THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE BEAUFORT COUNTY COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CARMEN T. MULLEN, PRESIDING JUDGE

CASE NO: 2011-CP-07-4796

RODNEY ALLGIRE, Respondent,

vs.

MARSHALL C. BLANTON, Appellant.

RESPONDENT'S FINAL BRIEF

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STATEMENT OF THE CASE

The Respondent herein, Rodney Allgire, at 50 years of age, was playing golf on Sunday, November 13th, 2011, in a foursome designated as "The Glover Group" [Glover] on Fripp Island's Creek Course at Fripp Island, Beaufort County, South Carolina. Randy Glover, a former PGA member and a member of the South Carolina Hall of Fame, organized the group which plays on different courses every Sunday in Beaufort County, South Carolina, including 30+ golfers.

On the day of the Respondent's injury, another group referred to as "The Blanton Group" [Blanton], from Myrtle Beach, was also playing at Fripp Island. Rod Allgire was playing in the Glover foursome which teed off behind the last of the foursome of the Blanton group The Appellant was not in that foursome. Joey Blythe, the more vociferous of the Blanton group. was in that foursome.

The Respondent was in a golf cart with Paul Cole. Rod Allgire was actually driving the cart, and keeping score. Dennis Robinson, wearing a red vest, and Doug Trogdon, were in the other golf cart. Apparently, Dennis Robinson, on the 14th or 15th hole, admonished the last foursome in the Blanton group, in front of him, to move on, as the course was backing up. Words were exchanged between Dennis Robinson and a member of the last foursome of the Blanton group. Apparently, at that time, the pace was speeded up and the game finished uneventfully, up until the 18th hole.

When Dennis Robinson went to leave the 18th hole he was confronted by Joey Blythe, an individual from the Blanton group, and they began to argue. Mr. Robinson was distinctive

because of the red vest he was wearing. At that time, Mr. Robinson left the course, put his clubs in his car, and apparently drove from the course.

At that point in time, the Blanton group, having already finished their round, were perched on the balcony of the Clubhouse, overlooking the 18th hole. Joey Blythe was the only member of the group standing next to the 18th green, and confronted Mr. Robinson. At that time, Rod Allgire was out of the 18th hole, and the other three (3) were on the 18th ahead of him. Rod was computing the scores; Paul Cole apparently got back in the cart after the 18th hole and they took their clubs to the parking lot, some 100 yards away to load their clubs in the cars, and then returned to the clubhouse waiting for the other golfers in their group.

At this time, Mr. Blanton, hearing the argument between Joey Blythe and Mr. Robinson , became involved. Apparently, Paul Cole had made a statement to the group on the porch that he would be back Mr. Blanton then walked from the back porch to the front of the clubhouse on the second floor, though the clubhouse and went to the windows in front of the clubhouse to observe what the four (4) individuals were doing in the parking lot. Then, apparently seeing that Robinson left, and the three (3) individuals were on their way back, Mr. Blanton went back to the back porch, down the steps, and laid in wait for Rod Allgire behind the scoreboard. Rod Allgire approached, walking under the tent and by the board, shielding Mr. Blanton from his view. Mr. Blanton then hit Mr. Allgire, rendering him unconscious and he fell to the concrete. The Respondent suffered a fractured T-12 vertebra, with a 13.0% loss of vertebrae height, two (2) fractured ribs and other damages as will be set forth herein.

Mr. Zucker, a retired individual and not a member of either group, and working as a cart attendant on the day in question, witnessed the punch. He was putting carts away a short distance from where the event occurred. He stated, "I saw one man punch another man - knocked him to the concrete." He then indicated that it was Mr. Blanton who threw the punch. [ROA, pp. 225, ll. 18 - 23]. He described the blow as a "...right hand punch to the face or jaw. The person that got punched landed on the concrete." [ROA, p. 226, ll. 1-6]. Prior to the punch, he heard no talking or arguing, and Allgire did nothing prior to his fall. [ROA, p. 226, ll. 1 - 13].

