STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Newberry County

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MANDY LENORE SMITH,

APPELLANT.

APPELLATE CASE NO. 2013-002209

FINAL REPLY BRIEF OF APPELLANT

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ARGUMENT IN REPLY

The State concedes that under the applicable precedent of <u>State v. Knoten</u>, 347 S.C. 296, 555 S.E.2d 391 (2001), the trial court erred in failing to charge the jury on the law voluntary manslaughter. This error was not harmless.

The State concedes that the trial court erred in denying Appellant's request to charge voluntary manslaughter because the charge was warranted based on Appellant's first statement to law enforcement. Resp. Brief p. 29. Appellant's first statement, made May 26, 2011, was referenced in testimony, admitted into evidence, and referenced in the State's closing argument. However, the State argues that this Court should find the error harmless, arguing that there was "little development of the information provided by Appellant in her May 26th statement." Resp. Brief p. 31. The State further threatens that it will appeal any favorable decision of this Court and move to argue against the precedent of <u>Knoten</u>.

A. <u>The State's admission into evidence of Appellant's first written confession alone necessitated the voluntary manslaughter charge.</u>

The law to be charged must be determined from the evidence presented at trial. <u>State v. Battle</u>, 408 S.C. 109, 117, 757 S.E.2D 737, 741 (Ct. App. 2014). Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation. <u>State v. Kornahrens</u>, 290 S.C. 281, 350 S.E.2d 180 (1986). Heat of passion alone will not suffice to reduce murder to voluntary manslaughter. <u>State v. Walker</u>, 324 S.C. 257, 478 S.E.2d 280 (1996). Both heat of passion and sufficient legal provocation must be present at the time of the killing. <u>State v. Tyson</u>, 283 S.C. 375, 323 S.E.2d 770 (1984). In determining whether the evidence requires a charge of voluntary manslaughter, the Court views the facts in a light most favorable to the defendant. <u>Battle</u>, 408 S.C. at 117, 757 S.E.2D at 741. "It is proper to refuse to instruct voluntary manslaughter in a murder case ***only*** when there appears ***no evidence***

whatsoever tending to show manslaughter." State v. Davis, 278 S.C. 544, 298 S.E.2d 778 (1983).

In State v. Moore, 245 S.C. 416, 140 S.E.2d 779 (1965), the defendant was convicted of assault and battery of a high and aggravated nature after the trial court refused to charge on the lesser offense of simple assault and battery. Contradictory testimony was presented regarding the severity of the victim's injuries. Id. at 419, 140 S.E.2d at 780. The Court found that the defendant's presentation of an alibi defense "did not deprive him the benefit of the reasonable inferences to be drawn from the testimony relative to the degree of the offense committed." Id.

More recently, in Knoten, the State introduced Knoten's recanted statements, the second of which contained an admission to killing the victim after she cut him twice with a knife. 347 S.C. 296, 303-05, 555 S.E.2d 391, 395-96 (2001). The Court found that when taken in the light most favorable to the defendant, the content of the recanted statement was evidence supporting a conviction for the lesser included evidence of voluntary manslaughter such that the failure to instruct the jury on the lesser offense necessitated reversal. Id. at 305-08, 555 S.E.2d at 396-98. Likewise here, as the State concedes, its introduction of Appellant's first statement in which she confessed to shooting Mayers during a heated argument after he hit her repeatedly, was sufficient to necessitate a voluntary manslaughter instruction. See R. 1080 – 1083 (State's Ex. 19, Appellant's May 26, 2011 Statement); see also Appellant's Brief, Part III.

B. <u>The State's admission into evidence of Appellant's first written confession created a factual dispute to be resolved by the jury and would support a verdict of voluntary manslaughter if the jury believed the content to be true such that the failure to charge voluntary manslaughter cannot be harmless beyond a reasonable doubt.</u>

