

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

RECEIVED

THE STATE,

APR 02 2015
RESPONDENT,

SC Court of Appeals

v.

KENNETH ANDREW LYNCH,

APPELLANT

Appellate Case No. 2012-212547

Appeal from Lexington County

Eugene C. Griffith, Jr., Circuit Court Judge

Opinion No. 5304

PETITION FOR REHEARING

On March 18, 2015, this Court affirmed Appellant's convictions and sentences in a published opinion. State v. Lynch, Op. No. 5304 (S.C. Ct. App. Mar. 18, 2015). Pursuant to Rule 221(a), Appellant seeks rehearing of the three issues presented in light of the significant points overlooked and/or misapprehended by this Court in arriving at its conclusion. Those points will be described in greater detail below.

Directed Verdict of Acquittal

In affirming the denial of Appellant's directed verdict motion, this Court stated that Appellant conceded the victims were murdered by criminal means at trial. The record disputes this finding. During the argument on the directed verdict motion, trial counsel responded to the state's argument as follows: "The no-body issue of corpus delicti is not what I'm standing on."

R. 1711, lines 7-8. Trial counsel elaborated, “I can concede it, and they can’t get past Arnold. It’s sort of a siren song and a red herring. That’s not the issue.” R. 1711, lines 11-13 (emphasis added). Thus, the record is clear that trial counsel never conceded that Portia and Angelica died by criminal means. Rather, trial counsel maintained that he could concede that point and still the state’s case would not survive the directed verdict motion.

This Court also relied upon testimony of Detective Glen Hutchings regarding the grand larceny of a motor vehicle charge. According to this Court, Hutchings testified that Appellant “eventually admitted he took Portia’s car without her permission, but asserted ‘she wouldn’t have cared anyway because she was going to lose the car.’” A careful examination of the record reveals inconsistencies in Hutchings’ testimony on this point. The exchange between Hutchings and the prosecutor revealed Appellant admitted to driving Portia’s car across the country, but Appellant indicated Portia would not mind if he did so.

Q. What did you confront him with?

A. I advised him that we had information that he had been stopped by law enforcement in the El Paso, Texas, area driving Portia Washington’s car.

Q. What was his response?

A. He said that he actually had driving Portia’s car, that Portia was having difficulty making the payments on the car and that she wouldn’t have - - she didn’t care if he took the car because she was going to return it to the dealership or he was going to have to start making payments on it.

R. 623, lines 2-12. Thus, the record demonstrates that Hutchings initially did not testify that Appellant admitted to taking Portia’s car without her permission. In fact, Hutchings testified that Appellant admitted to driving Portia’s car and that Portia did not care if he did so. Later, when the prosecutor asked if Appellant admitted whether had permission to take the car, Hutchings responded, “Yes, he eventually admitted that he did not have permission. And, of course, he did

add that she wouldn't have cared anyway because she was going to lose the car." R. 634, lines 17-22. This Court has read this as an admission that Appellant committed grand larceny. However, the record is clear that Appellant only admitted that he drove Portia's car and that she would not have cared if he had done so. This is the antithesis of larceny.

According to this Court, the state "presented evidence that [Appellant] was the last person seen with the victims at the place where the state alleged the murders occurred." This Court found this "fact" to be "an important distinction from Arnold where the victim was last seen alone at his office, and although Arnold's fingerprint was found in the victim's car, there was no evidence Arnold was at the scene of the crime." This Court's conclusion that Appellant was the last person seen with the victims at the place where the state alleged the murders occurred failed to consider the equivocal and ambiguous testimony in the record regarding the last person to see or hear from Portia and the lack of evidence of where the murders, if Portia and Angelica were murdered, occurred.