After this punch, apparently Brent Cooper, another witness for the Respondent, said Mr. Blanton and apparently, Mr. Blythe, offered to fight other individuals, saying "...[d]oes anybody else want to get beat up . . " [ROA, Cooper testimony, p. 113, ll. 18 - 19]. At that time, the police were called by "9-1-1" and Fripp Island Security, came to the scene. Pursuant to the request of Dep. Sheriff Brewton, the Appellant was stopped leaving the island, and was directed to go back to the golf course. He then admitted to throwing the punch and said he apparently hit the wrong person. [ROA, p. 113, ll. 4 - 7]. The Appellant then apologized, but at trial, he said the only reason he apologized was because he didn't want to go to jail. [ROA, p. 74, ll. 17 - 25; p. 364, ll. 10 - 22].

Mr. Blanton is 6'2" tall and weighs 240 pounds and admitted that the Respondent herein never raised his hands nor said anything to him prior to the punch. [ROA, Blanton, p. 346, ll. 4 - 7; pp. 359, l. 1 - 360, l. 6].

Rodney Allgire was born on March 21, 1961. He was 50 years of age at the time of the incident, and as provided by *Section 19-1-150, S C Code of Laws, 1976, as amended,* he had a life expectancy of 29.18 years. At the time of the trial, his out of pocket expenses, including lost wages,

were approximately $30,000.00. He was still under Dr. Boatwright's care at th etime of trial. The most serious injury he sustained was a T-12 fracture, a herniated disc, requiring him to wear a brace at L4-L5, and to go to physical therapy for approximately 30 visits.

It requires a great load, or weight-bearing in order to fracture the T-12 vertebra which also affects the lower back L4-5 and L5-S1 vertebrae, and is quite a traumatic event. [ROA, Boatwright deposition, p. 496, ll. 1 - 19; pg. 493, ll. 1 - 6]. Rod Allgire's treatment was handled by Dr. Blocker who referred him to Craig Boatwright, a spine specialist. At the time he saw Dr. Boatwright his chief complaint was, "low back pain and right-sided radiculopathy in a mid to lower lumbar radicular type of pattern." [ROA, Boatwright dep., p. 491, ll. 2 - 4] Mr. Allgire indicated to Boatwright that, "low back pain and went all the way into his foot and become significantly worse in the last month or so." [ROA, Boatwright deposition, p. 491, ll. 14 - 16]. On page 6 of his deposition, Dr. Boatwright testified as follows:

> "...[t]o a reasonable degree of medical certainty, his back pain was still related to the compression fracture." [ROA, Boatwright deposition, p. 492, ll. 7 - 9].

He then testified on pg. 8 of his deposition:

> "In the thorocolumbar area, that's correct, because a compression fracture and the sequelae of inflamation that go with that - and T-12 is the very bottom of the thoracic spine - will cause pain mostly, actually in the upper lumbar area more than even the lower thoracic area, but all through that area." [ROA, Boatwright deposition, p. 492, ll. 15 - 22].

He thereafter opined on pg. 9:

> He , "...[b]elieved that most probably, he had a tear in the disc which caused the fluid in the disc to leak out " [ROA, Boatwright deposition, p. 493, ll. 10 - 25; p. 493, ll. 1 - 3].

On page 12, he additionally testified as to injections at two (2) levels [the : L 4-5 and the L 5-S1 areas]. This tended to relieve some of the pain but did not resolve the pain. [ROA, Boatwright deposition, p. 493, ll. 7 - 25].

Further, he testified:

> "...[w]e ordered and looked at x-rays that day in our clinic; and so at the time it appeared that the T-12 compression fracture from a bony standpoint had probably healed, but that doesn't mean that he couldn't still have pain from that; and the reason for that is that, you know, given a compression fracture in a 246 pound, 6'2.5" gentleman, is a high energy event; there's no doubt about it. You just can't get a compression fracture in somebody like him without having a very significant injury." [ROA, Boatwright deposition, p. 496, l. 19 - p. 496, l. 6]
> It is unquestioned that the fracture caused a 13.0% loss in the height of the T-12 vertebra

The high velocity injury essentially contributed to, and caused additional problems in the lumbar area On p. 493, ll. 8 -25 of his deposition, Dr. Boatwright opined that there was probably a tear in the disc at L 4-5, causing him to suffer radicular pain.

As stated above, Mr. Allgire was 50 years of age at the time he sustained this injury, and was active in golf; was a 4 handicapper; active in deep sea fishing; in performing yard/garden work at his house, and in performing work inside his house; in performing as a superintendent in his vocation in the construction field; and most importantly, Mr. Allgire had no pre-existing problems with his neck, back or with pain radiating in to any part of his body. This is an injury that substantially altered his life and will continue to do so for the next 30 years.

