ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM ANTHONY WALLACE,

APPELLANT

APPELLATE CASE NO. 2014-001786

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in finding that the exigent circumstances exception to the search warrant requirement applied in refusing to suppress records obtained from a cell phone company without a search warrant or court order?

STATEMENT OF THE CASE

In July of 2013, the Richland County Grand Jury indicted Wallace for two counts of murder, attempted murder, armed robbery and three counts of kidnapping, indictments #2013-GS-40-4547-4554. On August 11, 2014, Wallace proceeded to jury trial before the Honorable Robert E. Hood. A pretrial hearing was held on July 31, 2014, before Judge Hood who was presiding in Kershaw County. Stephen Krzyston, Lucas Hawks and Kris Hines represented Wallace at both the pretrial hearing and at trial. April Sampson, Vance Eaton and Daniel Coble prosecuted the case. After a five day jury trial, the jury returned verdicts of guilty as charged. Judge Hood sentenced Wallace to life imprisonment on all charges, the life sentences for the two counts of murder and the attempted murder count were ordered to be served consecutively. A timely notice of intent to appeal was served on August 21, 2014. This appeal follows.

STATEMENT OF FACTS

On June 28, 2012, James Sturm was driving out to a farm off of Bluff Road on Beckham Swamp Road to spray for weeds when a woman flagged him down for help. (R. 249, line 20 – R. 250, lines 1-21). The woman's hands were covered in blood and she asked him to take her to the hospital. (R. 250, lines 19-21). The woman got in Sturm's car, he turned around and headed back toward Bluff Road. (R. 251, line 2 – R. 252, lines 1-19). Sturm called 911 but then was able to get the attention of Deputy Matthew Taylor of the Richland County Sheriff's Department as he was patrolling on Bluff Road. (R. 252, lines 20-25).

Deputy Taylor talked with Sturm and rendered aid to the woman who was later identified as Raquel Weston. (R. 260-261). Deputy Taylor testified that Weston told him that she had been shot by the Appellant Wallace. (R. 264, lines 18-24). Co-defendant, DeAndre Diggs, admitted at trial that he shot Weston but claimed it was at Appellant's direction. (R. 690-691). Weston survived the shooting and testified at trial that Diggs shot her. (R. 996, lines 1-16).

Deputy Andrew D'Antoni, who was with the Richland County Sheriff's Department at the time of the incident, testified, over a hearsay objection, that Weston told Deputy Taylor that there were two additional victims at the Deer Meadow Apartments. (R. 277, line 15 – R. 278, lines 1-10). Sergeant Robert Moreland with the Richland County Sheriff's Department testified that he met other members of the Richland County Sheriff's Department at apartment 412 in the Deer Meadow Apartments on Garner's Ferry Road. (R. 317, lines 11-17; R. 335, lines 9-14; p. 318, lines 3-12). Captain Scott McDonald with the

Richland County Sheriff's Department testified that he obtained a search warrant for the apartment on Garner's Ferry Road. (R. 1040, lines 12-17).

Once inside the apartment the officers found two men with fatal gunshot wounds to the head. (R.. 324-325). The men were later identified as Athell Johnson and Jamal Pratt. Weston testified that Johnson was a drug dealer and she had been dating Johnson for three years. (R. 976, lines 9-11; R. 978, lines 12-21). Johnson sometimes asked Weston to hold money for him. (R. 978, lines 24-25). Weston testified that Johnson was close friends with both Pratt and Appellant Wallace. (R. 977, line 23 – R. 978, lines 1-11; R. 986, lines 6-24).

On the morning of the shootings Johnson called Weston and asked her to bring the money and hurry up. (R. 982, lines 2-5). When she opened the door to the Garner's Ferry apartment she saw Johnson, who was paralyzed from the waist down, on the floor with his hands and feet bound and his wheel chair in the corner. (R. 985, lines 15-21). Weston testified that Appellant pulled her into the apartment and asked her for the money. (R. 987, lines 11-21). According to Weston, she gave the money to Appellant. (R. 987, lines 19-21). Weston testified that Diggs had a knife and was standing near Johnson. (R. 986, lines 3-5). Weston testified that she also saw Pratt on the floor tied up with trash bags. (R. 987, line 22 – R. 988, lines 1-12).

Weston then testified that Johnson and Pratt were dragged to the back of the apartment where Appellant Wallace shot them both. (R. 990, lines 1-25; R. 992, lines 8-14). According to Weston, Wallace walked her to the car where Diggs was waiting and they drove her to the area off of Bluff Road where Diggs shot her. (R. 992-996).

