

RECEIVED

FEB 23 2015

S.C. Supreme Court

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

Appeal from Beaufort County
William Henry Seals, Jr., Circuit Court Judge
2009-GS-07-1279; 1293; & 1296
Appellate Case No. 2012- 208487

THE STATE OF SOUTH CAROLINA,

Respondent,

v.

JAQUWN BREWER,

Appellant.

RESPONSE TO PETITION FOR REHEARING

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
S.C. Bar No. 5758
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ISAAC McDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
P. O. Box 1880
Bluffton, S.C. 29910
(843) 255-5880

ATTORNEYS FOR RESPONDENT

Respondent makes a response to the Petition for Rehearing of Appellant Jaquwn Brewer dated February 11, 2015. In the Petition, Brewer contends the Supreme Court erred in finding “harmless error” concerning the admission of the Petitioner’s recorded statements in his convictions for assault and battery with intent to kill and possession of a weapon during a violent crime.

The Appellant contends that he is entitled to rehearing in the matter because he claims that, contrary to the Court’s opinion, the trial did not involve the testimony of many witnesses who were inside the club and saw Mr. Brewer shoot Donald Parker, the surviving victim of the initial shooting. Petition, p. 2. Appellant contends that not one witness testified that they saw Mr. Brewer shoot Mr. Parker; only that they saw him either with a gun or fire a gun, citing ROA 46, 76, 107, 110, 123, 130-131, 207, 218. Petition, p. 1

Appellant further asserts that while “burden shifting” concerns were not raised in the appeal they are a circumstance of the case, concerning “testimony” that Appellant could prove he was innocent of the charges if he produced his gun. He suggests the Court should consider the error as a “structural error” adopting the dissent of Justice Beatty. Appellant suggests the combination should be considered in the harmless error context.

In determining that the admission of the Appellant’s statements was harmless error, the Court concluded:

The evidence of Brewer's guilt is overwhelming as to the shooting of Parker inside the Club. The State introduced a photograph showing the gun in Brewer's waistband. Corroboration is found in the testimony of the many witnesses who were inside the Club. For example, Bright, the photographer, saw Brewer draw his weapon and point it at Stevenson, one of the organizers of the party. Immediately thereafter, Bright heard gunshots. Several witnesses saw Brewer shooting inside the Club, all of whom testified and were subject to cross-examination. By all accounts, there was only one shooter inside the Club—Brewer. Accordingly, we find that the error in the admission of the interrogators' statements was harmless beyond a reasonable doubt as it relates to the assault and battery with intent to kill and weapon charges. See *Mitchell*, 286 S.C. at 573, 336 S.E.2d at 151 ("Error is harmless when it 'could not reasonably have affected the result of the trial.'" (quoting *State v. Key*, 256 S.C. 90, 93, 180 S.E.2d 888, 890 (1971))); *State v. Johnson*, 298 S.C. 496, 499, 381 S.E.2d

732, 733 (1989) ("The admission of improper evidence is harmless where it is merely cumulative to other evidence." (citing *Blackburn*, 271 S.C. at 329, 247 S.E.2d at 337)).

Opinion, p. 7.

I.

Respondent submits that any alleged error in the admission of the unredacted interrogation was harmless error as assault and battery with intent to kill related to the shooting of Donald Parker. There is evidence to support the majority's conclusion of harmless error at the law enforcement questioning of Appellant was harmless because evidence of his guilt in the Parker shooting was overwhelming.

The majority applied an appropriate harmless error standard. "Improper admission of hearsay testimony constitutes reversible error only when the admission causes prejudice." *State v. Garner*, 389 S.C. 61, 67, 697 S.E.2d 615, 618 (Ct.App.2010). Such error is deemed harmless when it could not have reasonably affected the result of trial, and an appellate court will not set aside a conviction for such insubstantial errors. *Id.* Improperly admitted hearsay which is merely cumulative to other evidence may be viewed as harmless. *State v. Blackburn*, 271 S.C. 324, 329, 247 S.E.2d 334, 337 (1978). See *State v. Price*, 368 S.C. 494, 499, 629 S.E.2d 363, 366 (2006) (noting the admission of improper hearsay evidence is harmless where the evidence is merely cumulative to other evidence).