Ordinarily, a circuit court commits reversible error if it fails to give a requested charge if there is evidence from which it could be inferred the defendant committed the lesser, rather than the greater offense. State v. Sprouse, 325 S.C. 275, 285, 478 S.E.2d 871, 877 (Ct. App. 1996). As noted supra, "[i]t is proper to refuse to instruct voluntary manslaughter in a murder case ***only*** when there appears ***no evidence whatsoever*** tending to show manslaughter." State v. Davis, 278 S.C. 544, 298 S.E.2d 778 (1983). However, the State points to State v. Middleton, 407 S.C. 312, 755 S.E.2d 432 (2014), in which the South Carolina Supreme Court found that notwithstanding the failure to charge on the lesser offense, the only conclusion established by the evidence was guilt of the greater offense such that the error was harmless. The trial court in Middleton erroneously failed to charge on the lesser-included offense of assault and battery in the first degree as to one of the victims because there was no evidence that the second victim was injured. 407 S.C. at 316-17, 755 S.E.2d at 434-35. The error was the result of the trial court's misinterpretation of S.C. Code Ann. § 16-3-600(C) as requiring an injury to the victim. Id. While subsection (a) requires an injury to the victim, subsection (b) provides an alternative means of committing first degree assault and battery by offering or attempting to injure another person with the present ability to do so by means likely to produce death or great bodily injury. Id.

The victims, Mack and Stephens were stopped at a school bus stop sign when Middleton approached the vehicle from the rear on the passenger side. 407 S.C. at 314,

755 S.E.2d at 433. As he approached, Middleton pulled out a gun and fired five to seven times, striking the vehicle and shattering glass. Id. Stephens jumped across Mack into the driver's seat and struck Middleton with the vehicle. Id. Neither of the victims were struck by a bullet – Mack's injuries were from broken glass and Stephens was not physically harmed. Id. at 314, 755 S.E.2d at 433-34. Middleton was charged with two counts of attempted murder and one count of possession of a weapon during the commission of a violent crime. Id. In finding the error harmless, the Court determined that the following facts could be construed in "no other way" but that Middleton was attempting to kill Stephens and Mack: "Appellant deliberately drove up to the passenger window and shot into the vehicle at least five times, and Stephens testified that the only reason he and Mack were not injured is because he had the wherewithal to jump into the driver's seat and run Appellant off the road." Id. at 319, 755 S.E.2d at 436.

In response to Justice Pleicones' dissent, the Middleton majority wrote that it did not disagree with him "that the failure to charge on a lesser-included offense can be reversible error." Id. at 317 n.2, 755 S.E.2d at 435 n.2. However, the majority disagreed with the view that the failure to charge on a lesser-included was not subject to harmless error analysis. Id. Even so, harmless error "should be employed guardedly . . . on a case by case basis." See State v. Morris, 289 S.C. 294, 297, 345 S.E.2d 477, 479 (1986). A review of this State's jurisprudence, as discussed below, reveals that Middleton was an outlier case, presenting an extremely rare, if not unique, circumstance where the harmless error analysis was applicable to the failure to charge on a lesser-included offense.

In State v. Battle, 408 S.C. 109, 757 S.E.2d 737 (Ct. App. 2014) this Court distinguished Middleton, finding that the evidence did not support "one clear-cut

conclusion." In Battle, there was conflicting evidence regarding whether the victim was shot during a struggle over the murder weapon. 408 S.C. at 122, 757 S.E.2d at 743. There was evidence presented, that if believed, would have supported a finding that the killing was unintentional. Id. at 743-44. Therefore, this Court could not construe the evidence "as only showing Appellant intentionally killed Victim" and accordingly found that the refusal to charge involuntary manslaughter was not harmless beyond a reasonable doubt. Id. at 744.

While the State contends that the present case "falls somewhere between Middleton and Battle," this case is markedly distinguishable from Middleton. In Middleton, the court found that there was "no other way to construe the evidence" but that Middleton was attempting to kill Stephens and Mack. 407 S.C. at 319, 755 S.E.2d at 436. Notably, Middleton did not involve conflicting evidence, but rather whether there was any way the evidence could be interpreted to support a finding of first degree assault and battery rather than attempted murder. Thus, the Middleton case involved an extreme situation and was not intended by the Court to have the State open a debate on the weight of the evidence every time a judge improperly fails to charge on a lesser included offense, or for that matter, a defense supported by any evidence.

In Battle, conflicting evidence was presented, such that this Court could not find that the evidence supported ***only*** the finding of an intentional killing. 408 S.C. at 122, 757 S.E.2d at 743-44. Similarly here, there were many conflicting statements given which the jury had to weigh and consider. Additionally, there was no forensic evidence to identify who was present at the time Mayers was killed much less who was the actual shooter. The firearm used to commit the crime was ultimately obtained from Wise, but he and Appellant

gave conflicting statements regarding who had possession of it on the day that Mayers was killed. Even the timing and content of the alleged text messages sent between Appellant and Wise could not be corroborated. Thus, the case focused on the multiple statements given by Appellant and Wise and their testimony at trial.