Carla Perry lived in the same apartment complex as Appellant, Portia, and Angelica in June 2006. R. 178, line 22 – R. 180, line 17. Perry last saw Portia, Angelica, and Appellant during the afternoon hours on June 10, 2006 when Portia was getting some things from her car. R. 180, line 21 – R. 181, line 21; R. 182, lines 17-25. At approximately 10:30 p.m., Perry noticed that Portia's car was not in the apartment complex parking lot and that Portia's apartment was dark. R. 184, line 11 – R. 185, line 11. However, the record is not clear that Perry was the last person to see Portia and Angelica alive on Saturday, June 10, 2006. In fact, Portia's aunt, Vernelle Bellamy, saw Portia twice on Saturday, June 10, 2006. The first time Portia gave money to Bellamy to use while in Sumter shopping. Bellamy purchased an \$80 pantsuit for Portia, which she gave to Portia later on Saturday. R. 235, line 22 - R. 237, line 1; R. 237, lines

2-8. The time when Bellamy saw Portia on Saturday was unclear. Thus, the record does not support this Court's conclusion that Appellant was the last person seen with the victims at the place where the state alleged the murders occurred.

Although the state presented evidence that an assault occurred at the apartment where Appellant lived with the victims, this evidence failed to demonstrate the assault was fatal or that the assault encompassed both Portia and Angelica. The DNA analysis pointed only to Angelica. Further, the fact that Appellant's DNA was found in the apartment was hardly surprising or incriminating as he lived in the apartment.

This Court further held the state presented substantial evidence of flight. While it is true the state presented evidence that Appellant had left South Carolina around the date Portia and Angelica went missing, the evidence did not show that Appellant had fled the state to avoid capture by the authorities. While "[e]vidence of flight has been held to constitute evidence of guilty knowledge and intent," "[t]he critical factor to the admissibility of evidence of flight is whether the totality of the evidence creates an inference that the defendant had knowledge that he was being sought by the authorities." *State v. Beckham*, 334 S.C. 302, 315, 513 S.E.2d 606, 612 (1999). There was no evidence that Appellant had knowledge that the authorities were looking for him. In fact, for the first few days of Appellant's cross-country trip, the authorities were not looking for him. The record was devoid of evidence that Appellant feared apprehension by the police. In fact, when the police initiated a traffic stop in Texas, Appellant cooperated fully and willingly. Later, when law enforcement agents at the border questioned him, Appellant again cooperated fully and willingly. These were not the actions of a man running from the law.

The evidence presented by the state could not rise above a mere suspicion to constitute substantial circumstantial evidence that Appellant was guilty of grand larceny and murder. Appellant reiterates the undisputed evidence that Appellant and Portia were involved in a long-term romantic relationship and living together. R. 107, line 15 – R. 108, line 12; R. 117, lines 3-8; R. 134, lines 19-21; R. 143, lines 6-7; R. 156, lines 3-13; R. 180, lines 15-16; R. 199, lines 8-11; R. 247, line 14 – R. 248, line 6; R. 265, lines 20-22; R. 315, lines 16-17; R. 316, lines 10-20; R. 319, lines 18-24; R. 799, lines 3-8. Appellant further reiterates the inconsistent testimony presented by the state regarding Portia’s mental state. Although some witnesses testified that Portia was withdrawn and anxious while dating Appellant, other witnesses, including one of the last witnesses to speak to Portia, reported she was happy and looking forward to the future. Cf. R. 199, lines 11-20; R. 268, line 14 – R. 269, lines 9; R. 1673, line 24 - R. 1674, line 14; R. 1675, lines 15-24 with R. 177, lines 11-25; R. 278, lines 9-11; R. 792, lines 18-22; R. 1675, line 25 - R. 1676, line 11. Finally, Appellant reiterates the law governing directed verdict motions in South Carolina.