The jury was correct in awarding to him compensatory damages in the amount of $400,000.00, as well as punitive damages in the amount of $100,000.00. The Appellant herein caused a fracture or break in the Respondent's back, and substantially damaged the lower part of

his spine, resulting in a substantial limitation of his normal activities. The out of pocket medical bills, lost wages and the injuries from which he was still suffering at the time of trial, easily resulted in the compensatory damages award, based on a $50.00 *per diem* argument made by counsel. The punitive damages were warranted, being only 1/4 of the compensatory damages.

The Respondent was not even part of the altercation which had occurred on the golf course. He only knew about the matter when his friend, Joey Blythe, had a confrontation with Dennis Robinson, after the first Glover group finished play. Mr. Robinson physically left the golf course and that was known to the Appellant. Mr. Blanton actually walked from the position of safety on the balcony all the way to the front of the clubhouse, on the 2nd floor, to observe what Mr. Allgire and the other individuals were doing. Then, without *any* provocation or words from Mr. Allgire, the Appellant went back to the area of the balcony, down the steps and stood behind the scoreboard until Mr. Allgire appeared on the other side. At that time, the Appellant physically launched his attack, striking Mr. Allgire, forcefully knocking him to the concrete. Mr. Allgire was initially knocked unconscious and his friends call "9-1-1". [ROA, Incident Report, Pl's Ex 19, p. 446-447].

ISSUES ON APPEAL

ISSUE #1: THE CIRCUIT COURT ERRED IN FAILING TO DIRECT A VERDICT IN FAVOR OF BLANTON, AS THE EVIDENCE SHOWED THAT BLANTON ACTED IN SELF-DEFENSE AND DUE CARE.

ISSUE #2. BLANTON WAS ENTITLED TO A NEW TRIAL ABSOLUTE OR NEW TRIAL *NISI* REMITTITUR BECAUSE THE VERDICT RESULTED FROM PASSION, PREJUDICE, BIAS OR OTHER CONSIDERATION NOT BASED IN THE EVIDENCE

ISSUE #3: THE VERDICT WAS SO EXCESSIVE THAT THE COURT, SITTING AS THE 13TH JUROR, SHOULD HAVE SET ASIDE THE VERDICT OF THE JURY.

ISSUE #4. THE CIRCUIT COURT ERRED IN FAILING TO STRIKE THE AWARD OF PUNITIVE DAMAGES BECAUSE ALLGIRE DID NOT PRODUCE EVIDENCE TO SUSTAIN THE AWARD UNDER THE *GAMBLE* FACTORS.

ARGUMENT

ISSUE #1: THE CIRCUIT COURT ERRED IN FAILING TO DIRECT A VERDICT IN FAVOR OF BLANTON, AS THE EVIDENCE SHOWED THAT BLANTON ACTED IN SELF-DEFENSE AND DUE CARE.

As stated above, perhaps the best witness in this case was an unbiased witness, or a witness who was not from either the Glover or Blanton groups. Mr. Zucker, a retired individual from Dataw Island, who was a cart attendant on the date of this event, was a short distance from where the offending incident occurred, unequivocally stated he heard no words exchanged prior to Mr. Blanton's striking Mr. Allgire. Mr. Allgire's testimony alone shows he never offered any opinion, or said anything to anyone with the Blanton group. Importantly, Mr. Blanton did not have a dog in the fight and was not in the foursome which was admonished for slow play on the golf course. Instead, he apparently had a calm round of golf, while drinking Crown Royal whiskey. In this case, was there not only no exigent circumstances involving any claim of self defense, but also Mr. Blanton apparently stalked the individuals remaining in the parking lot after Mr Robinson, in the red vest, had left the course in his vehicle. Mr. Blanton was up on the balcony, at least one floor removed from where the incident occurred He basically stalked the remaining three (3) individuals, going to the front of the clubhouse, looking out of the window to see what they were doing in the parking lot, and then returning to his place of safety on the porch before descending the steps and positioning himself behind the scoreboard where he could not be seen by someone approaching from the direction of Mr. Allgire. He basically "sucker punched" the Respondent.

Self defense is an affirmative defense. If this is considered, the burden of proof shifts and on the issues of self defense, the defendant has the burden of proving same by the greater weight or preponderance of the evidence. *Anderson's Requests to Charge, pg 101 - 102* Judge Anderson lists the elements of self defense which were not proven by Blanton. In this case, the appellant, Mr. Blanton, has attempted to take verbal altercations which began on the golf course and in which he was not a participant, nor even a witness, as an explanation for his action in sucker punching the Respondent, Allgire.

