

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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THE STATE,

S.C. Supreme Court

PETITIONER,

V.

BRITTANY JOHNSON,

RESPONDENT

APPELLATE CASE NO. 2013-002027

Appeal from Horry County

Edward B. Cottingham, Circuit Court Judge

Opinion No. 2013-UP-288

MOTION TO REMAND

Under Rule 240(a), SCACR, and in response to this Court's Opinion No. 27565 filed August 19, 2015, Respondent respectfully moves this Court to remand this case to the South Carolina Court of Appeals pursuant to the procedure applied in *State v. Grovenstein*, 335 S.C. 347, 354 n.6, 517 S.E.2d 216, 219 n.6 (1999) and based on the following.

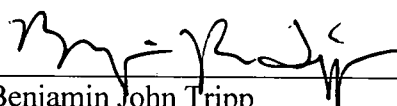
1. Respondent appealed her conviction to the Court of Appeals and filed her final brief on January 7, 2013. Respondent argued the following four issues:
 - i. Whether the trial court reversibly erred by admitting Appellant's video statement to law enforcement where Appellant's uncontradicted testimony at the *Jackson v. Denno* hearing was that, before police began recording, she indicated to the

one officer present that she needed an attorney, yet law enforcement continued with the interrogation after a second officer arrived?

- ii. Whether the trial court reversibly erred by failing to grant a mistrial for premature jury deliberation where, during trial, the jury sent a note saying, “we are all in agreement that we need to see and hear the video tape again”?
 - iii. Whether the trial court reversibly erred by failing to charge the jury with self-defense where the record contained evidence that, prior to the shooting, several women exited of a parked vehicle and surrounded Appellant in a threatening manner when Appellant walked passed in a parking lot?
 - iv. Whether the trial court reversibly erred by failing to charge the jury with involuntary manslaughter where the record contained evidence that Appellant was armed in self- defense, a struggle for the gun occurred, and the fatal shot was not intentionally fired?
2. On June 26, 2013, the Court of Appeals issued its Unpublished Opinion No. 2013-UP-288 reversing Respondent’s conviction by ruling on issue (i) and declining to reach the remaining issues.
 3. On September 23, 2013, Petitioner petitioned this Court to reverse the ruling of the Court of Appeals.

Because the Court of Appeals only ruled on issue (i) and this Court’s Opinion reversed that ruling, Respondent is entitled to a review of issues (ii), (iii), and (iv). Accordingly, Respondent respectfully moves this Court to remand her case to the Court of Appeals for a review of these issues.

Respectfully submitted,



Benjamin John Tripp
Appellate Defender

This 20th day of August, 2015.

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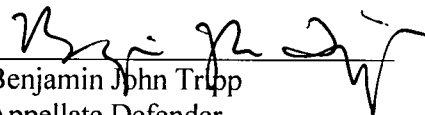
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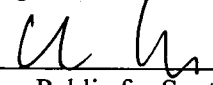
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Motion to Remand in the above-entitled case has been served upon Brendan J. McDonald, Esquire, this 20th day of August, 2015.


Benjamin John Tripp
Appellate Defender

ATTORNEY FOR ~~APPELLANT~~
RESPONDENT

SWORN TO BEFORE ME this 19th day
of August, 2015.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 12, 2025.