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103 S.C. 437, 88 S.E.2d 1 (1916); State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97 S.E.2d 30, 36 (2001). “If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused,” the trial judge may deny the motion for directed verdict. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000). When the prosecution relies exclusively on circumstantial evidence, the trial judge must direct a verdict in the defendant’s favor unless there is any substantial circumstantial evidence which reasonably tends to

prove the guilt of the defendant or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011); State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000). Likewise, a directed verdict is appropriate when the evidence produced “merely raises a suspicion the accused is guilty.” Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Arnold, 361 S.C. 386, 389-390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984); State v. Muhammed, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999). Our courts define suspicion as “a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.” Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Hyder, 242 S.C. 372, 131 S.E.2d 96 (1963). The prosecution must prove the identity of the defendant as the person who committed the charged crime beyond a reasonable doubt. State v. Lane, 406 S.C. 118, 121, 749 S.E.2d 165, 167 (Ct. App. 2013)(citing Gibbs v. State, 403 S.C. 484, 496, 744 S.E.2d 170, 176 (2013)).

Appellant’s case is virtually indistinguishable from State v. Arnold, 361 S.C. 386, 605 S.E.2d 529 (2004) where the Supreme Court granted a directed verdict of acquittal. Dr. Jennings Cox, who lived and worked in Savannah, was last seen alive on June 18, 1997 at his office. He borrowed a colleague’s car to go to a dentist appointment. Later, he called his secretary to cancel his remaining appointments for the day. Bank records indicated he withdrew money from an ATM in Hardeeville, South Carolina during the afternoon of June 18, 1997. During their investigation, the police interviewed Bobby Ray Ware.

Ware, a truck driver who lived in Savannah, had had a sexual relationship with Dr. Cox for more than a year. On the weekend of June 14-15, Ware introduced Dr. Cox to Arnold, who was staying with Ware. According to Ware, Dr. Cox and Arnold had sex that weekend. Ware also saw Arnold with a gun while he was staying with him. Id. at 388-389, 605 S.E.2d at 530.

Ware left at 6:00 a.m. on June 17, 1997 to drive to Chicago while Arnold remained at Ware's house. On June 19, 1997, Ware received a message to contact Arnold at a specific phone number. Later, Ware contacted Arnold at the phone number, which belonged to Arnold's father who lived in Gray, Tennessee. Id. at 389, 605 S.E.2d at 530

The borrowed car was found on June 20, 1997 in a parking lot in Johnson City, Tennessee. Although there was no blood in the car, there were some unspecified scratches on it. Additionally, police recovered a fingerprint from a coffee cup lid found in the center compartment of the car. The fingerprint was identified as Arnold's right thumbprint. Id. The body of Dr. Cox was found on June 21, 1997 in Colleton County. He had been shot. No additional evidence was found at the scene. Id. at 388, 605 S.E.2d at 530. On June 27, 1997, Arnold was arrested at his father's house in Tennessee. Id. at 389, 605 S.E.2d at 531.

According to the Court, the fingerprint evidence established only that Arnold was in the car on the same day Dr. Cox was last seen alive, the presence of the borrowed car in the same state where Arnold was after his stay in Savannah raised only a suspicion of guilt. The prosecution presented no evidence that Appellant was even at the scene of the crime in Colleton County. Therefore, the Court granted a directed verdict of acquittal to Arnold. Id. at 390, 605 S.E.2d at 531.

The Eleventh Circuit Solicitor's Office failed to present substantial circumstantial evidence that Appellant was guilty of murder and grand larceny. The prosecutor presented evidence that Portia and Angelica were no longer in Lexington County and had no contact with family and friends for six years, which was unusual. The prosecution presented evidence that Appellant lived with Portia and Angelica until shortly before their disappearance. The prosecution presented evidence that blood consistent with that of Theresa Brown's daughter was

in their shared apartment and was indicative of an assault. Finally, the prosecution presented evidence that Appellant left South Carolina around the time of Portia's and Angelica's disappearance.

What the Eleventh Circuit Solicitor's Office failed to present was evidence that Appellant killed Portia and Angelica. What the Eleventh Circuit Solicitor's Office failed to present was evidence that Appellant was present at the crime scene, which the prosecution claimed was in Lexington County. What the Eleventh Circuit Solicitor's Office failed to present was evidence that Appellant stole Portia's car, especially in light of the evidence that Appellant frequently drove Portia's car with her permission, the two were involved in a romantic relationship, and the two lived together.

