STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Steven H. John, Circuit Court Judge

THE STATE,

Respondent,

v.

SHELTON LATHAL BUTLER, JR.,

Appellant

Appellate Case No. 2014-001274.

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF THE ISSUE ON APPEAL

I. The trial court erred in allowing the jury to hear testimony of the commission of Rico's murder by Passenger before establishing that Appellant was involved in a pre-arranged plan to commit a robbery with Driver and Passenger, pursuant to *State v. Woomer.*

II. The trial court erred in refusing to grant an acquittal of murder under the theory "the hand of one is the hand of all" when Appellant moved for a directed verdict at the close of the State's case on the basis that the State failed to present substantial evidence beyond a reasonable doubt that Appellant participated in a common plan or scheme.

RESPONDENT'S COUNTERSTATEMENT OF ISSUE ON APPEAL

I. In a prosecution under the theory of the hand of one is the hand of all, whether the State presented sufficient testimony of a common scheme or plan prior to its presentation of the fact that the victim was murdered.

II. Whether the trial court correctly denied the Appellant's directed verdict motion where the State presented direct and substantial circumstantial evidence of the Appellant's guilt.

STATEMENT OF THE CASE

Appellant Shelton Butler was indicted by the Horry County Grand Jury for the charge of murder concerning the June 8, 2012, homicide of Rico Gutierrez. (R. pp. 424-425). Attorney J. Eric Fox of the Fifteenth Circuit Public Defender's Office represented Butler at a jury trial which began June 2, 2014, before the Honorable Steven H. John in Horry County. (R. p. 3). George H. DeBusk, Jr. and J. Stephen Grooms of the Fifteenth Circuit Solicitors Office prosecuted the case which lasted four days. (R. p. 3). Butler was convicted of murder by a jury, and Judge John sentenced Butler to thirty years' imprisonment with credit for time served. (R. p. 420, lines 2-9). This appeal follows. (R. pp. 427-428).

STATEMENT OF FACTS

Rico Gutierrez and his girlfriend Sherita gathered at her home on Robert McNair Boulevard on June 8, 2012, where long-time friend Travis Spivey arrived with a black bag that Rico had asked Spivey to bring to him. (R. p. 30, lines 2-14). Spivey stuck around with his friend, and witnessed Rico take a phone call during which he issued directions to his whereabouts. (R. p. 33, lines 10-17). Phone records show eight calls between Rico (843-476-0963 (R. p. 130, lines 18-21)) and phone number 843-855-2057,[1] mostly between 6:13 and 8:52 that evening. (R. p. 157, line 11 – p. 163, line 5). These calls successively pinged from local AT&T cell towers, showing that the cell phone owner was in a vehicle which traveled around the Myrtle Beach and Conway areas, finally arriving at Robert McNair Boulevard. (R. p. 165, line 10- p. 169, line 9; R. p. 357, lines 1-20).

Spivey and Rico saw a car pull down the road and "toted the black bag towards the end of the road," which dead-ended underneath an overpass. (R. p. 31, line 1; R. p. 33 line 17 – p. 34, line 14). The black bag contained marijuana, and the boys were going to make a drug sale to the people who pulled up in a silver sedan. (R. p. 35, lines 8-25). Rico hopped in and sat in the middle of the backseat. Spivey situated himself half-inside and half-outside of the vehicle. (R. p. 37, line 24 – p. 38, line 6). Of the three individuals in the silver car, Spivey recognized the Appellant, Shelton Butler, in the backseat, as well as the person in the passenger seat, who went by the name of Little D. (R. p. 36, lines 5-14). Spivey spoke to Butler, recognizing him from alternative school. (R. p. 37, lines 5-13). Butler told Travis "this would be the perfect place to body a person," meaning to kill

[1] This phone number belongs to a co-defendant of the Appellant. (R. p. 149, lines 7-10).

somebody. (R. p. 37, lines 14-18).

