



ALAN WILSON
ATTORNEY GENERAL

March 12, 2015

Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
PO Box 11330
Columbia, SC 29211
Via hand delivery

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S.C. Supreme Court

Re: State v. George Chavis

Dear Mr. Shearouse:

Please allow this letter to serve as a return to Appellant Chavis' objection to the State's petition for rehearing in the above case. Chavis relies on the language of In re Way, Op. No. 27444 (S.C. Sup. Ct., filed September 3, 2014) to claim a prevailing party is unable to file a petition for rehearing. This Court issued a superseding opinion retracting this language in In re Way, Op. No. 27444 (S.C. Sup. Ct., filed Nov. 12, 2014). Given the retraction of the language Chavis now relies on, the State disagrees with Chavis' odd assertion that the superseded opinion is good law. Ironically, this Court retracted the language of the opinion that Chavis relies on after the State, the prevailing party in Way, filed a petition for rehearing. Further, Respondent disagrees that S.C. Code § 18-1-30 is a limitation on this Court's power to reconsider upon motion of any party to the appeal a portion of the opinion that may have wide-spread implications to its courts. The present opinion will affect not just criminal cases, but also litigation in Common Pleas, Family Court, Probate Court, or any other court where non-scientific expert testimony might be offered as evidence. See RE: Act No. 385 – relating to defining the “practice of medicine.” (Supreme Court Order dated August, 24 2006) (exercising its authority to govern administration of the court system to avoid the substantial impairment of justice based on potential effects of 2006 Act No. 385 on expert testimony in South Carolina); see generally State v. Obeta, 796 N.W.2d 282 (Minn. 2011) (finding “we have the inherent judicial authority to regulate and supervise the rules that govern the admission of evidence in the lower courts. . . . We have relied on our ‘supervisory power to insure the fair administration of justice’ to decide important evidentiary issues with statewide impact.”). This Court should decline Chavis' invitation for this Court to muzzle its ability to review its own decisions upon the filing of a timely petition for rehearing by any party when the opinion has the ability to have widespread impact among multiple classes of litigators.

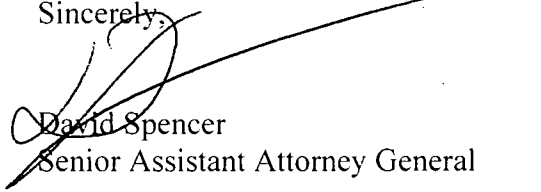


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Petitions for rehearing are not commonly filed and even more uncommonly granted, but this Case presents an opportunity through further discussion to achieve the results of ensuring fair trials, clearer application of the rules of evidence as to expert testimony, and the legitimate objectives of presenting evidence from forensic interviewers as eloquently expressed by the Chief Justice in her concurring opinion.

Note that Chavis does not comment on the actual merits of the State's petition. Chavis' silence on this point is deafening. The State respectfully requests this Court deny Chavis' motion and further requests this Court to grant the State's petition and whatever other relief this Court deems just and proper. The State is willing to provide more argument on this matter should this Court require a more thorough return on the matter.

Sincerely,



David Spencer
Senior Assistant Attorney General

cc: Robert M. Dudek, Esquire