

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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MAY 12 2015

Appeal from Horry County
Edward B. Cottingham, Circuit Court Judge
Court of Appeals Appellate Case Tracking No. 2014-000568

SC Court of Appeals

The State,

Respondent,

v.

Ronald Lee Legg,

Appellant.

**MOTION TO CERTIFY APPEAL TO THE SUPREME COURT
AND TO HOLD APPEAL IN ABEYANCE**

Respondent hereby moves pursuant to Rule 204, SCACR, for this Court to certify the above captioned appeal case for review by the South Carolina Supreme Court, and to hold the appeal in abeyance pending a decision in State v. Isaac Antonio Anderson, Appellate Case No. 2012-212905. Respondent's Motion is based on the following:

Certification

This appeal arises from Appellant's conviction for lewd act on a minor. One of the issues asserted in the Initial Brief of Appellant challenges the constitutionality of S.C. Code Ann. § 17-23-175 (2014) (admissibility of recordings of child's out-of-court statements during investigative interview), on the grounds that (1) it allows the victim's testimony to be heard twice, thus bolstering the testimony, (2) no other type of criminal case allows this procedure, and (3) its arbitrary nature deprived Appellant of his due

process right to a fair trial under the Fourteenth Amendment. Pursuant to S.C. Code Ann. § 14-8-200(b)(3) (Supp. 2014), this Court has exclusive jurisdiction to hear appeals involving constitutional challenges to a state law. Accordingly, certification to this Court is statutorily mandated.

Abevance

On April 9, 2015, this Court heard oral arguments in The State v. Isaac Antonio Anderson, Appellate Case No. 2012-212905. Anderson also challenges § 17-23-175 on constitutional grounds, and the Court's decision in Anderson very likely will directly impact the constitutional issue in this appeal. This Court recently granted a similar motion on similar grounds in State v. Ricky Dale Pace, Appellate Case No. 2014-001106. Therefore, in the interest of judicial economy, Respondent requests this appeal be held in abeyance pending a decision in Anderson and that all deadlines be held in abeyance pending resolution of this Motion.¹

WHEREFORE, Respondent prays the Court certify this appeal for consideration, and hold the appeal in abeyance pending the Court's decision in Anderson. Respondent further prays all deadlines in this appeal be held in abeyance pending resolution of this Motion, and for such other and further relief as the Court may deem just and proper.

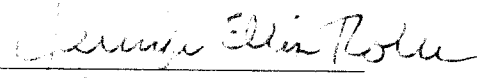
¹ Appellant may argue the pending case is not on point because it is unconstitutional "as applied." However, Respondent submits that even if this issue may be characterized as a challenge to the statute's constitutionality "on its face," the decision in Anderson will still likely affect it or provide guidance for the parties in addressing it.

Respectfully submitted,

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit

BY: 
Jennifer Ellis Roberts
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ATTORNEYS FOR APPELLANT

May 12, 2015

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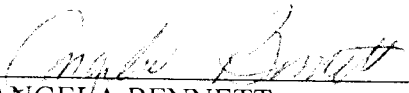
PROOF OF SERVICE

I, Angela Bennett, certify I served the Motion to Certify Appeal to the Supreme Court and to Hold Appeal in Abeyance on Appellant by depositing a copy in the United States mail, postage prepaid, addressed to:

Robert M. Dudek
Chief Appellate Defender
SC Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify all parties required by Rule to be served have been served.

This 12th day of May, 2015.



ANGELA BENNETT
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(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

May 12, 2015

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SC Court of Appeals

VIA HAND DELIVERY


The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: The State v. Ronald Lee Legg
Court of Appeals Appellate Case Tracking No. 2014-000568

Dear Mr. Shearouse:

Enclosed for filing are the original and seven (7) copies of a Motion to Certify Appeal to the Supreme Court, and to Hold Appeal in Abeyance, with proof of service, in the above-referenced appeal.

Sincerely,


Jennifer Ellis Roberts
Assistant Attorney General

Enclosures

cc: Jenny A. Kitchings, Clerk SC Court of Appeals (one copy)
Robert M. Dudek, Chief Appellate Defender (one copy)
Victim Services