As Rico negotiated price with the guys in the front seat of the car, Spivey began to feel uneasy about the situation because he "didn't really know them guys like that," and he began to step out of the car. (R. p. 38, lines 7-24). At that moment, Little D. reached around from the passenger seat with a gun and said "you know what time it is." (R. p. 38, line 24 – p. 39, line 2). The driver sped off in the silver car, Spivey fell out of the car as it took off, Spivey heard a gunshot, and Rico's body tumbled out of the moving vehicle onto the street. (R. p. 39, lines 3-22). Spivey headed towards the body, stood over Rico and fired two shots at the car. (R. p. 40, lines 14-24). One of Rico's sneakers and his cell phone lay on the street. (R. p. 42, lines 14-16). The marijuana was gone. (R. p. 127, lines 17-18).

Rico gasped for air; Spivey "recognized the bullet hole on him and then saw him bleeding." (R. p. 42, lines 7-13). Rico's girlfriend Sherita "got in [her] car and drove up and then seen him laying down so that's when Travis [Spivey] and some other dude picked him up and put him in the car and drove to the hospital." (R. p. 136, lines 23-25). Rico was pronounced dead. (R. p. 44, lines 12-19). Autopsy results concluded that a single through-and-through gunshot entered the victim within the midline of his back, passed upward through the rib and lung, exiting at the clavicle. (R. p. 174, lines 8-14). The gunshot did not appear to be a contact wound, but was fired from close range. (R. p. 243, lines 1-23).

During the incident, both Rico and Spivey were armed, but Rico did not pull out his gun at any time. (R. p. 43, lines 10-14). Before speeding off to the hospital, Spivey took his and Rico's guns and tossed them in the wood line at the end of the street. (R. p.

44, lines 22-24). Spivey told law enforcement where to find the guns, and law enforcement did later recover them as part of their investigation. (R. p. 45, lines 1-4; R. p. 239, lines 3-17). When law enforcement searched the silver sedan connected to the shooting, they recovered Rico's matching sneaker. (R. p. 264, lines 8-12).

Eleven days later, a United States Marshal sought out and located Butler to serve an arrest warrant, but Butler alighted from a mobile home and took to the woods for an hour and a half before apprehension. (R. p. 211, line 4 – p. 212, line 24; R. p. 309, lines 13-22). Butler then gave a voluntary statement, in which he admitted to knowing that the people in that silver car planned to rob Rico, and he admitted to watching the car's front passenger shoot Rico. (State's Exhibit 37; R. p. 304, lines 15-23). Butler also told law enforcement that he was picked up on Ninth Avenue in Conway and rode directly to the crime scene, which matches the cell phone records for the co-defendant in the same car. (R. p. 354, lines 8-25; R. p. 356, line 18 – p. 357, line 11).

While awaiting trial in the county detention center, Butler mailed a letter which detention center employees intercepted due to its contents. (R. p. 182, lines 10-13; R. p. 184, lines 2-9; R. p. 196, line 16 – p. 197, line 9). The letter read:

> Mayo, what's goody, Bra. Hey, Bra, I really need to help you. I need for Molley Trave not to show up to my trial. I go to trial on June 2nd, Bra. I just need somebody to kidnap the nigga or something, Bra. Nigga is not playing fair my dude. I can pay you if you do this for me. When I get home, my mother is going to take out a loan for me and my people have the D on the deck. Bra, I would not ask you if this shit wasn't real. If you can do this, just tell my sister, Vonna, that I got, that you got me on that money for my birthday. Feel me? Stay out there my nigga and let me know something soon. Shelbo a/k/a ClyDol.

(R. p. 422; R. p. 201, lines 1-11).

ARGUMENT

I. Substantial evidence of a common plan or scheme existed on the record prior to the introduction of the murder.

It is well established that in order to admit evidence under the theory of the hand of one is the hand of all, "the existence of the common design and the participation of the accused against whom the evidence is offered should first be shown." *State v. Woomer,* 276 S.C. 258, 264, 277 S.E.2d 696, 699 (1981), *overruled on other grounds by State v. Torrence,* 305 S.C. 45, 406 S.E.2d 315 (1991). The Appellant objected *in limine* to the State's presentation of its first witness, Travis Spivey, who offered eyewitness testimony of the events leading up to and following the murder. (R. p. 18, line 8 – p. 19, line 14). Trial counsel argued against Spivey's testimony on the basis that the State must first put forward evidence of the Appellant's participation in a common scheme or plan before offering evidence of the criminal acts carried out under that plan.[2] (R. p. 19, line 11 – p. 20, line 4).

