ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. Supreme Court

Certiorari to Charleston County

R. Markley Dennis, Jr., Circuit Court Judge

Opinion No. 2015-UP-074 (S.C. Ct. App. filed 2/18/2015)

11-GS-10-4644, 4645, 4646, 4647

THE STATE,

RESPONDENT,

V.

AKEEM O. SMITH,

PETITIONER

APPELLATE CASE NO. 2015-001165

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on 5/1/2015.

QUESTIONS PRESENTED

1.

Whether the trial court should have charged self-defense when: (1) the alleged victim admitted that he shot first, and (2) the jury was free to disbelieve the State's evidence tending to disprove self-defense?

2.

Whether the Eighth and Fourteenth Amendments forbid sentencing an adult defendant to mandatory life without parole when one of his prior "strikes" was a crime committed as a juvenile?

STATEMENT OF THE CASE

In August 2011, a Charleston County grand jury indicted petitioner Akeem Smith ("Smith") for armed robbery, first-degree burglary, kidnapping, and attempted murder. On November 13, 2012, petitioner was tried before the Honorable R. Markley Dennis and a jury. R. 1. Beattie Butler and Michael Cooper represented petitioner. R. 2. Timmy Finch and Shannon Elliott represented the State. R. 2. The jury convicted petitioner and Judge Dennis sentenced him to mandatory life imprisonment without parole based on South Carolina's recidivist statute. R. 354, l. 20 – 355, l. 2.

On April 18, 2015, the Court of Appeals affirmed petitioner's convictions in an unpublished opinion. App. 1. State v. Smith, No. 2015-UP-074 (S.C. Ct. App. Feb. 18, 2015). Judges Williams, Geathers, and Cureton served on the panel. Id. On May 1, 2015, the court denied the petition for rehearing. App. 10. This petition for certiorari follows.

ARGUMENT

1.

The trial court should have charged self-defense because: (1) the alleged victim admitted that he shot first, and (2) the jury was free to disbelieve the State's evidence tending to disprove self-defense.

Relevant Facts

Octavia and Tyrone Ancrum, a married couple, lived in single-wide trailer in rural Charleston County. R. 48, ll. 21 – 24. Octavia was a "stay-at-home mom." R. 46, ll. 22 – 23. Tyrone, a *soi-disant* concert promoter, owned a company called "Behind Closed Doors Production." R. 119, l. 18 – 120, l. 6. He described it as a cash business. R. 120, ll. 7 – 13. When asked if he had any felony convictions, Tyrone replied, "armed robbery, stolen car – I have various charges." R. 120, l. 22 – 121, l. 2. He also had a conviction for trafficking cocaine. R. 142, ll. 1 – 3. Although it was illegal for Tyrone to possess a firearm, the concert promoter owned a ".357 Magnum with a built-in laser scope" and an AK–47 that he kept beside his bed. R. 134, ll. 2 – 3. R. 129, l. 21 – 130, l. 7. R. 61, ll. 12 – 16. Octavia owned a .380 handgun which she kept in the dresser drawer in their bedroom. R. 61, ll. 12 – 24. Octavia had a pending charge for assault with intent to kill with the solicitor's office prosecuting the case. She ultimately pled to a misdemeanor charge of unlawful carrying of a firearm and received a fine. R. 23, l. 21 – 24, l. 12. R. 110, ll. 11 – 20.

Tyrone and Octavia's Version of Events at Trial

On the night of the gun battle, Octavia claimed she had been at a "girls' night" at her sister's house. R. 116, ll. 17 – 25. R. 47, ll. 2 – 18. She left for her sister's house at approximately 11:00

PM. R. 47, ll. 12 – 18. She stayed at her sister's house playing cards and drinking until 4:00 AM. R. 47, l. 25 – 48, l. 7. Tyrone had taken the children to his mother's house. R. 48, ll. 11 – 18.

Octavia described what happened when she returned home as a home invasion and robbery. She claimed that when she got out of her car two men ambushed her and hit her in the back of the head. R. 52, l. 1 – 53, l. 3. They forced her to let them in her trailer. R. 52, l. 21 – 53, l. 23. The men took her into the bedroom and demanded money. R. 53, l. 17 – 54, l. 8. She gave them her purse and an undetermined amount of cash that she and her husband kept hidden underneath the bottom drawer of their dresser. R. 55, l. 3 – 56, l. 14.