The second incident with words involved Joey Blythe having words with Mr Robinson in the red vest, after the first Glover group completed their 18 holes. After his words with Joey Blythe, Mr. Robinson loaded his clubs and left the course in his vehicle, an action of which Mr. Blanton was aware. On neither of these two (2) occasions was Mr. Blanton involved; in fact, he had finished his round ahead of the Joey Blythe foursome and was on the porch drinking Crown Royal.

The third incident involved a Mr. Paul Cole, apparently pursuant to threats from the gallery sitting on the second floor, and his stating he would be back. At this time, Mr. Blanton was on the balcony with some 20+ individuals from his group. At that time, he decided to observe where Mr. Cole went and went to the front of the clubhouse and saw the remaining three (3) golfers put their clubs in their vehicles and return to the clubhouse with nothing in their hands At that time, he went from his place of safety, on the 2nd floor, to the balcony and then down the steps to the area behind the scoreboard, under the tent, and he struck the Respondent herein, knocking him to the concrete. Whether this is believed or not, Blanton then admitted to Officer

Brewton that he hit the wrong person, and apologized to Mr. Allgire. At that time, Blanton was removed to the Beaufort County Jail, having been arrested at the scene of the incident.

1 There is no evidence that the Appellant was at fault in bringing about the difficulty;

2. At no time does the Appellant indicate he was in imminent danger, nor do the facts indicate he was, or could have been, in imminent danger. There is nothing to indicate that a reasonably prudent person of ordinary firmness and courage would have entertained the belief that he was actually in imminent danger;

3. The Appellant had other probable means of avoiding the danger by staying on the balcony where he was when the exchange of words with Joey Blythe occurred. *See Anderson, S C Requests to Charge, Id*

In this case, the Court correctly refused to direct a verdict for the defendant. The Judge was clear in her charge that "Mere words, no matter how abusive, insulting, vexatious, or threatening they may be, will not justify a battery unless accompanied by an actual offer and effectuation of physical violence " This was a correct charge on the law given to the jury. [ROA, Jury Chg., p. 374, l. 24 - p. 375, l 3] See *Nauful vs Milligan, 258 S C 139, 187 S E 2d 511, also Anderson's Civil Requests to Charge, 8-5.* The jury correctly considered the evidence and found the Plaintiff's position was correct

The jury correctly considered the evidence and found the Plaintiff's position was correct.

ISSUE #2: BLANTON WAS ENTITLED TO A NEW TRIAL ABSOLUTE OR NEW TRIAL *NISI* REMITTITUR BECAUSE THE VERDICT RESULTED FROM PASSION, PREJUDICE, BIAS OR OTHER CONSIDERATION NOT BASED IN THE EVIDENCE.

The trial Judge stated, on pg. 4 the post trial motions, February 18, 2014, ll. 13 - 16: "I went back and re-read my notes, my law clerk's notes, during the trial of this case, as well as some of Dr. Boatwright's deposition, just to kind of let you know what I did as far as reviewing for this hearing." [ROA, Vol. II, Post Trial Motions Hearing, p. 525 ll. 13 - 16]. In discussing the significance of the injury, on pg. 492, ll. 12 - 16, the court stated: "Because I was reviewing today Dr. Boatwright's testimony, and he talked about, you know, repeatedly a significant – and I think you all went back and forth – that it was a significant, high-energy event that occurred at this T12 level." [ROA, Vol II, Post Trial Motions Hearing, p. 529, ll 12 - 15]. The Court also stated, "But Boatwright, throughout this, has said it was a high-compression fracture event, a high-energy event, is what he kept saying. And nowhere do I fin that he used the word *mild*." [ROA, Vol. II, Post Trial Motions Hearing, p. 529, ll 21 - 24]. Additionally, on pg. 11, the Court stated: "But he did say he had continued low back pain, and again, at the lumbar level; and that the back pain, he did relate within a reasonable degree of medical certainty was a result of this T12 compression fracture Again, that was Boatwright, so ...." [ROA, Vol. II, Post Trial Motions hearing, p. 532, ll. 15 - 19]. Again, on pg. 14, the Court stated, "I am reading it off of page 26 in the deposition when he says as to the fracture of the T12, again he also said within a reasonable degree of medical certainty it also doesn't just cause pain there. it can definitely also cause pain in the lumbar area, which is next to the T12, and he said absolutely. It's all part of the same area. So, I don't think

there's a question on that." [ROA, Vol. II, Post Trial Motions hearing, p 535, ll. 7 - 14].