**The Trial Proceedings and Evidence Concerning the Identity
of the Parker Shooter and Possession of the Weapon**

The photographer from the event, **Gary Bright**, testified while he was taking pictures at the event, one of the people pulled out a gun. R. 41, 44-45, 60. At that point, someone went to get a security guard. *Id.* Bright stated that he knew the person with the gun previously in

passing and identified the Appellant. R. 41-42. Bright said the security initially came up to him and then went up to the defendant and told him that he could not be here with a gun. Then, Bright stated, the Appellant put the gun on the security guard's head and started walking backwards. The Appellant then pushed it off and then put the gun on promoter Deon Stevenson's head. Bright stated he turned away "because he did not want to see anything like that. R. 45. He stated Deon and the security guard did not have a gun. R. 45-46. At that point, he began hearing gunfire and people running. R. 46. Bright stated he did not see anyone else with a gun that night. He described the Appellant as being short, around five (5) feet tall. R. 47.

Bright stated he remained at the scene to collect his photography equipment. R. 47-48. He stated he heard a lot of gunshots outside the club. The Appellant was not in the club when he returned. R. 48.

Bright identified the gun in the picture with the Appellant. R. 56-57. Bright testified that he heard 3 to 5 shots inside the club and did not see who fired the shots. R. 67. He stated he then heard shots outside the club. Id. He stated he did not see the actual shooting because he turned away "because I didn't want to see anybody get shot." R. 69. He said that right before he saw the Appellant with the gun pointed at Deon. R. p. 69, ll. 7-13.

Houston Chaneyfield testified that he went to the party thrown by Deon Stevenson on May 23. He stated that he went to the party with Lawanda Ferguson (his girlfriend) and his cousin. R. 73. He stated he saw "Queezy" at the party. He stated that he saw Queezy (the Appellant) with something bulging out of his pants that he assumed was a gun and told Deon. R. 74. Houston said he decided to leave when he saw the gun and went out the door after telling

Deon. He was then outside when the shooting started. R. 76. He heard around 7 or 8 shots. R. 77.

Investigator Brian Chapman testified that he reviewed State Exhibit 54 (5-D). R. 87. He noted that the person wearing the Black T-shirt (Appellant) had a weapon located in the front waistband on his right-hand side. He stated the gun appears to be a 1911 .41 caliber handgun. R. 87-88.

Orthopedic surgeon Scott Strohmayr testified about his recovery of the bullet taken from surviving victim Donald Parker's right leg. R. 92-98. **Dr. Thomas Duff** testified about the gunshot wound to the head of the deceased victim, Henry Jones. R. 99-101.

Ivori Polite testified that her uncle Henry Jones was the bartender at the family reunion function. She stated that she knew Brewer from school and that he goes by the nickname "Quan" or "Queezy." R. 107-08. She stated she saw Appellant at the function. She described the shooting starting near the photo booth area. R. 109. She recalled hearing a bunch of shots. R. 110. When they started, she said she ran into the bathroom with her friends until it stopped. R. 110. At that point, Ivori stated she heard Shawnee tell Uncle Henry to call 9-1-1, but then there were 2 more shots and the last one hit him and he fell to the ground. R. 112. She said the bullet had to come through the door. R. 114. She identified Brewer in a photograph making a "Hill Posse" hand gesture. R. 118-21. Ivori confirmed that she never saw Brewer shoot. R. 123.

Donald Parker, the person who was shot in the leg at the function testified. R. 124. He stated he was in the middle of the room when the shooting started. R. 129. He was hit in the right calf. R. 129. He stated he was just standing around socializing, heard a bunch of commotion and as soon as he turned his head he saw fire coming from the gun, "first shot, hit me

in the back of the leg.” R. 130, 132. All he saw was the pistol and he did not see who was holding it. R. 131, 135, 136.

Parker stated after he was shot, he heard more gunshots while he was inside the club. Parker recalled being carried to a truck once he got outside and still heard gunshots. R. 138. He stated they were taking him to the hospital when the police stopped them. R. 138-39.