One of the men did not wear a mask. R. 53, ll. 17 – 23. The unmasked man told Octavia to take off her clothes and put a pillowcase over her head. R. 56, l. 20 – 57, l. 5. The other man was standing across the hall. R. 57, ll. 6 – 13. At this point, they heard a car arrive outside and one of the men said, "that's him." R. 60, ll. 7 – 17. The men told her to be quiet. R. 60, ll. 7 – 23.

Octavia heard her husband walk onto the porch and "faintly" say her name. R. 60, ll. 18 – 23. She told him not to come in. R. 60, ll. 18 – 23. According to Octavia, "as soon as I said that, that's when the gunshots erupted." R. 60, ll. 22 – 23.

Tyrone claimed that on his way home from a club, he noticed a man standing near his gate. R. 124, l. 19 – 125, l. 19. Tyrone confronted the man and he ran away. R. 125, ll. 3 – 15. As Tyrone came to his house, he "knew something was wrong." R. 125, ll. 20 – 21. He took his laser-scope .357 Magnum from the glove compartment. R. 126, ll. 14 – 15. When he noticed the back door was not locked it "totally confirmed that something was wrong." R. 125, ll. 20 – 25. He called to his wife and when she responded, he claimed he could hear in her voice that something was wrong. R. 126, ll. 1 – 4.

Tyrone peeped around the corner and saw a shadow. R. 127, ll. 8 – 16. Despite knowing his wife was somewhere in the dark single-wide trailer, he described being the first to fire down its length:

> I see a shadow that's moving off of the refrigerator. And I know it's not my wife, because I just – I heard her voice come from this side of the house. **So this point, I shoot through the wall.**
>
> Q. What did you think you were shooting at when you shot through the wall?
>
> A. I knew someone was in my house. It wasn't a question. Because why would she answer me and not come out? Like, it was just – and I knew she was on this side, so who's moving around on the opposite side of the house?
>
> Q. What happened **after you shot** and –
>
> A. **They returned fire.** So they are, like, shooting up in the hallway, and I'm backing out of the hallway. Because, like, I could hear the bullets coming by me.... I go back up the steps again, and as I'm trying to get in the house, I shoot again, and **– I'm just shooting blindly. I don't see nothing, but I'm shooting.** Start to shoot through that wall again, through the same side over by the where I saw the shadow.

R. 127, l. 8 – 128, l. 10 (emphasis added). The gun battle continued and Tyrone heard "the windowpane bust out." R. 129, ll. 4 – 6. Tyrone made his way to the yard. R. 129, ll. 7 – 16.

Octavia said the unmasked man dragged her during the gun fight and used her as a body shield. R. 62, ll. 2 – 17. She broke free. R. 62, ll. 2 – 17. She heard the glass break. R. 62, ll. 4 – 17. She "ended up getting the gun, the .380, and firing it in the direction that I had seen them run off into." R. 62, ll. 18 – 20. Octavia was certain that it was her gun from the dresser that she fired. R. 65, l. 3 – 67, l. 11. R. 96, ll. 6 – 9.

Tyrone saw Octavia come running out of the house and fall. R. 129, ll. 7 – 16. Instead of checking on his wife, Tyrone "ran in the house to get my assault rifle." R. 129, ll. 21 – 22. He retrieved his AK-47 from "between the mattresses" and ran across the yard firing into the darkness. R. 131, ll. 9 – 11. At this point, Tyrone realized he had been shot in the leg. R. 131, ll. 9 – 17. He

hid his AK-47 behind his mother's house. R. 131, ll. 9 – 17. He locked the door to his trailer. Tyrone and Octavia got in the car and were pulling out of the driveway when the police arrived and prevented them from leaving. R. 131, l. 9 – 132, l. 2.

The Police Investigation and Tyrone and Octavia's Version of Events Before Trial

Tyrone and Octavia tried to get away without letting the police in their house. R. 221, l. 11 – 222, l. 2. The police got a search warrant. R. 223, ll. 7 – 11. They recovered multiple shell casings and photographed the numerous bullet holes in the trailer. R. 153, l. 17 – 181, l. 15.

