should not abandon South Carolina’s traditional jury charge found in Edwards. The concurrence explained the majority posited no “reasoned rejection of the longstanding rule.” Looking to other jurisdictions, the concurrence explained that the Edwards language emphasized the

need for careful reasoning, provided “sharpened clarity” to the meaning of reasonable doubt, and explained necessary information for jurors to accurately analyze circumstantial evidence. The concurrence concluded:

This Court should retain the Edwards charge because juries need more detailed information about the relation of circumstantial evidence to determination of guilt than the majority’s suggested instruction provides. The question is not whether circumstantial evidence carries the same probative weight as direct evidence; of course it does. Rather, the question is the proper means for evaluating circumstantial and how trial courts may best help juries understand their responsibilities.

Grippon, 327 S.C. at 84-88, 489 S.E.2d at 464-467 (Toal, J. concurring).

In 2004, this Court revisited the circumstantial evidence charge, holding the language recommended in “Grippon is the sole remaining charge to be utilized by the courts of this state in instructing juries in cases relying, in whole or in part, on circumstantial evidence.” State v. Cherry, 361 S.C. 588, 597, 606 S.E.2d 475, 480 (2004). In their dissent, Chief Justice Toal and Acting Justice Lloyd, explained that although circumstantial and direct evidence are equally valid and convincing, circumstantial evidence, by definition, establishes collateral facts from which main facts may be inferred. Thus, a juror’s evaluation of circumstantial evidence requires the juror to connect collateral facts in order to reach a conclusion, which is not a process required when evaluating direct evidence. Id. at 603, 606 S.E.2d at 483 (Toal, C.J., dissenting). Rather than creating confusion or changing the standard for examining circumstantial evidence, the traditional charge “clarifies the jury’s responsibility to evaluate circumstantial evidence carefully and gives jurors more detailed information about the relation of circumstantial evidence to the determination of guilt.” Id. In fact, the lack of instruction for jurors concerning how to evaluate circumstantial evidence may result in jurors “reach[ing] illogical conclusions based on emotion or intuition instead of a rational, deliberative process.” Id. at 604, 606 S.E.2d at 483.

This Court, in evaluating a directed verdict motion, recognized the utility of the traditional charge when examining and analyzing circumstantial evidence. State v. Hernandez, 382 S.C. 620, 626 n. 2, 677 S.E.2d 603, 606 n. 2 (2009). After quoting the traditional circumstantial evidence charge and noting the abandonment of the charge, the Court explained “it nonetheless illustrates the lack of evidence against [Hernandez, Guerrero, and Avila-Arjona].” Id.

Two years later in State v. Odems, 395 S.C. 582, 720 S.E.2d 48 (2011), the South Carolina Supreme Court provided a more detailed explanation of how the traditional charge guides the evaluation and analysis of circumstantial evidence in relation to the role of a juror in finding the facts and determining guilt or innocence. The Court acknowledged its abandonment of the traditional circumstantial evidence charge, but noted “the definition illustrates the lack of evidence against [Odems].” Id. at 590, 720 S.E.2d at 52. The Court provided further insight on this issue in footnote four:

However, the evaluation of circumstantial evidence requires the connection of collateral facts in order to reach a conclusion, and this process is not required when evaluating direct evidence. Thus, the traditional circumstantial evidence definition provides more detailed information about the relation of circumstantial evidence to the determination of guilt. The definition does not, however, change the standard evaluating evidence: every circumstance must be proved beyond a reasonable doubt.

Id. at 591 n.4, 720 S.E.2d at 53 n.4 (internal citations omitted).

### **State v. Logan**

While Petitioner’s case was pending on appeal, this Court issued Logan, supra, holding that although a trial court may instruct a jury concerning circumstantial evidence as defined in Grippon, supra, and Cherry, supra, the trial court “should provide” an instruction guiding the jury on how to analyze circumstantial evidence, in addition to a proper reasonable doubt instruction, when

requested to do so by a defendant. The approved charge provides jurors with much-needed guidance in analyzing circumstantial evidence:

There are two types of evidence which are generally presented during a trial – direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence, however, to the extent the state relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant’s behavior as suspicious, the proof has failed.

The state has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the state regardless of whether the state relies on direct evidence, circumstantial evidence, or some combination of the two.

Id.

## **Discussion**

In affirming Petitioner’s conviction, the Court of Appeals cited State v. Mattison, 388 S.C. 469, 479, 697 S.E.2d 578, 583 (2010) for the proposition that a trial court is required only to charge the current and correct law of South Carolina. The obvious implication is the Court of Appeals determined Logan is not retroactive. This runs directly counter to the Court of Appeals’ holding in State v. Jenkins, 408 S.C. 560, 572, 759 S.E.2d 759, 765 (Ct. App. 2014) wherein a different panel held Logan applied retroactively to cases pending on appeal. Further, in Griffith v. Kentucky, 479 U.S. 314, 328 (1987), the United States Supreme Court held that a newly declared constitutional rule applies to cases pending on direct review: “We therefore hold that a new rule for the conduct of criminal prosecutions is to be applied retroactively to all cases, state or federal, pending on direct review or not yet final, with no exception for cases in which the new rule constitutes a ‘clear break’

with the past.” Id. In light of the contrary opinion of a panel of the Court of Appeals and a clear mandate from the United States Supreme Court governing retroactivity, this Court should grant certiorari to review the matter.