Parker said he had seen the Appellant one time before, but did not recall seeing him that night at the club. R. 140.

Investigator Jeremiah Fraser testified before the jury. R. 144. Investigator Fraser testified that evening he went to the hospital because he knew there would be witnesses there with the two victims. R. 147. He stated Jones was unresponsive and he could not talk with him. R. 148.

Fraser stated that when he located Parker at the hospital, he described to him how he was standing near the photo booth with friends, that there was a commotion behind him, he then turned and saw the gunshots. R. 149. He stated Parker gave him a brief description of the gunman as a black male. He told him that the shooter was the smallest man at the club, with a black shirt and close-cropped hair. R. 150-51. He said he knew the guy and seen him before. R. 151.

He talked with the victim’s brother, Ronald Parker (who had recently been drafted by the Seahawks out of Illinois). R. 153-54.

Fraser testified that they interviewed between 40 to 50 people. Fraser stated that they had quickly identified “Queezy” or Jaquwn Brewer as the person who had done the shooting. R. 155. He stated, without objection, this was from quite a few eyewitnesses. R. p. 155, ll. 24-25.

Fraser stated during the investigation Donald Parker gave a different statement than he gave at the hospital. At the point after his release, he said the gunshot and the gun was all he remembered. R. 163.

John Doctor testified that he was with Donald Parker and Ronald Parker at the club. He stated that he was standing by the photo booth and his partner told him "he got a gun?" and they decided to leave. He turns back and sees someone taking a picture. R. 206-07. He stated they then paid no attention and continued to party and then he heard a girl scream "he's got a gun" and then gunshots are heard. R. 207. At that point, everyone scatters. Doctor stated he went into the girls' bathroom. When he comes out, he sees a beam from a firearm in his face. R. p. 207, ll. 15-19. He sees Donald on the ground and Doctor picks him up and carries him to the nearest vehicle to get to the hospital. R. 207.

Doctor testified that he did not see anyone else there with a gun. R. 209.

Doctor testified he did not see the person who was shooting when it started. R. 211. However, Doctor confirmed that he identified the Appellant as a person he saw at the club that night with a gun. R. p. 212-214, l. 25. See also, R. 217-218. He said the only time he saw Appellant with the gun when the pictures were being taken. R. 218.

Doctor confirmed he only saw one gun that night and it was in the possession of the Appellant. R. 221-22.

Deon Stevenson testified that he was in Beaufort for a family reunion involving his girlfriend Sheena. R. 223. He stated they got to the party around 10:30. R. 225. He stated they did not allow guns at the party and were searching people. R. 226.

Deon stated that when he found out someone had a gun at the party, he approached them and told him to take the gun outside. R. 226. This occurred by the photo booth after Houston said to him that the guy (Brewer) had a gun in the club. R. 227.

Deon stated he approached Brewer nicely and told him to take the gun outside and that they did not want problems. R. 227-229. He said Brewer pulled out the gun, cocked it, and put it to his face telling him it was none of his business. Deon described slightly hitting the gun away and Brewer started shooting. R. p. 229, ll. 1-19. Deon said he started running back as Brewer was firing inside the club. R. 230. He stated he found his girlfriend outside. R. 231.

He recalled that there was 5 shots fired inside the club. He said he remembered it because the same gun had been in his face. R. 233. He stated that there was no laser beam on the gun when it was pointed at him. R. 234.

Sheena Gardener testified that she was in Beaufort at that family reunion. She stated that she knew Brewer as "Queezy." R. 240. She stated that someone came up to her at the party and told her Jaquawn had a gun. R. 243. She said she and Deon went over to him and told him to take the gun out of the club. R. 244.

Sheena stated Brewer was with Dominique (Dizzy) Middleton and Brian (Chocolate). R. 244-45. They were taking a picture at the time. When Deon told Brewer to take the gun outside, he responded mind your own business, pulled out the black gun from under his shirt and pointed it at Deon. R. 246. She said Deon swatted the gun from his face and Brewer started shooting. R. 247. She said Brewer was aiming at the ground. R. p. 247, ll. 19-25. However, she said he was aiming at people. R. 248. When he starts firing into the crowd, they run out the doors. R. 248-49.