The lead investigator, Robert Colson, described Tyrone and Octavia as "not very helpful" and "reluctant to give any information to assist in the investigation." R. 221, ll. 11 – 16. Neither would identify any suspects. R. 224, ll. 21 – 24. Colson closed the case. R. 222, ll. 3 – 15. Octavia admitted that she "was uncooperative." R. 75, ll. 13 – 17. Tyrone was discharged from the hospital after a four-hour stay. R. 77, ll. 16 – 19. After a brief stop at their aunt's house, the couple went to Savannah. R. 77, l. 20 – 139, l. 6.

Nine days later, Octavia gave the police a false sworn statement. R. 89, ll. 22 – 24. She admitted she lied in the statement. R. 88, ll. 8 – 10. Omitted from her statement was any mention of the men getting cash from a dresser drawer, the men telling her to take off her clothes, or the men telling her to put a pillowcase over her head. R. 88, l. 23 – 89, l. 21. She told the police that one of the suspects dropped the .380 pistol, she picked it up, and shot him. R. 87, ll. 17 – 19. Octavia claimed she told these lies because she was worried her husband would be charged as a felon in possession of a firearm. R. 75, ll. 18 – 22.

However, Octavia continued to lie about the gun even after the trial began. At the Neil v. Biggers hearing, when Octavia was asked whether the gun she grabbed belonged to her, she testified she was not sure. R. 15, l. 19 – 16, l. 10. The following exchange occurred at the hearing:

Q. Do you know how that gun got there?

A. My assumption was that it was their gun. That was just my assumption.

Q. Well, it wasn't your gun; is that right?

A. I'm not sure.

Q. So the gun that you found in the house, you're not sure whether it is yours or not? This is important.

A. It's the gun that I found in the house. Was –

Q. You just said you're not sure if –

A. I'm not sure if the gun that I fired was mine. I fired a gun.

Q. So if you don't know where it came from, you wouldn't know which suspects' gun that was, because it might have been yours?

A. Repeat the question so that I have clarity on that.

Q. You wouldn't know whether it came from a suspect, or which suspect it came from, because it could have been yours; the gun?

A. To the best of my knowledge I don't believe that it was my firearm.

Q. Okay. Whose was it? Which of the two, if it wasn't yours?

A. Maybe it was – it was his. I'm not sure. They were both in the area, so I'm not – I have no way of positively identifying if it belonged to either that – Mr. Smith or the other guy that was present.

R. 16, l. 8 – 17, l. 9. When confronted with this lie that occurred the day before trial on cross-examination, Octavia claimed she was confused and blamed the defense lawyer because it was his "job to trick me up on those types of questions." R. 92, l. 3 – 98, l. 1.

Octavia then claimed she thought defense counsel meant the .357, but was forced to admit this was yet another lie because she and Tyrone owned the .357, as well. R. 98, ll. 2 – 16. After the

Biggers hearing, Octavia and Tyrone met with the police and the solicitor. R. 100, ll. 11 – 17. Tyrone told Octavia to do what the solicitor said and to "just tell the truth." R. 101, ll. 13 – 20.

Even three days before trial, the Charleston County Solicitor's Office was still trying to determine whether to believe their star witnesses' stories. Tyrone initially told the police that the first gun he had was his wife's .380, even though at trial he testified he had the laser-scope .357. R. 138, ll. 4 – 5. He lied to the police and never mentioned the AK-47. R. 138, ll. 13 – 23. The first time he told anyone about the AK-47 was approximately three days before trial when he "got into it" with a detective. R. 138, l. 24 – 139, l. 7. The detective told Tyrone "nothing that you are saying is matching up with these guns. **Your story is okay**, but when we get to these guns, it's not making sense." R. 139, ll. 4 – 7 (emphasis added). Tyrone further described this confrontation:

> I told them that I would confess to the guns and the handling of the weapons, but I wasn't going to do it and go to jail for it. Before I would admit to it, I would just deny it. At that point, he was, like, you know, you're not the criminal. You're the victim here. And, like, **we just need the truth so we can get this guy off the streets.**

R. 139, l. 20 – 140, l. 1 (emphasis added). Tyrone entered into a proffer agreement. R. 149, ll. 21 – 23. He then handed the AK-47 over to the prosecution. R. 140, ll. 8 – 9.

The police found blood droplets outside of the house that were later matched to the defendant. R. 161, ll. 18 – 25. R. 244, ll. 2 – 6. The defendant admitted he was at the scene in his opening statement. R. 38, ll. 10 – 14. Octavia identified the defendant from a photographic lineup stating she was "80%" certain of her identification. R. 82, ll. 8 – 20. She denied having ever seen the defendant before. R. 83, l. 24 – 84, l. 6.