The trial judge allowed Spivey to testify first for the State, ruling that in order to present evidence from which the jury could find a common scheme, "[t]here does not have to be testimony of someone saying I planned with John Doe to do X, Y and Z." Rather, it was "certainly conceivable" that from Spivey's testimony, "the jury could find that there is a common scheme and plan in existence just by the actions of all the

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[2] The issue is preserved for appeal, as the Appellant thrice renewed his objection on the basis that the State failed to produce sufficient evidence of a common scheme in accord with *State v. Woomer, infra,* and it was thrice denied on the same basis. (R. p. 178, line 15 – p. 180, line 16; R. p. 320, line 18 – p. 323, line 11; R. p. 334, lines 1-16). The Appellant also moved for a new trial on the same ground, which was denied. (R. p. 411, line 14 – p. 413, line 11); *I'On, L.L.C. v. Town of Mt. Pleasant,* 338 S.C. 406, 526 S.E.2d 716 (2000).

participants, how it occurred, . . . [that] from the facts and circumstances, they were acting in concert." (R. p. 20, line 23 – p. 21, line 8).

Standard of Review

"A trial judge is accorded broad discretion in ruling on the admissibility of the testimony." *State v. Langley*, 334 S.C. 643, 647, 515 S.E.2d 98, 100 (1999). "The admission or exclusion of evidence is left to the sound discretion of the trial judge, whose decision will not be reversed on appeal absent an abuse of discretion." *State v. Saltz,* 346 S.C. 114, 121, 551 S.E.2d 240, 244 (2001). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." *State v. Jennings,* 394 S.C. 473, 477-78, 716 S.E.2d 91, 93 (2011). Even if wrongly admitted by the trial judge, the admission of that evidence may constitute harmless error if the irrelevant evidence did not affect the outcome of the trial. *Langley, supra,* at 647-48, 515 S.E.2d at 100.

A. Spivey's testimony included facts from which the jury could reasonably conclude the Appellant was complicit in a common scheme or plan before Spivey's testimony touched upon of the result of that plan.

By definition, if the Appellant joined with another to accomplish an illegal purpose, the Appellant is criminally liable for everything "done by his confederate incidental to the execution of the common design and purpose." *Woomer,* at 264, 277 S.E.2d at 699; *State v. Condrey, infra.* The State bears the burden of proving every element of its case beyond a reasonable doubt. *See State v. Logan,* 405 S.C. 83, 747 S.E.2d 444 (2013). Therefore, in order to prove that the Appellant was part of a common design and purpose, the State must introduce evidence "having any tendency to make the

existence" of that fact more or less probable. *See* Rules 401 and 402, SCRE (relevant evidence generally admissible). Here, the trial court necessarily admitted relevant eyewitness evidence that the individuals in the silver sedan intended to harm the victim.

Travis Spivey's testimony could not be more relevant to the issue of whether the Appellant was involved in pre-planned criminal activity. Spivey, a lifelong friend of the victim, witnessed the victim give directions to the car in which the Appellant arrived. (R. p. 33, lines 12-19). He walked with the victim to the "hard to find" wooded end of a dead-end street, underneath an overpass, where it was "one way in, one way out." (R. p. 143, lines 18-24). They met up with a car parked "on the end of the road facing towards to leave." (R. p. 34, lines 2-7). He got in their car alongside the victim and engaged in conversation with the Appellant and his cohorts. (R. p. 37, lines 22-25). He knew that the victim planned to sell drugs to the occupants of that car. (R. p. 35, lines 8-15). He listened to the Appellant say "this would be the perfect place to body a person." (R. p. 37, lines 5-18). During price negotiations, Spivey began to feel nervous. (R. p. 38, lines 16-22). Then, he heard an occupant of the car say "you know what time it is," which Spivey characterized as "a new age stick 'em up." (R. p. 38, line 22 – p. 39, line 2; R. p. 47, lines 9-14). Then, "the car began to take off while [Spivey] was stepping out." (R. p. 39, lines 4-5). Spivey fell out of the car, but not before he saw a weapon in the hand of one of the occupants. (R. p. 39, lines 5-12). Next, the car began to drive away down the street. (R. p. 39, lines 17-20). It is not until this point in Spivey's testimony that he divulges evidence of the victim's murder: he "heard a gunshot and Rico's body then came out of the car and began to roll." (R. p. 39, lines 20-22).