Based on information provided by T-Mobile, Appellant's cell phone provider, Appellant was spotted leaving the Burlington Coat Factory off of Bush River Road with a

female that same day at about 3:30 PM. (R. 347, lines 11-22). Appellant was arrested without incident. (R. 1041, lines 1-16). Wallace initially denied any involvement in the shooting of Johnson and Pratt. (R. 1042, lines 1-24). Once confronted, however, with cell phone tower records law enforcement obtained, without a warrant, from T-mobile, Appellant's cell phone service provider, Appellant asked to speak with Major Stan Smith. (R. 1043 – 1045).

Once told that his cell phone placed him near a cell tower on Cheval Street, off Leesburg Road and near the crime scene, Major Smith testified that Appellant told him was driving, pulled over and met Charlie G., an adversary of Johnson, on Cheval Street. (R. 819, line 11 – R. 820, 821, lines 1-16). Major Smith testified that Appellant told him that one of the men who was with Charlie G. pulled a gun and forced Appellant in the car and demanded that he take them to Johnson's apartment. (R. 821, lines 18-22). Appellant told Smith that when they arrived at Johnson's apartment they saw Weston. (R. 822, lines 10-15). Appellant said that Charlie G. and another gunman held a gun to Weston and used her as a means to enter Johnson's apartment. (R. 822, lines 16-25). A third gunman stayed in the car with Appellant. (R. 822, line 25). Appellant heard shots from inside the apartment and then the third man drove Appellant back to Cheval Street. (R. 823, lines 1-24).

ARGUMENT

The trial judge erred in finding that the exigent circumstances exception to the search warrant requirement applied in refusing to suppress records obtained from a cell phone company without a search warrant or court order.

During a motion to compel discovery held on July 31, 2014, approximately two weeks prior to trial, Appellant asked the Court to require the State to turn over an exigency request sent to the cell phone company, T-Mobile, from the South Carolina Law Enforcement Division [SLED]. (July 31, 2014, R. 11, line 9 – R. 12, lines 1-16). Agent Samuel Reighley from the SLED fugitive Division testified that they located Appellant from the GPS location provided by T-Mobile[1]. (July 31, 2014, R. 27, line 2 – R. 28, 29, lines 1-25). Deputy Diego Nova from the SLED fugitive division testified that he made an exigency request for cell phone records of the Appellant from T-Mobile. (July 31, 2014, R. 31 – 35). The records from T-Mobile were obtained pursuant to the exigency request rather than by the issuance of a search warrant or court order. The judge heard arguments from both sides and then ordered the State to produce the exigency request. (July 31, 2014, R. 36 – 42, lines 1-16).

At trial on August 11, 2014, after the State provided the exigency request, Appellant moved to suppress the records obtained from T-Mobile pursuant to the exigency request. (R. 191, lines 12-20; R. 199, lines 9-12; R. 204, line 25, - R. 205, lines 1-18). Appellant argued that the circumstances in the present case did not meet the exigent circumstances exception to the requirement for a search warrant. (R. 212-213). Counsel for Appellant specifically argued, "And because the exigency request is basically an exception or is used

[1] There is evidence in the record that Appellant had a leg monitor as a condition of supervision. This evidence was properly excluded and there is no indication the police used the leg monitor to locate Appellant. (Tr. pp. 166-167).

as an exception to the warrant requirement, then - - -" (R. 213, lines 15-17). Counsel also noted that law enforcement obtained a search warrant for the apartment on Garner's Ferry Road and argued that they had time to obtain a search warrant for the records from T-Mobile. (R. 214, lines 16-23). Upon questioning by the Court, Major McDonald with the Richland County Sheriff's Department testified that the exigency request was based on the fact that the suspect was armed and dangerous, three people had been shot and two of the three fatally shot, the suspect was a threat to the community and needed to be taken off the streets as soon as possible. (R. 216, line 23 – R. 217, lines 1-14). The judge *sua sponte* added that the suspect was on the run. (R. 217, line 15).

The judge then denied the motion to suppress the Appellant's cell phone records obtained from T-Mobile without a warrant. The judge ruled:

> As to the exigency request, I don't believe there is enough evidence in the record to determine that the exigency request was not appropriate. The testimony of a witness who says that some deputy told her what was going on doesn't fully encompass the exigency circumstances based upon the information contained in the exigency request and the lack of any evidence to the contrary as to what was in Agent Nova's mind at the time. The motion to suppress the exigency request is denied, and the motion to suppress the cell phone is denied.

(R. 231, lines 12-23).