Specifically with respect to the evidence supporting the voluntary manslaughter charge, Appellant's first statement on May 26, 2011, introduced by the State, indicates that Appellant shot Mayers during the course of a heated argument. Appellant wrote:

> He [John Mayers] found out I was actually moving the night of May 7th 2011. Which started a one sided argument with me. I believe that it was him or me that night and it was almost me. I stayed away from everyone for the next week or so to hide my bruises and black eyes. I can never heal my mind and heart totally over this whole thing. The gun used I had gotten from Tim shortly after the restraining order was given. John knew I had the gun since then but I knew I did [sic] have the heart to use the gun. I don't remember a portion of what happen [sic]. I blacked out after John had hit me numerous times and when I came out of blackness I was holding gun [sic] and he was lifeless on the ground in front of me. I sat there crying and tring [sic] to figure out what I did for 15 mins or so before I left. I tried to revive him though [sic] mouth to mouth when I first realized what I had done and when I couldn't bring him back I was so scare so I left.

State's Ex. 19, p. 3 (Appellant May 26, 2011 Statement). Mayers had inflicted physical abuse upon Appellant in the past and was hitting her numerous times that night. Per her oral statement, she "snapped." R. 594, l. 12. This is precisely the type of circumstance that produces the uncontrollable impulse to do violence required for voluntary manslaughter. If a jury believed Appellant's first statement, it could have rationally found that the shooting was done in the heat of passion and not with malice.

Notably, neither Moore nor Knoten included any harmless error analysis. See also State v. Grubbs, 353 S.C. 374, 577 S.E.2d 493(App. Ct. 2003). In Moore, the Court recognized that "in determining the issues to be submitted to the jury, however, all of the testimony, both for the State and the defense, must be considered." 245 S.C. at 420, 140 S.E.2d 781 (1965); see also State v. Gourdine, 322 S.C. 396, 399, 472 S.E.2d 241 (1996) (finding that the testimony of the state's witnesses provided "evidence from which the jury could have found petitioner was guilty of the lesser offense"). The Moore Court found that in light of the defense testimony regarding alibi and the mildness of the victim's injuries, "it became an issue for the jury to determine whether there was an assault and battery and, if so, whether it was simple or aggravated." Id. The Court further stated that "[t]he fact that the defendant interposed the defense of alibi did not deprive him of the benefit of the reasonable inferences to be drawn from the testimony relative to the degree of the offense committed, for the burden of establishing the offense charged rested upon the State." Id. at 421, 140 S.E.2d at 781.

In Knoten, the defendant initially told police that he had seen the victims for one hour on the night before they were discovered missing and that he spent the night at a co-worker's house afterward. 347 S.C. at 300, 555 S.E.2d at 393. The co-worker confirmed this story, but later said it was not true and that Knoten asked him to lie. Id. In Knoten's first written statement he again admitted seeing the victims the night before, but stated that he blacked out after that and woke up by a boat ramp the next morning. Id. at 301, 555 S.E.2d at 394. In his third written statement, Knoten confessed to raping Kim and to pushing the other victim into the river. Id.

The evidence which supported a voluntary manslaughter instruction as to victim Kim was Knoten's second recanted statement, in which he wrote that he had consensual sex with Kim, after which she became agitated and cut him with a knife. 347 S.C. at 301; 555 S.E.2d at 394. He further wrote that Kim chased him outside, while he was nude, and he retrieved a steel bar from his vehicle. Id. When he re-entered the apartment, the victim cut him again and he hit her over the head with the bar. Id. He cleaned up and disposed of her body the next day. Id. Knoten testified at trial that the content of his three statements were suggested to him by police and that a co-worker of his confessed to him that he killed Kim. Id. at 302, 555 S.E.2d at 394.