On the night of the incident, before Octavia and Tyrone left for the hospital, the only description she was willing to give the police was, "black men" and "dark clothes." R. 102, ll. 1 – 13. She said the defendant had on a mask, but the other person did not. R. 102, ll. 14 – 22. Even

though Octavia previously claimed she was afraid to give a description because the assailants might retaliate, she admitted that she gave the police no further information about their description immediately after the incident when the police were in the best position to apprehend them. R. 103, l. 2 – 104, l. 9. R. 75, l. 18 – 76, l. 9. She never initiated contact with the police after the incident. R. 105, ll. 16 – 19.

The defendant exercised his constitutional right not to testify. During closing argument, defense counsel used Tyrone and Octavia's repeated lies to forcefully argue that the jury should disbelieve their story. R. 294, l. 25 – 315, l. 1. He argued that the "unmasked man" who Octavia never described did not exist. R. 298, ll. 3 – 23. R. 305, ll. 4 – 14. Citing the "old Blues song, 'Open My Front Door, Hear My Back Door Slam,'" defense counsel posited that Tyrone came home, found Octavia alone with the defendant in the bedroom, and opened fire.[1] R. 309, ll. 6 – 17.

Noting that Tyrone testified he fired first, the defendant asked the trial judge to charge self-defense. R. 263, ll. 19 – 22. The trial judge stated, "There could be some argument. I'm not sure that it did or didn't. I mean, there's some evidence of that, but I would—there's some evidence that he fired, but I don't—that's really unclear, but I don't think there's a sufficient basis for the self-defense." R. 263, l. 24 – 264, l. 3. The trial judge did not give a self-defense charge. R. 315, l. 3 – 339, l. 1. The trial judge noted the previously stated exceptions after the completion of the charge. R. 339, ll. 10 – 11.

The Court of Appeals' Decision

The Court of Appeals cited two cases in upholding the trial judge's refusal to charge self-defense. The court first cited State v. Slater, 373 S.C. 66, 644 S.W.2d 50 (2007) for the proposition

[1] This was, in fact, what the defendant said happened in a statement he gave to the police that was not admitted into evidence. R. 367 (State's Ex. 93.).

that a defendant must be without fault in bringing on the difficulty. App. 2. The court then cited State v. Bryant, 336 S.C. 340, 520 S.E.2d 319 (1999). App. 2. The court, quoting Bryant, stated, "Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a homicide." App. 2. From these two propositions, it can be deduced that the Court of Appeals failed to apply the proper standard and did not view the evidence in the light most favorable to the party requesting the charge.

Discussion

The Court of Appeals erred in affirming petitioner's conviction. "If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial judge's refusal to do so is reversible error." State v. Muller, 282 S.C. 10, 10, 316 S.E.2d 409, 409 (1984). "When reviewing the circuit court's refusal to deliver a requested jury instruction, appellate courts must consider the evidence in a light most favorable to the defendant." State v. Williams, 400 S.C. 308, 314, 733 S.E.2d 605, 608-09 (Ct. App. 2012).

The court disregarded the correct standard of review for failure to charge self-defense, which is that the evidence must be considered in the light most favorable to the defendant. State v. Williams, 400 S.C. 308, 314, 733 S.E.2d 605, 608-09 (Ct. App. 2012); see also State v. Larmand, 402 S.C. 184, 190, 739 S.E. 2d 898, 901 (Ct. App. 2013) ("When reviewing the denial of a directed verdict, an appellate court views the evidence **and all reasonable inferences** in the light most favorable to the State.") (emphasis added). "If there is any evidence in the record **from which it could reasonably be inferred** that the defendant acted in self-defense, the defendant is entitled

to instructions on the defense, and the trial judge's refusal to do so is reversible error." State v. Muller, 282 S.C. 10, 10, 316 S.E.2d 409, 409 (1984) (emphasis added).

The court's ruling means there is an appellate finding that Octavia and Tyrone's version of events must be taken as true on appeal. "A jury is free to believe a portion of the testimony of a witness and disbelieve another portion." State v. Smith, 304 S.C. 129, 131, 403 S.E.2d 162, 163 (Ct. App. 1991); see also State v. Register, 323 S.C. 471, 481, 476 S.E.2d 153, 159 (1996) (stating jury is free to believe or disbelieve expert witness testimony). Tyrone testified he was the first to shoot. R. 127, l. 8 – 128, l. 10. This fact alone constitutes the "any evidence" necessary to receive a self-defense charge.

