

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Chesterfield County

Paul M. Burch, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**  
MAR 17 2015  
**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

JULIUS CURRY,

APPELLANT

APPELLATE CASE NO. 2014-000569  
\_\_\_\_\_


**Return to State's Motion to Remand for Reconstruction of the Record**  
\_\_\_\_\_

The State moves to remand for reconstruction of the record of the tape recordings of a phone call Appellant made from the jail. The recordings were played for the jury but were not admitted in evidence and not transcribed by the court reporter. Appellant opposes the motion to remand for reconstruction of the record. Reconstruction of the tape recording is not necessary for purposes of the direct appeal. The issue on direct appeal involves the trial judge's failure to make findings in regard to the recordings.

The issue raised in the initial brief of Appellant is whether the trial judge erred in allowing the State to publish, over objection, recorded phone calls between Appellant, while he was in jail, and his then girlfriend, when the State did not introduce the recordings in evidence and the judge failed to determine if any probative value of the recordings was far

out weighed by the prejudicial impact. The issue on appeal involves, not simply the admission of the recordings, but the trial judge's failure to make any findings pursuant to Rule 403 before allowing the State to publish the recordings. Appellant submits that the issue presented on appeal can be decided without the content of the recordings of the jail phone call. Regardless of the content, the judge failed to make the required findings. This Court cannot review the trial judge's determination that any probative value of the recordings was far outweighed by the prejudicial impact because the trial judge failed to make any determination as to probative value and prejudicial impact.

Respectfully submitted,

  
\_\_\_\_\_  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

This 17th day of March, 2015.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

MAR 17 2015

**SC Court of Appeals**

Appeal from Chesterfield County

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

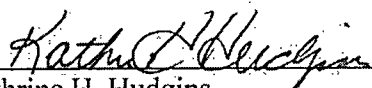
JULIUS CURRY,

APPELLANT

APPELLATE CASE NO. 2014-000569

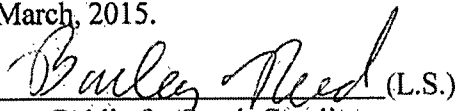
CERTIFICATE OF SERVICE

I certify that a true copy of the Return to State's motion to remand to reconstruction of the record in this case have been served on Deborah Shupe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 17<sup>th</sup> day of March, 2015.

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 17<sup>th</sup> day  
of March, 2015.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: October 24, 2021.