In finding that a voluntary manslaughter charge was "clearly warranted," the Court stated that there could be little argument that an unprovoked knife attack constitutes sufficient legal provocation. Id. at 307, 555 S.E.2d at 397. It also noted that when viewed in the light most favorable to the defendant, there was no evidence that the defendant had sufficient time to cool as a matter of law. Id. Thus, there was evidence, even though introduced by the State, supporting a conviction for a lesser included offense of voluntary manslaughter. Id. at 307, 555 S.E.2d at 398. Knoten's convictions were reversed. Id.; see also State v. Taylor, 261 S.C. 437, 441, 200 S.E.2d 387, 388 (1973) ("If, however, there is any evidence in the record from which it can be reasonably inferred that the accused inflicted the mortal wound but justifiably did so in self-defense, then the accused is entitled to a charge on the law of self-defense, despite his denial of having inflicted the mortal wound. These principles seem to be clearly established by the weight of authority in this jurisdiction as well as elsewhere.").

Similarly, in the present case, Appellant's first written statement undisputedly supported an instruction on voluntary manslaughter. It would then be up the jury to decide whether to believe the content of Appellant's first written statement that she shot the victim during a heated argument in which he struck her. See State v. Geiger, 370 S.C. 600, 635 S.E.2d 669 (Ct. App. 2006) ("To justify charging the lesser crime, the evidence presented must allow a rational inference the defendant was guilty only of the lesser offense."). In assessing the truth of Appellant's first statement, the jury could also consider the evidence of the victim's prior violence toward Appellant and the restraining order Appellant placed against the victim almost one month prior to the fatal incident. Therefore, the failure of the trial court to charge on voluntary manslaughter in Appellant's case was not harmless beyond a reasonable doubt.

C. The harmless error analysis in the present case is unaffected by the purported strength of the State's case, whether and how the evidence was developed and argued by defense counsel, and the jury's notes and verdict.

The State invites this court to engage in a speculative analysis of weighing the evidence that should have been weighed by the jury. That is not this Court's standard of review. Rather, this Court must find only that there was ***any evidence*** to support the charge on voluntary manslaughter, ***which the State concedes***. As discussed supra, while harmless error was applied in Middleton to find that the failure to charge a lesser included offense, that was an extremely rare, if not unique, case and should be looked at as the exception rather than the rule.

In arguing that the failure to charge voluntary manslaughter in the present case was harmless, the State contends that the evidence "largely support[ed] a theory propounded by

the State, that Appellant and Timothy Wise acted in concert in killing victim." However, the standard for whether the jury should have been charged on voluntary manslaughter is "any evidence." State v. Watson, 349 S.C. 372, 375, 563 S.E.2d 336, 337 (2002) ("The trial [court] is to charge the jury on a lesser included offense if there is any evidence from which the jury could infer that the lesser, rather than the greater, offense was committed."); Gourdine, 322 S.C. at 398, 472 S.E.2d at 241 (stating that in determining whether there was any evidence that the appellant committed the lesser offense, "we are not confined to the State's version of the facts" but look to "the evidence presented at trial"). Thus, the issue of the purported strength of the evidence beyond the evidence of voluntary manslaughter is not properly before this court. Rather, such analysis should be left solely to the province of the jury.

Further, though the trial court allowed the State to argue "hand of one, hand of all," the State's primary theory was that Appellant shot Mayers and that "maybe Tim Wise knew what was going to happen that night... [or] [m]aybe he was the perfect fall guy to borrow a gun from and invite out to the scene of the crime, help her dispose of the evidence ten days later." R. 1018, ll. 5-9. No actual evidence was presented of any common scheme or plan between Appellant and Wise. See Appellant's Brief, Part I. Rather, Appellant and Wise each blamed the crime entirely on the other party. The State contends, as did the solicitor at trial, that the State's own witness, Timothy Wise, may not have been completely truthful. See Riddle v. Ozmint, 369 S.C. 39, 48, 631 S.E.2d 70, 75 (2006) ("A 'prosecutor's deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice.'" (quoting Giglio v. United States, 405 U.S. 150, 153, 92 S.Ct. 763 (1972))). However, the solicitor made no effort to

impeach Wise on the stand and the solicitor's argument is not evidence. Sosebee v. Leeke, 293 S.C. 531, 535, 362 S.E.2d 22, 24 (1987).