At trial the Agent Nova was asked, "Are you allowed to get records from a cell phone company if there is not an arrest warrant?" (R. 495, lines 19-21). Agent Nova responded yes and testified, "We get a court order signed, or if it's a life and death situation, we get an exigent form." (R. 495, lines 24-25). When asked about the exigent form, Agent Nova replied, "An exigent form, it's a life and death situation. It's a simple form, you call up the cell phone company and then you fax them that form." (R. 496, lines 2-4). The State then moved to admit the exigency form, State's Exhibit #86, in evidence. (R. 496, line

12 – R. 497, line 1). Appellant objected. (R. 497, lines 2-4). The judge overruled the objection. (R. 497, line 4). Appellant then withdrew the objection to the form itself and the exigency form was admitted in evidence, without objection[2]. (R. 497, lines 5-11). The exigency form provides the emergency as follows, "Suspect is armed and dangerous, has shot/killed one victim and struck female victim on the head with handgun. Escaped and is threatening the life of surviving victim and family." (R. 1198, State Exhibit #86).

There is no information that Appellant escaped as noted in the form. During pre-trial Captain McDonald testified that when he took the search warrant to the apartment on Garner's Ferry Road, he had no information that any suspects had contacted Weston's family. (R. 216, lines 3-15). Evidence of threats being made toward Weston came from co-defendant Diggs who was arrested days after the exigency form was sent to T-Mobile. (R. 737-738).

Major Smith testified that he knew that Captain McDonald had been talking with Appellant about his cell phone records from T-Mobile placing him near the scene of the crime. (R. 819, lines 11-20). Appellant objected. (R. 819, lines 21-22). The judge overruled the objection. (R. 819, line 23). Captain McDonald began to testify about the Appellant's phone records he received from T-Mobile. (R. 1043, lines 14-19). Appellant objected. (R. 1043, lines 20-21). Captain McDonald testified that the phone records placed Appellant near the crime scene. (R. 1044, lines 1-13). Appellant again objected. (R. 1044, lines 14-15). The judge overruled the objection. (R. 1044, line 20). Captain McDonald

[2] It is unclear why counsel for Appellant withdrew the objection to the exigency form. This issue may need to be raised in post conviction relief.

then testified extensively in regard to the phone records obtain from T-Mobile without a warrant. (R. 1044 – 1060).

At the close of the presentation of evidence, Appellant renewed all pretrial motions. (R. 1118, lines 9-13). The motions were again denied. (R. 1118, lines 14-16). In closing argument the State referenced the Appellant's cell phone records placing him at the scene of the crime. (R. 1124, line 18 – R. 1125, lines 1-6). The judge erred in admitting the Appellant's cell phone records because the records were obtained from T-Mobile without a search warrant and the exigent circumstances exception to the warrant requirement does not apply. The error in admitting the illegally obtain records is not harmless.

A search occurred in the present case when the police obtained Appellant's cell phone records from T-Mobile. In Riley v. California, -- U.S.--,134 S. Ct. 2473, 2482, 189 L. Ed. 2d 430 (2014), the United States Supreme Court wrote:

> The Fourth Amendment provides:
>
> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."
>
> As the text makes clear, "the ultimate touchstone of the Fourth Amendment is 'reasonableness.' " Brigham City v. Stuart, 547 U.S. 398, 403, 126 S.Ct. 1943, 164 L.Ed.2d 650 (2006). Our cases have determined that "[w]here a search is undertaken by law enforcement officials to discover evidence of criminal wrongdoing, ... reasonableness generally requires the obtaining of a judicial warrant." Vernonia School Dist. 47J v. Acton, 515 U.S. 646, 653, 115 S.Ct. 2386, 132 L.Ed.2d 564 (1995). Such a warrant ensures that the inferences to support a search are "drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime." Johnson v. United States, 333 U.S. 10, 14, 68 S.Ct. 367, 92 L.Ed. 436 (1948). In the absence of a warrant, a search is reasonable only if it falls within a specific exception to the warrant requirement. See Kentucky

v. King, 563 U.S. ——, 131 S.Ct. 1849, 1856–1857, 179 L.Ed.2d 865 (2011).