II. The Court of Appeals erred in affirming Petitioner’s conviction where the trial judge failed to instruct the jury regarding how to analyze circumstantial evidence violating Petitioner’s state and federal constitutional rights requiring the prosecution prove his guilt beyond a reasonable doubt because the charge given confused the jury regarding how to evaluate circumstantial evidence.

**Reasons to grant certiorari**

This case presents one where substantial constitutional issues are directly involved due to the paucity of evidence against Petitioner and the judge’s failure to instruct the jury regarding how to analyze circumstantial evidence. See Rule 242(b)(4), SCACR. The trial judge’s failure to instruct the jury in a clear manner regarding how to analyze the circumstantial evidence presented violated Petitioner’s state and federal constitutional rights requiring the prosecution prove his guilt beyond a reasonable doubt due to the paucity of evidence against Petitioner.

**Discussion**

Without question, a proper evaluation of circumstantial evidence requires connection of collateral facts to reach a conclusion, which is not required for evaluating direct evidence. According to this Court, jurors must be instructed regarding how to analyze circumstantial evidence – inferring main facts by making connections among collateral facts – when such an instruction is requested, as it was here. See Logan, 405 S.C. at 99, 747 S.E.2d at 452.

In Logan, 405 S.C. at 94, 747 S.E.2d at 450, this Court “revisited [its] past discussions regarding the circumstantial evidence charge, and articulate[d] for the benefit of the bench and bar a circumstantial evidence charge reflecting the proper balance between the state’s burden and the jury’s responsibility.” As this Court explained, the purpose of a clear jury instruction concerning analyzing circumstantial evidence is paramount. Id. at 97, 747 S.E.2d at 451. Although direct and

circumstantial evidence may carry the same weight, “a jury cannot accurately analyze these two types of evidence using identical approaches.” Id.

Specifically, circumstantial evidence, unlike direct evidence, “requires jurors to find that the proponent of the evidence has connected collateral facts in order to prove the proposition propounded.” Id. Thus, “[a]nalysis of circumstantial evidence is plainly a more intellectual process.” Id. at 97-98, 747 S.E.2d at 451. In light of the differing analysis required when examining direct versus circumstantial evidence, this Court provided a proper jury instruction for trial courts to use. Important for Petitioner’s case, the instruction directs jurors that “to the extent the state relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt.” The instruction also provided that “[i]f these circumstances merely portray the defendant’s behavior as suspicious, the proof has failed.” Id. at 99, 747 S.E.2d at 452. Although the Court held that a trial judge may instruct the jury as to circumstantial evidence as provided in Grippon, supra, and Cherry, supra, the Court held that a trial judge may not rely exclusively on that charge over a defendant’s objection. Id. at 100, 747 S.E.2d at 453.

Clear, cogent, and concise instructions directing the jury on how to analyze the circumstantial evidence before it was necessary in Petitioner’s case. The state’s weak case against Petitioner exemplified why Petitioner was entitled to a circumstantial evidence charge guiding the jury in its analysis of the evidence. The statute required the prosecution to prove Petitioner possessed material that contained a visual representation of a minor engaging in sexual activity and knew the content of the material. S.C. Code Ann. § 16-15-410(A). Although Petitioner admitted the material found on the hard drive satisfied the statute’s definition of child pornography, Petitioner denied possessing the material or having knowledge of the content of the material. The prosecution

presented absolutely no direct evidence that Petitioner downloaded the material or was aware the material had been downloaded. Even the prosecution's witnesses denied observing child pornography on the computers and testified that multiple people had unfettered access to the computer. The issue of who downloaded the materials was the only issue before the jury. It was imperative that the jury not make its decision based on "emotion or intuition instead of a rational, deliberative process," and the way to accomplish this goal was through a clear and concise jury charge concerning circumstantial evidence, such as the one announced in Logan.

Due to the state's lack of direct evidence and the fact that the circumstantial evidence indicated that at least four other people had access to the computer and the knowledge required to download materials at the time the prohibited materials were downloaded, justice required the trial judge to instruct the jury that "to the extent the state relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt." Here, the evidence against Petitioner was the same as the evidence against his stepdaughters and their friends. None of the circumstantial evidence conclusively pointed to Petitioner's guilt to the exclusion of the others.

CONCLUSION

Petitioner respectfully requests this Court grant a writ of certiorari to review the decision by the Court of Appeals.

Respectfully submitted,

*Susan B. Hackett*

Susan B. Hackett  
Appellate Defender

ATTORNEY FOR PETITIONER.

This 30th day of September, 2014

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Union County

John C. Hayes, III, Circuit Court Judge

---

Opinion No. 2014-UP-217 (S.C. Ct. App. filed 6/11/2014)  
11-GS-44-0552-0553

---

THE STATE,

RESPONDENT,

V.

DOUGLAS BRET BISHOP,

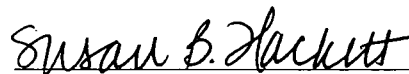
PETITIONER

---

CERTIFICATE OF SERVICE

---

I certify that a true copy of the petition for writ of certiorari and a copy of the appendix, in this case has been served on Mark R. Farthing, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Mr. Douglas Bret Bishop #350914, at Tyger River Correctional Institution, 200 Prison Road, Enoree, SC 29355, and the S.C. Court of Appeals this 30th day of September, 2014.



Susan B. Hackett  
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 30th day  
of September, 2014.

 (L.S.)

Notary Public for South Carolina  
My Commission Expires: October 30, 2022