Moreover, the State's perceptions of the strength of its case do not deprive Appellant of her constitutional right to present a complete defense. See Holmes v. South Carolina, 547 U.S. 319, 331, 126 S.Ct. 1727, 1735 (2006) ("by evaluating the strength of only one party's evidence, no logical conclusion can be reached regarding the strength of contrary evidence offered by the other side to rebut or cast doubt"); see also Crane v. Kentucky, 476 U.S. 683, 690, 106 S.Ct. 2142, 2146 (1986) ("Whether rooted directly in the Due Process Clause of the Fourteenth Amendment or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense." (internal citations and quotations omitted)).

The State admits that there was also evidence presented that Appellant or Wise killed Mayers acting alone. However, the State then refers to the failure of the defense to "develop" the information in Appellant's first statement. Under Knoten, the State's admission of Appellant's first recanted statement alone was sufficient to require the voluntary manslaughter instruction. 347 S.C. at 309, 555 S.E.2d at 398 (rejecting the state's contention that defendant's recantation of his confession precluded an instruction on voluntary manslaughter and holding "[b]ecause there was evidence — in this case introduced by the State — supporting a conviction for the lesser included offense of voluntary manslaughter, we reverse Appellant's conviction in the slaying of Kimberly Brown."). Even so, the evidence supporting voluntary manslaughter is mischaracterized as "miniscule" by the State. In addition to Appellant's first statement, the defense presented

evidence of Mayers' past abuse toward Appellant, including a restraining order that Appellant placed against Mayers on April 8, 2011. Though Wise denied hearing any argument between Appellant and Mayers, this was a further avenue pursued by the defense that would have lent support to Appellant's first statement.

In any event, every case that involves the trial court's violation of Article V, section 21 of the State Constitution by failing to instruct the jury on lesser-included offenses should not deteriorate into a weighing of the evidence. See S.C. Const. art. V, 21. The South Carolina Supreme Court has unequivocally held that the reviewing court has ***no jurisdiction*** to weigh the evidence in a law case. E.g. State v. Primus, 312 S.C. 256, 258, 440 S.E.2d 128, 129 (1994) (holding that the appellate court could not affirm the admission of appellants statements based on the State's argument that appellant was not "in custody" such that Miranda rights were not required because "whether appellant was 'in custody is a factual issue that cannot be resolved by this Court. Cf. State v. Barrs, 257 S.C. 193, 184 S.E.2d 708 (1971) (Supreme Court has no jurisdiction to weigh evidence in a law case)."); State v. Rector, 166 S.C. 312, 164 S.E. 872, 873 (1932) ("The Supreme Court is without jurisdiction to weigh contradictory evidence or review findings thereon in a law case.").

The State also points to defense counsel's presentation of only one theory of the case – that Wise acted alone. However, the necessity of a jury charge arises from the evidence presented, not the argument of the defense. See Battle, 408 S.C. at 117, 757 S.E.2D at 741 ("The law to be charged must be determined from the evidence presented at trial."). The law of South Carolina is clear that the arguments of counsel are not evidence. In re Gonzalez, 409 S.C. 621, 636 n.3, 763 S.E.2d 210, 218 n.3 (2014) ("[A]rguments made by counsel are not evidence."). The jury in Appellant's case was accordingly advised

that that the attorney's argument is not evidence. Tr. 167, ll. 11-12 ("Now during opening arguments what the attorneys tell you is not evidence in the case."); R. 1025, ll. 4-7 ("You are to consider only the testimony which has been presented from this witness stand, any exhibits which have been made a part of the record in the case and any stipulation of counsel.").

Additionally, the defense is not bound by the theory or theories it presents in its opening statement, before it knows the full extent of the evidence to be introduced. Further, closing arguments were made only after the charge conference in which the trial court unequivocally ruled that it would not give a voluntary manslaughter instruction. Therefore, there was no reason for the defense to argue the alternative theory of voluntary manslaughter to the jury. In fact, such argument would likely have garnered an objection from the State based on the trial court's prior ruling. Not only was defense counsel not required to risk contempt of court, it would have been nonsensical of him to argue a theory upon which he knew the jury would not be instructed. Had the trial court indicated that the voluntary manslaughter instruction would be given, then it would have been proper for the defense to argue both that Appellant was not the shooter and was not a part of any scheme or plan to kill Mayers and alternatively that if the jury found that she was the shooter that the act was done in the heat of passion with sufficient legal provocation. See State v. Grubbs, 353 S.C. 374, 577 S.E.2d 493 (2003) (finding that trial court erred in refusing to charge the jury on the law of voluntary manslaughter where the evidence, including one of defendant's prior statements, supported inconsistent defense theories, one of which was that the victim pushed and punched the defendant in the eye prior to her shooting him). Moreover, even if defense counsel had argued voluntary manslaughter, such argument would not be a