How to Consider Circumstantial Evidence

This Court held Appellant's argument regarding how the trial judge, who was also the fact finder, was required to consider the circumstantial evidence was without merit because "his requested circumstantial charge was based on the 'reasonable hypothesis' language from Edwards, which the Supreme Court found unnecessary in Logan." Respectfully, Appellant disagrees with this Court's reading of the record.

At the conclusion of the case, the parties engaged in a charge conference to discuss the standards the judge would use to evaluate the evidence. Appellant moved for an instruction consistent with the circumstantial evidence charge found in State v. Grippon 327 S.C. 79, 489 S.E.2d 462 (1997). R. 1752, line 17 – R. 1753, line 6. The judge then asked the state if the "charge on circumstantial evidence as outlined by Grippon is consistent with the appropriate law." R. 1753, lines 7-15. The state responded it would "be comfortable with any standard" used by the judge. R. 1753, lines 16-19. Appellant clarified for the record that he was asking for

“the old Edwards charge.” Specifically, he requested “in a circumstantial evidence case, if the fact finder w[ere] to view any story that was plausible without the absence of direct evidence, they should find him not guilty. Circumstantial evidence has to be complete.” R. 1753, line 20 – R. 1754, line 4. The state then objected to the trial court considering language found within a dissenting opinion of the Supreme Court. R. 1754, lines 7-9.

The trial judge, and fact finder, responded that he would not “charge something that [was] not the law.” R. 1755, lines 8-10. Appellant clarified that the language he relied upon was from a concurring opinion, not a dissent. Additionally, he argued that due to the nature of a capital proceeding, where the Eighth Amendment required heightened reliability, the appropriate charge would be “the old Edwards standard, which is any exception that would tend to disprove the case is sufficient to defeat the case.” R. 1755, line 19 – R. 1756, line 11. Nevertheless, the judge denied the request. R. 1756, lines 12-15.

In State v. Logan, 405 S.C. 83, 94-95, 747 S.E.2d 444, 450 (2013) the South Carolina Supreme 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 the 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, the Court provided a proper jury instruction for trial courts to use. Important for Appellant’s case, the instruction directs the fact finders 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.

Appellant’s request was for the trial judge and fact finder to apply the following standard: “[I]n a circumstantial evidence case, if [the fact finder w[ere]] to view any story that was plausible without the absence of direct evidence, they should find him not guilty. Circumstantial evidence has to be complete.” R. 1753, line 20 – R. 1754, line 4. Appellant’s request was not for “reasonable hypothesis” consideration. Rather, Appellant’s request was for the circumstantial evidence to be complete. As Logan held, “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.” Appellant’s requested instruction merely wanted the state’s evidence to be held to the constitutional burden of showing complete circumstantial evidence that the defendant was guilty beyond a reasonable doubt based upon the consistency of the circumstances pointing conclusively to guilt.

Clear, cogent, and concise instructions directing even the trial judge on how to analyze the circumstantial evidence before it were necessary in Appellant’s case. The instruction concerning how to evaluate circumstantial evidence was necessary in Appellant’s trial due to the nature of the evidence presented by the prosecution, which was entirely circumstantial. 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 our Supreme Court, the traditional circumstantial evidence language informs the fact finder regarding how to analyze circumstantial evidence – inferring main facts by making connections among collateral facts. The trial judge’s refusal to utilize the charge concerning how to use circumstantial evidence violated Appellant’s right to require the prosecution to prove his guilt beyond a reasonable doubt.

Illegal Search and Seizure

This Court found Detective Matt Edwards “did not recklessly or intentionally omit the information that was not relayed to the magistrate.” First, this Court examined Edwards’ failure to tell the magistrate that Jones, Portia’s mother, had seen Appellant driving Portia’s car. This Court held Edwards could not have conveyed this information to the magistrate because he had not spoken with Jones at the time he obtained the arrest warrant. However, law enforcement had been in constant contact with Jones in the days following Jones’ report that Portia was missing. The state cannot be shielded from the Jones’ knowledge simply because law enforcement sent an officer who knew only what was told to him to obtain the arrest warrant. The knowledge of the entire police force must be imputed to Edwards despite what he knew personally. Second, this Court found that Edwards could not have informed the magistrate that Appellant and Portia’s apartment lease indicated they were married because he had not seen documents concerning their marital status when he obtained the arrest warrant. These conclusions are erroneous based on the facts in the record, and these conclusions omit several key considerations.