The Court further stated, "We need to be clear for the record, that Dr. Boatwright is a specialist in the spine; whereas, Dr. Blocker being an orthopedic And I believe he's an orthopedic surgeon, not just an orthopedist, correct? Mr. Moss: Right." [ROA, Vol II, Post Trial Motions hearing, p. 536, ll. 20 - 25]. Further, the Court stated: "And in this case, the records I've seen say that it's's about a 13 percent compression fracture, I think anterior." [ROA, Vol. II, Post Trial Motions hearing, pg 537, ll. 5 - 7].

The Court fully reviewed the evidence in the trial, including the *per diem* argument. The Court correctly stated that Mr. Moss used a $50.00/per day on the *per diem* argument for the rest of the Respondent's life. No where does Mr Griffith mention the fact that this man went from a 3-4 handicap in golf to a 10 - 12 handicap. No where does Mr. Griffith mention the fact that the Respondent no longer goes deep sea fishing because of the pain it causes him. No where does Mr. Griffith mention that Respondent can no longer perform strenuous activities such as cutting wood in his yard, or even mowing the grass. No where does Mr. Griffith mention the interaction between the injured party and his wife.

It is clear that the compression fracture is permanent and it is also clear that he suffered two (2) fractured ribs and that the leaking disc at the L4-5 area caused him to sustain right-sided pain, radiating into his leg. The Court noted that Dr. Boatwright is a spine specialist, as opposed to Dr. Blocker who primarily treats other orthopedic injuries or conditions What was submitted to the jury was correct and the jury has made the determination that based on the greater weight and preponderance of the evidence that the Respondent herein was entitled to recover for the

Defendant [Blanton] for a reasonable amount of damages, pursuant to the Court's charge. There is absolutely no evidence that the jury in this matter reached their verdict as a result of passion, prejudice, bias or other consideration not based in the evidence before it. This jury, like anyone who looks at this case, is hard to imagine a fight breaking out on a golf course, a place normally known for peace and serenity It is clear under South Carolina law that "...[u]pon review, a trial judge's Order granting or denying a new trial will be upheld *unless the Order is wholly unsupported by the evidence or the conclusion reached was controlled by an error of law" Norton vs Norfolk Southern Railway Co , 330 S C 473, 479, 567 S E 2d 851* [Emphasis added]

ISSUE #3: THE VERDICT WAS SO EXCESSIVE THAT THE COURT, SITTING AS THE 13TH JUROR, SHOULD HAVE SET ASIDE THE VERDICT OF THE JURY.

"In regards to an appeal involving the 13th juror doctrine, the appellant bears a heavy burden demonstrating to the court that it clearly appears that the judge's exercise of discretion was controlled by manifest error of law" *Todd vs Owen, 315 S C 34, 431 S E 2d 596 [1993]* The doctrine is better stated as follows:

> "The trial judge, sitting as a 13th juror charged with the duty of seeing that justice is done, has the authority to grant new trials when he is convinced that a new trial is necessitated on the basis of the facts of the case." *Graham vs Whitaker, 282 S C 393, 321 S E 2d 40 [1984]*

Additionally, in South Carolina, Circuit Court judges have the authority to grant a new trial upon the judge's finding that justice has not prevailed. Similarly, the judge may grant a new trial if the verdict is inconsistent and reflects the jury's confusion. Under the 13th jury doctrine, the trial court may grant new trials if the judge believes the verdict is unsupported by evidence and similarly, a new trial may be granted if the verdict is inconsistent and reflects the jury's confusion. In this case, the court did not act as a 13th juror and believed that justice was done.

The 13th juror doctrine is obviously up to the Court's discretion and in this case, was not granted by the judge as there was obviously no evidence in fact or law that she abused her discretion.

ISSUE #4· THE CIRCUIT COURT ERRED IN FAILING TO STRIKE THE AWARD OF PUNITIVE DAMAGES BECAUSE ALLGIRE DID NOT PRODUCE EVIDENCE TO SUSTAIN THE AWARD UNDER THE *GAMBLE* FACTORS.