If Octavia and Tyrone's version is believed, then the defendant would not be "without fault in bringing on the difficulty." Id. at 314, 733 S.E.2d at 609. However, any such ruling would require the court to believe Octavia and Tyrone's yarn. "A jury is free to believe a portion of the testimony of a witness and disbelieve another portion." State v. Smith, 304 S.C. 129, 131, 403 S.E.2d 162, 163 (Ct. App. 1991); see also State v. Register, 323 S.C. 471, 481, 476 S.E.2d 153, 159 (1996) (stating jury is free to believe or disbelieve expert witness testimony). The trial judge charged the jury it had "the right to believe many witnesses against one, one witness against many, parts of a witness's testimony, or none of a witness's testimony." R. 324, ll. 11 – 16.

The jury could have believed that the defendant was alone at the house with Octavia (as was argued by defense counsel) and Tyrone came home and opened fire (as Tyrone testified). The trial court could not have reached a conclusion that the defendant was not entitled to a self-defense instruction without making a credibility determination in the State's favor. See State v. Rogers, 405 S.C. 554, 569 n.5, 748 S.E.2d 265, 273 n.5 (Ct. App. 2013) (stating that at the directed verdict

stage—which uses the same "any evidence" standard as a jury charge—the court may not weigh the credibility of witnesses). Any such credibility determination was not allowed.

Granting certiorari would also give the Court the opportunity to define the reach of a principle espoused by the State associated with State v. Funchess, 267 S.C. 427, 229 S.E.2d 331 (1976). In Funchess, the court found "no conflict in the evidence" that the defendant assaulted the victim with the intent to ravish her. Id. at 429, 229 S.E.2d 332. The court addressed the defendant's contention that the jury could disbelieve the unconflicted evidence and rejected this as a "mere contention." Id. The defense theory in Funchess was alibi. Id. In the North Carolina case cited in Funchess, the defendant's theory was that he was did not enter the house where the assault occurred. State v. Hicks, 84 S.E.2d 545, 547 (N.C. 1954) ("As to this, his position is simply that he did not go into the house with Abernathy.") In Funchess and Hicks, the defendants requested an instruction based on speculation that contradicted their theory of the case.

As opposed to Funchess and Hicks, petitioner admitted he was in the house. His theory was that Tyrone fired first. The evidence was in conflict because the testimony of the witnesses was itself in conflict and full of lies. Therefore, the Funchess rule barring speculative disbelief of the State's evidence does not apply to this case and the evidence supported a self-defense charge.

Finally, the trial court's refusal to give a self-defense charge could not rightfully be based on the defendant's failure to present any evidence. The defendant has no burden to present evidence. U.S. Const. amends. V, VI, XIV. The State has the burden of disproving self-defense beyond a reasonable doubt. State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011). The trial court did not abide by the "any evidence" standard for determining whether to charge self-defense and improperly shifted the burden to present evidence of self-defense to the defendant. This Court should grant certiorari.

2.

The Eighth and Fourteenth Amendments forbid sentencing an adult defendant to mandatory life without parole when one of his prior "strikes" was a crime committed as a juvenile.

The Court of Appeals erred in relying on State v. Standard, 351 S.C. 199, 569 S.E.2d 325 (2002) to affirm petitioner's mandatory LWOP sentence. Standard's reasoning has been undercut by recent decisions by the United States Supreme Court involving juvenile sentencing. This Court should grant certiorari to apply current United States Supreme Court precedent and reverse Standard.

Smith received a mandatory sentence of life imprisonment based on a crime he committed when he was sixteen years old. R. 352, l. 21 – 354, l. 9. Citing Miller v. Alabama, 132 S.Ct. 2455 (2012), Smith objected to the use of this crime as one of his "strikes" under section 17-25-45 of the South Carolina Code. R. 350, l. 21 – 354, l. 9; R. 371 (Court's Ex. 3). The State did not contest that the prior strike was based on a crime committed when Smith was sixteen. R. 350, l. 21 – 354, l. 9. The trial judge disregarded the objection and sentenced him to life without the possibility of parole. R. 354, l. 20 – 355, l. 2. The trial judge asked the defendant, "[Y]ou understand I don't have any discretion in this matter?" This lack of discretion violates Smith's constitutional rights.