In Riley the Court held that officers must generally obtain a warrant before searching data from a cell phone. The Court then determined that the search incident to arrest exception to the search warrant requirement did not apply to cell phones. The Court noted, however, that the exigent circumstance exception to the warrant requirement may apply to cell phone records. The Court wrote:

> Moreover, even though the search incident to arrest exception does not apply to cell phones, other case-specific exceptions may still justify a warrantless search of a particular phone. "One well-recognized exception applies when ' "the exigencies of the situation" make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment.' " Kentucky v. King, 563 U.S., at ——, 131 S.Ct., at 1856 (quoting Mincey v. Arizona, 437 U.S. 385, 394, 98 S.Ct. 2408, 57 L.Ed.2d 290 (1978)). Such exigencies could include the need to prevent the imminent destruction of evidence in individual cases, to pursue a fleeing suspect, and to assist persons who are seriously injured or are threatened with imminent injury. 563 U.S., at ——, 131 S.Ct. 1849. In Chadwick, for example, the Court held that the exception for searches incident to arrest did not justify a search of the trunk at issue, but noted that "if officers have reason to believe that luggage contains some immediately dangerous instrumentality, such as explosives, it would be foolhardy to transport it to the station house without opening the luggage." 433 U.S., at 15, n. 9, 97 S.Ct. 2476.

Riley v. California, --U.S.--, 134 S. Ct. 2473, 2494, 189 L. Ed. 2d 430 (2014).

Unlike Riley, the present challenge does not involve a motion to suppress data obtained from Appellant's phone after he was arrested based on a search incident to arrest. Instead, the challenge in the present case involves the search of the Appellant's cell phone records, without a warrant, in order to locate, arrest, and place Appellant near the scene of the crime. Exigent circumstances did not justify the warrantless search in the present case.

In discussing the nature of modern day cell phone the Court in Riley noted:

> Data on a cell phone can also reveal where a person has been. Historic location information is a standard feature on many smart phones and can reconstruct someone's specific movements down to the minute, not only around town but also within a particular building. See United States v. Jones, 565 U.S. ——, 132 S.Ct. 945, 955, 181 L.Ed.2d 911 (2012) (SOTOMAYOR, J., concurring) ("GPS monitoring generates a precise, comprehensive record of a person's public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations.").

Riley v. California, 134 S. Ct. 2473, 2490, 189 L. Ed. 2d 430 (2014). The GPS information obtained from the records T-Mobile provided law enforcement, without a warrant, allowed law enforcement to locate and arrest Appellant as well as place him near the crime scene.

In State v. Herring, 387 S.C. 201, 210, 692 S.E.2d 490, 494-95 (2009), the South Carolina Supreme Court discussed the exigent circumstances exception writing:

> However, because the ultimate touchstone of the Fourth Amendment is "reasonableness," the warrant requirement is subject to certain exceptions. Katz v. United States, 389 U.S. 347, 357, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967). The United States Supreme Court has recognized that one exigency obviating the requirement for a warrant is the need to protect or preserve life or avoid serious injury. Brigham City, Utah v. Stuart, 547 U.S. 398, 126 S.Ct. 1943, 164 L.Ed.2d 650 (2006). An action is "reasonable" under the Fourth Amendment, regardless of the individual officer's state of mind, "as long as the circumstances, viewed objectively, justify [the] action." Scott v. United States, 436 U.S. 128, 138, 98 S.Ct. 1717, 56 L.Ed.2d 168 (1978). A fairly perceived need to act on the spot may justify entry and search under the exigent circumstances exception to the warrant requirement. Schmerber v. California, 384 U.S. 757, 770–771, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966). The likelihood a suspect will imminently flee is also an exigency warranting such an intrusion. Johnson v. United States, 333 U.S. 10, 15, 68 S.Ct. 367, 92 L.Ed. 436 (1948). Protecting the safety of police officers has also been held an exigent circumstance. Chimel v. California, 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969). A warrantless search is justified under the exigent circumstances doctrine to prevent a suspect from fleeing or where there is a risk of danger to police or others inside or outside a dwelling. Minnesota v. Olson, 495 U.S. 91, 100, 110 S.Ct. 1684, 109 L.Ed.2d 85 (1990). In such circumstances, a protective sweep of the premises may be permitted. See Maryland v. Buie, 494 U.S. 325, 337, 110 S.Ct. 1093, 108 L.Ed.2d

276 (1990); cf. State v. Abdullah, 357 S.C. 344, 592 S.E.2d 344 (Ct.App.2004).