substitute for the instructions of the court. Lee v. Clarke, 2015 WL 1275344 at *9 (4th Cir. Mar. 20, 2015) ("As an initial matter, it is well established that arguments of counsel generally carry less weight with a jury than ... instructions from the court. To be sure, jurors are not lawyers; they do not know the technical meaning of legal terms such as heat of passion. Accordingly, the other trial instructions and arguments of counsel that the ... jurors heard at the trial cannot substitute for an explicit instruction. A court issued jury instruction carries the command and force of law in a way that a statement by counsel cannot, and thus prejudice that arises from a flawed or omitted jury instruction is not cured by mere argument.")

The jury's notes[1] during deliberations and verdict on the possession of a weapon charge are also not dispositive. With respect to the murder charge, the jury was clearly presented with only three options: (1) Appellant shot Mayers with malice aforethought; (2) Timothy Wise shot Mayers with malice aforethought acting in concert with Appellant; or (3) Timothy Wise shot Mayers and Appellant was merely present. The jury was not presented with the other alternative that Appellant shot Mayers in the heat of passion with sufficient legal provocation, despite this theory of the case being presented by the introduction and discussion of Appellant's first statement. Complicating matters further, as argued more fully in Appellant's Brief, "hand of one, hand of all" was not a proper instruction. Appellant's Brief, 24-32. Appellant was constitutionally guaranteed a properly

[1] See R. 1099 (Court's Ex. 3, Jury Note) ("Can we have a copy of the statement regarding the hand of one, hand of all?);. R. 1110 (Court's Ex. 4, Jury Note) ("In agreeing that she is guilty, is that saying we think she actually shot John?").

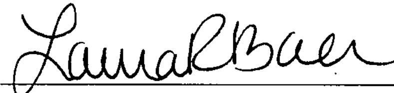
charged jury; questions from one not so charged are hardly evidence that the failure to charge was proper or harmless.

In the present case, there is no dispute that the trial court erred in refusing to give the voluntary manslaughter instruction due to the admission of Appellant's first statement, which constituted the "any evidence" to necessitate the charge. It should have then been left to the jury to consider all of the evidence, including the admitted first written statement of Appellant, and to determine during its deliberations if they believed that Appellant killed the victim in a sudden heat of passion with sufficient legal provocation. This analysis is unaffected by the purported strength of the State's other evidence and the failure of defense counsel to argue voluntary manslaughter, which was after the trial court indicated during the charge conference that it would not give a voluntary manslaughter instruction. Now we are beyond weighing the evidence already improper, and using irrelevant and speculative matters to excuse an ***admitted*** constitutional error. Therefore, Appellant's convictions should be reversed.

CONCLUSION

For the reasons set forth herein and in Appellant's Brief, Appellant Mandy Lenore Smith requests this Court to reverse her convictions for murder and desecration of remains and remand for a new trial.

Respectfully submitted,



Laura R. Baer
Appellate Defender

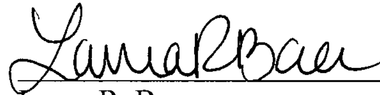
ATTORNEY FOR APPELLANT

This 18th day of May, 2015.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Reply Brief of Appellant complies with Rule 211(b), SCACR.

May 18, 2015



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THE STATE,

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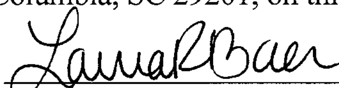
MANDY LENORE SMITH,

APPELLANT.

APPELLATE CASE NO. 2013-002209

CERTIFICATE OF SERVICE

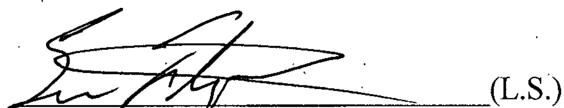
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Kaycie S. Timmons, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, on this 18th day of May, 2015.



Laura R. Baer
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 18th day of May, 2015.



_____________________________(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.