Prior to the introduction of the murder, Spivey's testimony clearly constitutes

sufficient evidence from which the jury could conclude that the Appellant was a part of a common scheme or plan to rob the victim, albeit circumstantial. *See Woomer, supra.* "[E]valuation of circumstantial evidence requires jurors to find that the proponent of the evidence has connected collateral facts in order to prove the proposition propounded." *State v. Logan* at 97, 747 S.E.2d at 451. Here, the jury could reasonably infer that the men who arrived in the car and parked headed out of a shady dead-end road, at least one of whom held a gun, arrived in concert with a plan to rob or otherwise harm the victim during the course of a drug deal. The Appellant's "body a person" statement further signifies that he had prior knowledge of this plan. Moreover, Spivey's testimony permissibly indicates that the pre-planned robbery escalated to result in the victim's murder. *See State v. Yates,* 280 S.C. 29, 34, 310 S.E.2d 805, 808 (1982) ("this state adheres to the common law rule of murder and makes no distinction between murder and felony murder"). [3]

Like *Woomer,* Spivey provided "ample testimony at that stage of the trial from which the trial judge could find that [the Appellant and his cohorts] were partners in furtherance of illegal purposes." 276 S.C. at 264, 277 S.E.2d at 699. As in *Woomer,* we have an eyewitness testifying to the Appellant's participation in criminal activity. Spivey's testimony as outlined above generously provides the jury with both direct evidence of a drug deal and a circumstantial illustration of an armed robbery. "Therefore, any acts [the Appellant] committed incidental to this series of events were admissible."

[3] Under the same common law principle, it remains additionally irrelevant whether the carload of individuals planned to engage in a drug deal or a robbery, as both actions are criminal in nature, and as the evidence shows that the victim was murdered in the course of a criminal act.

Woomer at 265, 277 S.E.2d at 700. And, any resulting murder at the hands of those involved in the criminal activity may be imputed to the Appellant as well. *See Yates, supra.*

B. Any error in allowing the State to put Spivey's testimony before the jury first is harmless.

The Appellant postures that Spivey's testimony was not wholly improperly admitted, but only that testimony as to the victim's murder was admitted in an unsavory order. That is, that the State introduced evidence of a murder before establishing that the Appellant was complicit in a pre-arranged criminal scheme.[4] However, "'beyond a reasonable doubt, the error complained of did not contribute to the verdict obtained.'" *Arnold v. State,* 309 S.C. 157, 165, 420 S.E.2d 834, 838 (1992) (quoting *Chapman v. California,* 386 U.S. 18, 23, 87 S.Ct. 824, 827 (1967)). "To say that an error did not contribute to the verdict is . . . to find that error unimportant in relation to everything else the jury considered on the issue in question." *Yates v. Evatt,* 500 U.S. 391, 403-04, 111 S.Ct. 1884, 1892-93 (1991).

Respondent contends that not only was Spivey's testimony sufficient to establish evidence of a common scheme or plan as argued above, but also that the State's first calling Spivey to testify was harmless in light of the evidence when taken wholesale. In making its argument, Respondent points to its below directed verdict discussion.

[4] To that end, Respondent's position is that the entirety of Spivey's testimony would remain before the jury for its consideration, regardless of the order in which he appeared in relation to other witnesses called by the State.

II. The trial court appropriately denied the Appellant's directed verdict motion because the State presented both direct and substantial circumstantial evidence of guilt.

The Appellant moved for a directed verdict at the close of the State's case, arguing that the State failed to present any evidence of a common, pre-arranged plan, but rather that "it was just a drug deal gone bad" and that the evidence only tended to show that the Appellant was merely present at the scene.[5] (R. p. 323, line 12 – p. 324, line 6). The trial court laid out the standard required for the Appellant to prevail and ruled that "there is direct evidence and substantial circumstantial evidence reasonably tending to prove him guilty of the crime for which he was been accused under the theory of the hand of one hand of all. Understanding part of that mere presence at the scene of the crime is not sufficient in and of itself to prove somebody guilty of a crime[,] but there's clearly more affirmative actions on behalf of the Defendant that the jury can use . . . ." (R. p. 326, lines 13-20). In so ruling, the trial court relied upon testimony of the victim's friend Travis Spivey, as well as upon the Appellant's statement "which was clearly freely and voluntarily made," in which he admitted knowing prior to the shooting that there existed a plan to rob the victim but did nothing to separate himself from the situation. (R. p. 325, line 9 – p. 326, line 12).