Appellant incorporates by reference the factual recitation presented in his final brief concerning this issue, including, but not limited to, Polinder serving the arrest warrant on Appellant in Washington, statements made by Appellant to Polinder, the interview of Appellant by the FBI agent, and Appellant’s extradition to South Carolina, which was based upon the

warrant for grand larceny, testimony by family and friends concerning Appellant having driven Portia's car.¹ Kevin Odell, an employee of Lexington County Sheriff's Department, booked Appellant into the jail. As part of the booking process, he took Appellant's fingerprints. R. 837, lines 19-20; R. 838, lines 1-22.

Matt Edwards, a detective with WCPD, procured the arrest warrant for Appellant on the charge of grand larceny. R. 449, lines 14-17.² The warrant affidavit contained the following information: on June 14, 2006, Portia and Angelica were reported missing having not been seen since June 10, 2006; on June 14, 2006, Appellant was ticketed in El Paso, Texas while driving alone in a 2005 Ford Focus valued at \$12,000 registered to Portia Washington; on June 18, 2006, Appellant was stopped while trying to cross the Canadian border on a bus; and the whereabouts of the vehicle were unknown. R. 451, line 14 – R. 452, line 12; R. 1813.

In addition to the written affidavit, Edwards orally supplemented the information. R. 452, line 25 – R. 453, line 1. Edwards orally "reiterated that [WCPD] knew the vehicle belonged to Portia, and Portia alone, through [the] DMV," that Appellant "would not have been allowed to take the vehicle at any time" based upon conversations with coworkers and family, that Appellant lied to the trooper when he said he was going to pick up his wife in Arizona because Appellant was unmarried, and that Appellant showed up in Washington alone. R. 453, lines 3 – 22.

Incredulously, Edwards failed to inform the magistrate that Appellant and Portia were involved in an intimate relationship. R. 460, line 21 –R. 461, line 7. Edwards failed to inform

¹ As evidenced by the fugitive complaint, order and warrant of arrest and detention on fugitive complaint, governor's warrant of arrest and extradition, the State of Washington detained Appellant and extradited him to South Carolina based upon the arrest warrant. R. 1815.

² The warrant was typed and signed by Edwards on June 18, 2006. R. 452, lines 18-20.

the magistrate that Appellant and Portia lived together and their lease listed them as husband and wife. R. 457, lines 4-7. Edwards failed to inform the magistrate that the registered owner of the car was Appellant's live-in girlfriend. R. 461, lines 10-12. Edwards failed to inform the magistrate that Appellant and Portia lived together in multiple residences over the past couple of years. R. 460, lines 17-20. Equally importantly, Edwards failed to inform the magistrate of any conversations with Portia's mother in which she stated that Appellant drove Portia's car to drop Angelica off at her house. R. 456, lines 14 – 25.

Our Supreme Court found probable cause lacking in State v. Missouri, 337 S.C. 548, 524 S.E.2d 394 (1999). The Court found the officer acted recklessly in making a false statement and in omitting exculpatory information. Id. at 555, 524 S.E.2d at 397. The officer testified that although the affidavit contained the sentence indicating that an individual told a confidential informant that the individual had crack, the individual never said this. Additionally, the officer testified that he neglected to place in the affidavit that the informant had visited the individual's house and informed the officer that no crack was there and that the individual said he was not going to cook crack in his house because his wife was trying to go straight. Id. at 553, 524 S.E.2d at 396. The Court then examined the affidavit by excluding the false information and inserting the exculpatory information. Id. at 555, 524 S.E.2d at 397. The Court concluded that the affidavit failed to support a finding of probable cause to search the individual's house. Id.