This was not only a case for assault and battery which was duly charged to the jury, pleading self defense, but it was also a case on negligence and/or recklessness. The jury well considered the arguments and evidence in the record and understood completely that compensatory damages included medical expenses, lost wages, impairment to health, disability, loss of enjoyment of life, mental anguish, physical pain, and other intangible damages as provided by South Carolina law After due deliberation, the jury awarded $100,000.00 in compensatory damages for the above stated losses to the Respondent Additionally, the jury considered *Section 19-1-150, S C Code of Laws, 1976, as amended*, regarding the Respondent's life expectancy. [TOR, Closing argument of James H. Moss].

As previously stated, Mr. Blanton had nothing to do with any confrontation that occurred prior to the actual battery which occurred on Mr. Allgire. Although he had been arrested for the same type of event earlier in his life, he had no reason to track down Rod Allgire.

Apparently, Joey Blythe, having entered into an argument with Mr. Robinson in the red vest, decided his group were finished and were 20+ in number, sitting on the balcony to get into some sort of statements to, or argument with, Paul Cole. The Plaintiff had nothing to do with that Mr. Allgire never said one word to anyone, whether about speeding up the play on the golf course, or subsequent to that statement. Mr. Blanton not only walked to the front of the clubhouse, from his position of safety, to observe the three (3) individuals with Dennis Robinson, who he

acknowledged had left, and watched them place their clubs in their cars and return to the clubhouse. He then left the front of the clubhouse and went back to the back porch of the clubhouse where his friends were located, down the flight of steps there, and stood behind the scoreboard until the Plaintiff, Allgire, appeared Without making any statement or movement, Mr. Blanton hit Mr. Allgire, knocking him to the concrete. The jury has already determined that the board was reasonably related to the harm which occurred to Mr. Allgire Although the Appellant questioned the ability to pay because the Respondent asked for a financial statement from the Appellant herein before the end of the trial, it was never produced to the Court or to the Respondent herein. The testimony in the trial clearly showed that Mr. Blanton owns four (4) businesses for the sale of used automobiles, a house in Camden and owns a house at Myrtle Beach. [ROA, Blanton testimony, p. 365, l 23 - p. 366, l. 3]. Additionally, Mr. Blanton admitted to drinking, although he claimed that his pint bottle was shared between four (4) individuals. It was only after he was returned to the scene that he admitted throwing the punch and stated he apologized. However, his testimony at trial indicated that he only did that for the purpose of not being arrested. Contrary to what the Appellant included in his Brief, he owned four (4) used car dealerships, and houses in Camden and Myrtle Beach, South Carolina. The Court should not consider any net worth statement filed with the Appellant's *Motion for New Trial*, inasmuch as Mr. Blanton never offered such information to the Plaintiff prior to mediation, during mediation, or prior to the trial, or during the trial when the Plaintiff made the request to the Court.

For the reasons stated, the jury verdict should be affirmed, including the verdict for compensatory and punitive damages.

CONCLUSION

The Court charged the jury on both Causes of Action. The Court then requested a general verdict on both Causes of Action which the jury rendered, including punitive damages. The Court did not direct a verdict for either the Plaintiff or the Defendant, allowing the jury to make the determination. In the opinion of the Respondent herein, the jury decided correctly.

Respectfully submitted,

MOSS, KUHN & FLEMING, P.A.

By: _____
JAMES H. MOSS

Beaufort, South Carolina

January 7, 2015

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Presiding Judge

Case No.: 2011-CP-07-04796

Rodney J. Allgire, Respondent,

v.

Marshall C. Blanton, Appellant.

PROOF OF SERVICE

This is to certify that I have this date served a copy of the within and foregoing ***Respondent's Final Brief*** upon counsel for the Appellant, Marshall C. Blanton, as follows, to-wit:

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by placing a copy of the same in the United States Mail with sufficient postage affixed thereon

JAMES H. MOSS

Beaufort, South Carolina
January 7, 2015

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MARSHALL C. BLANTON, Appellant.

CERTIFICATE OF COUNSEL

Counsel for Respondent hereby certifies that the *Respondent's Final Brief* in this matter was served upon opposing counsel via United States Mail and that the *Final Brief* complies with the requirements of Rule 211(b) of the South Carolina Appellate Court Rules.

Respectfully submitted,

MOSS, KUHN & FLEMING, P.A.

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