In Graham v. Florida, the United States Supreme Court held "that for a juvenile offender who did not commit homicide the Eighth Amendment forbids the sentence of life without parole." 560 U.S. 48, 75 (2010). The Supreme Court extended this holding in Miller, stating, "We therefore hold that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders." Miller, 132 S.Ct. at 2469. It logically follows from this rule that the Eighth Amendment forbids mandatory life sentencing based on a crime committed as a juvenile.

The Court stated "that children are constitutionally different from adults for purposes of sentencing." Id. at 2464. Children have less moral culpability. Id. at 2464-65. The Miller Court emphasized the need for individualized sentencing for juveniles. Id. at 2467. The Court stated that the sentencer must "have the ability to consider the mitigating qualities of youth." Id. As aptly noted by Judge Dennis, South Carolina's recidivist law took away his discretion and his ability to consider any possible range of sentences. Removing this discretion from the trial judge violated Smith's Eighth Amendment rights.

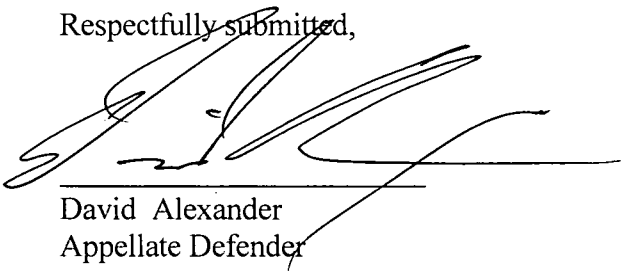
South Carolina already holds that a juvenile adjudication may not be used as a "strike." State v. Ellis 345 S.C. 175, 179-80, 547 S.E.2d 490, 492 (2001). Admittedly, Standard considered the exact question presented by this case. Standard at 204-07, 569 S.E.2d at 328-30. In Standard, the Court held that if a juvenile had been tried and adjudicated as an adult, that conviction could be used as a strike. Id. Standard relied on now-invalid reasoning in older United States Supreme Court and federal appellate cases to reach that conclusion. Id. For example, Standard held that "lengthy sentences or sentences of life without parole imposed upon juveniles do not violate contemporary standards of decency so as to constitute cruel and unusual punishment." Id. at 205, 569 S.E.2d at 329. This holding is no longer good law after Miller and Graham.

Since Miller and Graham have overruled the principles underlying Standard, it is time to correct this practice in South Carolina. This Court should grant certiorari, acknowledge that Standard is no longer good law, and overturn Smith's LWOP sentence.

CONCLUSION

For the reasons stated above, the court should grant certiorari with the ultimate relief of reversing petitioner's conviction and remanded for a new trial with the instruction that his conviction for a crime committed as a juvenile cannot be used as a "strike" in the event he is convicted.

Respectfully submitted,



David Alexander
Appellate Defender

ATTORNEY FOR PETITIONER.

This 22nd day of June, 2015

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

R. Markley Dennis, Jr., Circuit Court Judge

Opinion No. 2015-UP-074 (S.C. Ct. App. filed 2/18/2015)
11-GS-10-4644, 4645, 4646, 4647

THE STATE,

RESPONDENT,

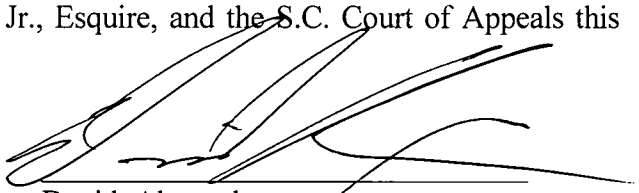
V.

AKEEM O. SMITH,

PETITIONER

CERTIFICATE OF SERVICE

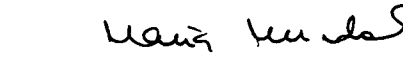
I certify that a true copy of the petition for writ of certiorari and a copy of the appendix, in this case has been served on William M. Blitch, Jr., Esquire, and the S.C. Court of Appeals this 22nd day of June, 2015.



David Alexander
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 22nd day
of June, 2015.



(L.S.)

Notary Public for South Carolina
My Commission Expires: June 3, 2023