She said people were running outside and that there was more shooting. R. 249. She stated she saw Brewer shooting outside the club. R. 250. She said Dominique was further back shooting and Jaquwn was up close to the building. R. 250. She said Dominique's gun had a laser. R. 251-52. She said Dominique was shooting up in the air, whereas Brewer was shooting toward the building. R. 252-53. She said she saw only one person, Jaquwn, shooting into the building. R. 254.

She stated Brewer was shooting from the grassy area right in front of the second door. R. 256. She denied that she saw the laser pointed into the club. R. 257-62, 273.

Octavia "Shawnee" Jones testified that the victim was her uncle. She got to the party at 10:30. She said she was in front of the ladies room when the shooting started. R. 278. She said she ran into the bathroom when it started with Ivori. R. 279.

She described Sheena's boyfriend as Deon Stevenson. R. 279. She heard more gunshots and left the bathroom after 5 minutes when it was clear. R. 280. She described talking to her uncle on the ramp to call 9-1-1 and then there was a couple more gunshots and her uncle hit the floor. R. 281, 289-90. She saw "brains and blood" when he fell. R. 282. She said she did not see the man who was shooting. R. 283.

She said that she did not see a red laser sight come into the club. R. 284-86.

Charles Cox testified that he saw a gun in the club that night right before it went off. R. 296. He said he saw the gun while he was dancing and was about to tell his friends to leave and then it went off. He described the person as a dark-skinned shorter fellow. R. 297-98. He felt he saw the person aiming at people. R. 298-99.

Tracey Thrower, a SLED forensic firearms examiner, testified that he analyzed the bullets recovered from the deceased and Donald Parker. R. 332. He opined that the bullet from the deceased was consistent with a .45 auto caliber weapon. R. 335. Concerning the bullet from Parker's leg, he opined that it also came from a .45 caliber automatic weapon. R. 335-37. However, his findings were inconclusive on whether they were fired from the same firearm. R. 337-38. He opined the bullets were too damaged or the firearm did not mark well. R. 337-38. However, he opined the bullets could have come from the same weapon. R. 339.

John Roberts of SLED testified that he analyzed the Appellant's pants and found the presence of gunshot residue. R. 345-350.

At the conclusion of the case, the defense renewed, in general terms, its prior motions. R. 351-52.

Respondent submits that the evidence of guilt as to the Parker shooting was overwhelming and the interrogation comments by law enforcement, if taken as hearsay, were harmless. As to the "comment" when the investigator was reading from a statement from a female about seeing the gun pointed at her boyfriend (Exhibit 2, 5:25), Sheena Gardner, Deon Stevenson's boyfriend testified about seeing the defendant with a gun and having her boyfriend Deon confront him and asked him to remove the gun from the area and points it at him and begins shooting. R. p. 244-249. She also testified about seeing him shooting inside and outside. R. p. 257-262.

As to whether Appellant was seen shooting inside the club, Deon Stevenson declared similarly that he learned about Brewer having a weapon and confronted him with the gun being placed to his head and then seeing the Appellant shooting. R. p. 227-229.

Others testified about seeing Appellant possession of a gun. These included Gary Bright who photographed Appellant with the gun and saw him put the gun to Stevenson head immediately prior to gunfire. R.p. 41-42, 45-46, 56-57. Houston Chaneyfield saw Appellant with the gun and reported it to Stevenson immediately prior to the shooting. R.p. 74-76. John Doctor saw the Appellant with the gun in his possession. R.p. 221-222. Charles Cox saw the gun with a shorter fellow aiming it at people. R.p. 297-299. However, Donald Parker was unable to identify his shooter, only the fact that he saw the gun fire. R.p. 130, 132, 149.

Simply put, there was no reliance by the prosecution upon the investigator's interrogation comments to prove that any witnesses had seen Appellant shooting that night. Instead, the witnesses themselves testified - although some were confronted with their prior statements - and were subjected to cross-examination. Any error in the admission of the interrogator's comments were harmless. The majority was correct in its assessment.