The Court presumed that the Fourth Amendment did not require an affiant to include all potentially exculpatory information in the affidavit. However, the Court found the information omitted in Missouri's case went "to the very heart of the affidavit's purpose," which was to establish probable cause to search the individual's apartment for crack cocaine. The Court explained that the omitted information did more than create "some uncertainty," rather it created

“an affirmative hurdle which the remaining portions of the affidavit must overcome.” Id. at 555-556, 524 S.E.2d at 397-398. Although finding the case presented a “close call on the probable cause determination,” the Court held the combination of the officer’s false statement and omission of critical facts “pollute[d] the affidavit to the extent that a magistrate could not have found that probable cause existed to issue the search warrant.” Id. at 556, 524 S.E.2d at 398.

Turning to Appellant’s case, Edwards sought and obtained an arrest warrant for grand larceny, which is the felonious taking and carrying away of goods of another of a certain monetary value. See State v. Parker, 351 S.C. 567, 571 S.E.2d 288 (2002). Additionally, the taking must be done with the intent to deprive the true owner of his property and to convert it to the use of the offender. State v. Condrey, 349 S.C. 184, 562 S.E.2d 320 (Ct. App. 2002). Thus Edwards was required to provide the magistrate with evidence to support a probable cause determination that Appellant feloniously took and carried away Portia’s car with the intent to deprive Portia of the use of the car and convert the car to his own use.

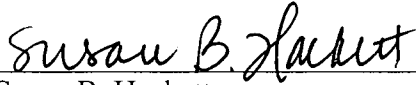
Edwards failed to inform the magistrate either in writing or orally that Appellant and Portia lived together in a romantic relationship, which included holding themselves out as husband and wife, and family members, friends, and co-workers had witnessed Appellant driving Portia’s car in the past. This Court failed to consider Appellant’s contention that Edwards was required to inform the magistrate that Appellant and Portia were involved in a romantic relationship and lived together. The omitted facts go to the “very heart of the affidavit’s purpose” because the information not relayed to the magistrate exculpate Appellant from having stolen Portia’s car, or at a minimum did more than create some uncertainty. A reasonable person would not believe Appellant was guilty of the crime of grand larceny of Portia’s vehicle knowing

Appellant and Portia lived together in a romantic relationship and Appellant had driven the car in the past.

This Court concluded that “[e]ven including the omitted information that [Appellant] and Portia were in an intimate relationship and had been living together for several years, the information would have also revealed that the relationship was troubled.” Although some evidence revealed a troubled relationship, other evidence indicated Portia was happy in her relationship with Appellant. Nevertheless, the inclusion of even a troubled relationship in the warrant was necessary in order for the magistrate to understand that the person in Portia’s car in Texas was someone with whom Portia had a very close relationship, not a stranger. The close relationship would tend to show permission to use the car, not larceny of the car. This Court admitted the evidence of a prior relationship “might have offered an innocent explanation” Appellant’s use of the car. Appellant submits the prior relationship absolutely offered an innocent explanation for why Appellant was in the car. The exculpatory impact of the relationship was not diminished by the fact that Appellant was driving alone in the car in Texas and had arrived in Washington without Portia. Those facts demonstrated no incriminating inferences.

Appellant respectfully requests rehearing of the matter in light of the significant points overlooked and/or misapprehended.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

This 2nd day of April, 2015.

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APR 02 2015

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

SC Court of Appeals

Appeal from Lexington County

Eugene C. Griffith, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

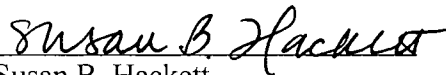
V.

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APPELLANT

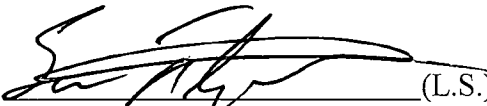
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon J. Anthony Mabry, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Kenneth Andrew Lynch #350750, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 2nd day of April, 2015.


Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 2nd day
of April, 2015.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.