Standard of Review

In any appeal of the denial of a directed verdict, this Court must view the evidence in the light most favorable to the State. *State v. Odems,* 395 S.C. 582, 586, 720

[5] The Appellant renewed this motion once both parties rested and it was again denied. (R. p. 334, lines 1-16); *See State v. Bailey,* 368 S.C. 39, 43-44, 626 S.E.2d 898, 900-901 (Ct. App. 2006) (proper preservation of a directed verdict motion requires the renewal of that motion at the close of all evidence if the motion was denied at the close of the State's case).

S.E.2d 48, 50 (2011). "[I]f there is any direct or *substantial* circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury." *Id.* (emphasis in original). In the event that the evidence merely raises a suspicion the accused is guilty, the trial court should grant a directed verdict motion. *Id.* (citing *State v. Schrock,* 283 S.C. 129, 132, 322 S.E.2d 450, 451-52 (1984)). However, where the conviction sought relies upon circumstantial evidence, "[i]f the State presents any evidence which reasonably tends to prove the defendant's guilt, or from which the defendant's guilt could be fairly and logically deduced, the case must go to the jury." *State v. Pinckney,* 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000).[6]

The "any evidence" standard also requires that "the existence of 'any direct evidence' proving the defendant's guilt requires the denial of a directed verdict motion." *State v. Phillips,* 411 S.C. 124, 133, 767 S.E.2d 444, 448 (Ct. App. 2014), *reh'g denied* (Jan. 27, 2015) (quoting *Odems* at 586, 720 S.E.2d at 50). Direct evidence is based on personal knowledge or observation which, "*if true,* proves a fact without inference or presumption." *Id.* (quoting *State v. Rogers,* 405 S.C. 554, 563, 748 S.E.2d 265, 270 (Ct. App. 2013) (internal quotation marks and citation omitted) (alteration in original)). This is because "[t]he presentation of direct evidence 'immediately establishes the main fact to be proved.'" *Phillips* at 133, 767 S.E.2d at 448 (quoting *State v. Salisbury,* 343 S.C. 520, 524 n. 1, 541 S.E.2d 247, 249 n.1 (2001)).

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[6] The trial court is concerned with the existence or non-existence of evidence in ruling upon a directed verdict motion, not its weight, as Respondent states in its statement of the issue on appeal. *Pinckney* at 349, 529 S.E.2d at 527.

Discussion

The evidence presented at trial unequivocally shows that the Appellant was not merely associated with members otherwise engaged in a common scheme to rob the victim as the Appellant contends, but rather that the Appellant knew of the scheme and actively participated in it. "[P]resence at the scene of a crime by pre-arrangement to aid, encourage, or abet in the perpetration of the crime constitutes guilt as a principle." *State v. Hill,* 268 S.C. 390, 395–96, 234 S.E.2d 219, 221 (1977). The Appellant admitted to law enforcement that after he was picked up by the perpetrators he knew that they planned to rob the victim. (State's Exhibit 37, Track 1 at 08:11-9:00 and at 13:30-13:52 (intv. with Ginger Pop); R. p. 304, lines 15-23). This admission constitutes direct evidence of the Appellant's involvement in the crime, "immediately" establishing knowledge and action in compliance with his co-defendants. *Phillips, supra.*

The State did indeed also present substantial circumstantial evidence of the Appellant's guilt under the theory of the hand of one is the hand of all. *See State v. Lynch,* Op. No. 5304 (S.C. Ct. App. filed Mar. 18, 2015) (Shearouse Adv. Sh. No. 11 at 52-55) (affirming denial of directed verdict where defendant was last person seen with murder victims, where forensics evidenced an assault took place at the defendant and victims' shared apartment, where the defendant admitted to taking a victim's car without permission, and where evidence showed the defendant's attempt to flee). As anticipated, the carful of individuals effectuated the robbery, taking the bagful of marijuana and killing the victim in the process. (State's Exhibit 37). As pointed out by the trial judge, the Appellant "never departed from them after the robbery and the shooting. The same three people sped off in the silver sedan that arrived in the silver sedan. (R. p. 43, lines