Respondent would note that confidence in the outcome was not undermined by the comments. The trial judge declared he would charge the burden of proof upon the state to show guilt beyond a reasonable doubt. Judge Seals responded that he was going to instruct the jury that the State has the burden of proof and that Brewer does not have any burden of proof. R. 181.¹

Further, Respondent would adopt the reasoning of Justice Pleicones in his dissent concerning harmless error. As he noted the interrogator's comments are minimized by the actual testimony of the witnesses who addressed the individual challenged assertions.

II. Comments About the Prosecution

¹ The final instructions were not at issue. The trial transcript reveals a full instruction on the state's burden of proof beyond a reasonable doubt and presumption of innocence. Trial Transcript 658- 661.

Respondent, however, take issue with the critical comments of the Court and the Dissent to suggest there was an improper motivation on the part of the prosecution to shift the burden of proof by the admission of the entire interrogation. As evident by the argument of the prosecution in this particular case, the particular prosecutors (Meredith A. Bannon and John J. Bannon) did not have to be reminded that an accused is presumed innocent and that the State has the burden to prove guilt beyond a reasonable doubt. They proudly stated that knowledge in their closing argument to the jury. See ROA p. 353, l. 18-25 (“**at no time during this trial or my closing argument will that burden shift to anyone. It remains with the State. It is the way our legal system is designed and that is a job the State is held to.**”).

At no time during the argument, did the prosecution ever use the statements of the interrogator as the truth of the matters asserted, rather completely relying upon the actual scene witnesses to satisfy the high burden of proof. ROA p. 358 (“the witness says I saw Jaquwn weith a gun”). At no time did the prosecutors ever stated that the Appellant had to prove his innocence. At no time did not the prosecutor state that Appellant had to testify to show his innocence.

It is unfortunate on this record that the particular prosecutors’ understanding of the law and their responsibility was misapprehended by the Court and stated in its written opinion, when their own knowledge, motivation and duty is reflected by their on-the-record statements to the jury reflect otherwise. If rehearing is granted, it should – at the least – correct the mistaken impression that the opinion unfortunately gave.

III. Structural Error Comment

In the dissent, Justice Beatty suggested that the alleged burden shifting comments, presented through the interrogation comments, was a structural error, citing *State v. Rivera*, 402 S.C. 225, 247, 741 S.E.2d 694, 705 (2013). As noted, this issue was not before the Court, and if it is/was, the entire jury instructions must be considered and called up before this Court under SCACR Rule 212(A). See Trial Transcript 658-661.

Nevertheless, the Dissent confuses matters of “structural error” with prejudicial error. The jury was properly charged on the burden of proof on the basis of the record before this Court. ROA 181. The prosecution similarly acknowledged the burden of proof. ROA 353.

The United State Supreme Court recently addressed a similar misimpression in *Glebe v. Frost*, 135 S.Ct. 429 (2014). In *Glebe*, the Court summarily reversed the Ninth Circuit concerning a restriction in a defense summation which the circuit court had contended a shifting the burden of proof. In a criminal trial, whether at the state or federal level, “[t]he prosecution bears the burden of proving all elements of the offense charged, and must persuade the factfinder ‘beyond a reasonable doubt’ of the facts necessary to establish each of those elements.” *Sullivan v. Louisiana*, 508 U.S. 275, 277–78, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993); *In re Winship*, 397 U.S. 358, 363–64, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970) (“The reasonable-doubt standard plays a vital role in the American scheme of criminal procedure. It is a prime instrument for reducing the risk of convictions resting on factual error. The standard provides concrete substance for the presumption of innocence—that bedrock axiomatic and elementary principle whose enforcement lies at the foundation of the administration of our criminal law

Sullivan provides that “the essential connection to a ‘beyond a reasonable doubt’ factual finding cannot be made where the *instructional error* consists of a misdescription of the burden

of proof, which vitiates all the jury's findings.” 508 U.S. at 281, 113 S.Ct. 2078. The Court in *Sullivan* also engages in a useful discussion of structural versus harmless errors. *Id.* at 278–82, 113 S.Ct. 2078. The Court cites to *Arizona v. Fulminante*, 499 U.S. 279, 308–10, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991), which discusses the distinction between potentially harmless “trial errors,” and never-harmless “structural errors.” “Trial errors” are problems which occur during a case's presentation to the trier of fact and may be assessed in the context of other evidence. They may be harmless and are harmless if the error can be examined against the other trial evidence and a determination made that the error was not serious enough that it would have caused the jury to have a reasonable doubt of the defendant's guilt. *See id.* at 310, 111 S.Ct. 1246. In contrast, “structural errors” are “violations ... in the constitution of the trial mechanism,” and are “defect[s] affecting the framework within which the trial proceeds” which inhibit the trial's “function as a vehicle for determination of guilt or innocence.” *Id.* at 309–10, 111 S.Ct. 1246 (quoting *Rose v. Clark*, 478 U.S. 570, 578, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986)). They are never harmless.

As the Supreme Court has stated: “[W]e have repeatedly recognized that the commission of a constitutional error at trial alone does not entitle a defendant to automatic reversal. Instead, ‘most constitutional errors can be harmless.’ ” *Neder v. United States*, 527 U.S. 1, 8, 119 S.Ct. 1827, 144 L.Ed.2d 35 (1999) (quoting *Arizona v. Fulminante*, 499 U.S. 279, 306, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991)). “ [I]f the defendant had counsel and was tried by an impartial adjudicator, there is a strong presumption that any other [constitutional] errors that may have occurred are subject to harmless-error analysis.” 527 U.S., at 8, 119 S.Ct. 1827 (quoting *Rose v. Clark*, 478 U.S. 570, 579, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986)). Only in rare cases has this

Court held that an error is structural, and thus requires automatic reversal. In such cases, the error “necessarily render[s] a criminal trial fundamentally unfair or an unreliable vehicle for determining guilt or innocence.” *Neder, supra*, at 9, 119 S.Ct. 1827 (emphasis deleted).² This evidentiary issue does not rise to that level.

Here, the issue was not the reasonable doubt instruction by the Court, but the admission of evidence. Against that framework, it was not structural error, but alleged error that could be assessed against the entire record. Assuming admission was error, the Court properly found it to be harmless as related to the assault charge.

² See *Neder v. United States*, 527 U.S. 1, 8, 119 S.Ct. 1827, 144 L.Ed.2d 35 (1999) (citing *Johnson v. United States*, 520 U.S. 461, 468, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997), in turn citing *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963) (complete denial of counsel); *Tumey v. Ohio*, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927) (biased trial judge); *Vasquez v. Hillery*, 474 U.S. 254, 106 S.Ct. 617, 88 L.Ed.2d 598 (1986) (racial discrimination in selection of grand jury); *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984) (denial of self-representation at trial); *Waller v. Georgia*, 467 U.S. 39, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984) (denial of public trial); *Sullivan v. Louisiana*, 508 U.S. 275, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993) (defective reasonable-doubt instruction)).

CONCLUSION

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
S.C. Bar No. 5758

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

By  _____

Columbia, South Carolina
February 23, 2015

CERTIFICATE OF SERVICE

I, Donald J. Zelenka, hereby certify that I have served the Response in the foregoing action by depositing copies in the United States Mail, postage prepaid to:

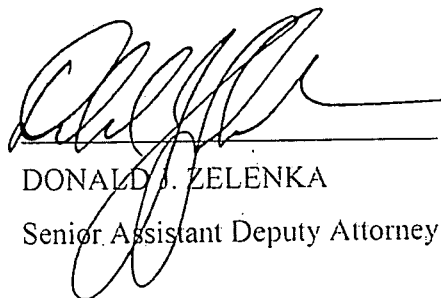
James A. Brown, Esquire

Law Offices of Jim Brown, P.A.

P.O. Box 592

Beaufort, SC 29901

This 23rd day of February 2015.

A handwritten signature in black ink, appearing to read 'D. Zelenka', is written over a horizontal line. The signature is stylized and cursive.

DONALD J. ZELENKA

Senior Assistant Deputy Attorney General