15-23). The Appellant never left his cohorts' presence until the next day," despite having "a clear and distinct opportunity to separate himself from them." (R. p. 326, lines 4-9). By not attempting to withdraw from the situation, the jury could reasonably conclude that the Appellant was an active participant.

Additionally before the jury's consideration was Travis Spivey's testimony regarding the lack of surprise expressed by the Appellant and his co-defendants when one passenger said "you know what time it is." (R. p. 43, line 24 – p. 44, line 1). And, as the trial judge noted, "[i]f they react in a fashion that they expected what was gonna happen happened, then that's certainly substantial circumstantial evidence to know that they knew what was gonna happen beforehand." (R. p. 21, lines 15-18).

The Appellant even encouraged the murderous act to an eyewitness. Travis Spivey testified that as he made small talk with the Appellant, he was told that "this would be the perfect place to body a person." (R. p. 37, lines 14-18). Travis Spivey also testified to witnessing another passenger in the car reach around the seat with a gun saying "you know what time it is." (R. p. 38, line 24 – p. 39, line 2). These statements indicate that the Appellant was part of a pre-planned scheme to shoot the victim during the course of the orchestrated drug deal.[7] The "body a person" statement also evidences that the Appellant was a willing participant, complicit in whatever harm may come to the victim as a result of the robbery.

Even more, the State produced evidence of witness intimidation by the Appellant.

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[7] Whether the murder was pre-planned or was simply a result of the arranged robbery is irrelevant in regards to the Appellant's guilt for the crime charged. *Yates, supra* ("this state adheres to the common law rule of murder and makes no distinction between murder and felony murder").

The county detention center intercepted a letter written by the Appellant, in which he asks "Mayo" to kidnap a witness against him.[8] (R. p. 422). The jury could interpret this letter as an indication of guilt, as an attempt to bury the evidence against him, and as evidence that the Appellant had no qualms about partaking in criminal activity. Also, at the time of the crime's commission, the Appellant had a towel wrapped around his head, which the jury could interpret as an attempt to obfuscate his identify. (State's Exhibit 37, Track 1 at 14:25-14:34 (intv. with Ginger Pop); R. p. 326, lines 1-4). Additionally, the Appellant evaded the United States Marshal sent to execute his arrest warrant, indicating to the jury an attempt to flee the authorities due to consciousness of guilt. (R. p. 211, line 4 – p. 212, line 24; R. p. 309, lines 13-22).

The chain of events evidences that the Appellant willingly aided in the perpetration of the victim's robbery and murder. "Under the 'hand of one is the hand of all' theory, one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose." *State v. Condrey,* 349 S.C. 184, 194, 562 S.E.2d 320, 325 (Ct. App. 2002) (internal quotations omitted). The Appellant got in a car headed to rob the victim, knew of the plan, was complicit in shooting the victim in the process, potentially attempted to conceal his own identity while doing so, tried to run from a United States Marshal, and then wrote a letter asking someone to kidnap a likely witness against him. Thus, the trial court did not error in denying the directed verdict motion, as any direct and substantial circumstantial evidence existed so as to submit the case to the

[8] The handwriting analyst and forensic document examiner who testified at trial interpreted the recipient as "Molley Trav", but Travis Spivey's nickname was "Money Trav." (R. p. 28, lines 2-4; R. p. 201, lines 17-22).

jury. *Odems, supra.*

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that this Court should affirm the Appellant's conviction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent, complies with Rule 211(b), SCACR, and the August 13, 2007, Order of the South Carolina Supreme Court, "Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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PROOF OF SERVICE

I, Caroline M. Scrantom, counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance by depositing two (2) copies of the same in the United States mail, addressed to his attorneys of record at:

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I further certify that all parties required by Rule to be served have been served. This 18th Day of June, 2015.

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