In discussing exigent circumstances in the context of a warrantless arrest inside a home the Court in Welsh v. Wisconsin, 466 U.S. 740, 749-50, 104 S. Ct. 2091, 2097-98, 80 L. Ed. 2d 732 (1984), wrote:

> Prior decisions of this Court, however, have emphasized that exceptions to the warrant requirement are "few in number and carefully delineated," United States v. United States District Court, supra, 407 U.S., at 318, 92 S.Ct., at 2137, and that the police bear a heavy burden when attempting to demonstrate an urgent need that might justify warrantless searches or arrests. Indeed, the Court has recognized only a few such emergency conditions, see, e.g., United States v. Santana, 427 U.S. 38, 42–43, 96 S.Ct. 2406, 2409–2410, 49 L.Ed.2d 300 (1976) (hot pursuit of a fleeing felon); Warden v. Hayden, 387 U.S. 294, 298–299, 87 S.Ct. 1642, 1645–1646, 18 L.Ed.2d 782 (1967) (same); Schmerber v. California, 384 U.S. 757, 770–771, 86 S.Ct. 1826, 1835–1836, 16 L.Ed.2d 908 (1966) (destruction of evidence); Michigan v. Tyler, 436 U.S. 499, 509, 98 S.Ct. 1942, 1949, 56 L.Ed.2d 486 (1978) (ongoing fire), and has actually applied only the "hot pursuit" doctrine to arrests in the home, see Santana, supra.

In State v. Abdullah, 357 S.C. 344, 351, 592 S.E.2d 344, 348 (S.C. Ct. App. 2004), the South Carolina Court of Appeals wrote:

> The exigent circumstances doctrine provides an exception to the Fourth Amendments protection against warrantless searches, but only where, from an objective standard, a compelling need for official action and no time to secure a warrant exist. State v. Brown, 289 S.C. 581, 587, 347 S.E.2d 882, 886 (1986) (quoting Michigan v. Tyler, 436 U.S. 499, 98 S.Ct. 1942, 56 L.Ed.2d 486 (1978)). For instance, a warrantless search is justified under the exigent circumstances doctrine to prevent a suspect from fleeing or where there is a risk of danger to police or others inside or outside a dwelling. Minnesota v. Olson, 495 U.S. 91, 100, 110 S.Ct. 1684, 109 L.Ed.2d 85 (1990). In such circumstances, a protective sweep of the premises may be permitted. See Maryland v. Buie, 494 U.S. 325, 337, 110 S.Ct. 1093, 108 L.Ed.2d 276 (1990) (allowing a protective sweep of a house during an arrest where the officers have a reasonable belief based on specific and articulable facts that the area to be swept harbors an individualposing a danger to those on the arrest scene); see also Brown, 289 S.C. at 587, 347 S.E.2d at 886 (agreeing that police may be justified in conducting a protective sweep of a crime scene where the potential for danger exists). Additionally, the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid.

Mincey v. Arizona, 437 U.S. 385, 392, 98 S.Ct. 2408, 57 L.Ed.2d 290 (1978).(Footnote omitted).

None of the factors discussed as justifying a warrantless search in Welsh, Herring or Abdullah are present in Appellant's case. There is no evidence that the police did not have time to obtain a search warrant. The police were able to promptly secure a search warrant for the apartment on Garner's Ferry Road. (R. 1040, lines 12-17). While police were attempting to locate Appellant, they were not in hot pursuit. There was no evidence that the warrantless search was needed to prevent the destruction of evidence. The warrantless search of Appellant's cell phone records constituted a violation of the Fourth Amendment. The State failed to meet its burden to justify the warrantless search.

The exclusionary rule required suppression of the illegally obtained records and any evidence procured from the illegally obtained records. "Generally, evidence derived from an illegal search or arrest is deemed fruit of the poisonous tree and is inadmissible." United States v. Najjar, 300 F.3d 466, 477 (4th Cir.2002) (citing Wong Sun v. United States, 371 U.S. 471, 484–85, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963)). In State v. Brown, 401 S.C. 82, 88, 736 S.E.2d 263, 266 (2012), the South Carolina Supreme Court wrote:

> The Fourth Amendment itself provides no remedy for a violation of the warrant requirement. Davis v. United States, —U.S. —, 131 S.Ct. 2419, 180 L.Ed.2d 285 (2011). However, the United States Supreme Court has fashioned a judicially-created remedy, the exclusionary rule, which is a deterrent sanction by which the prosecution is barred from introducing evidence obtained in violation of the Fourth Amendment. Id. at 2423. "Exclusion is 'not a personal constitutional right,' nor is it designed to 'redress the injury' occasioned by an unconstitutional search.' "Id. at 2426 (citations omitted). "The rule's sole purpose, [the Supreme Court] has repeatedly held, is to deter future Fourth Amendment violations." Id. Because "[e]xclusion exacts a heavy toll on both the judicial system and society at large," the Court has stated "the deterrence benefits of

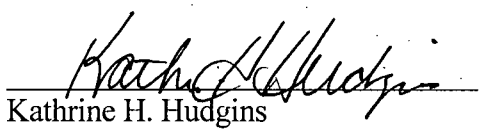
suppression must outweigh its heavy costs" for the exclusion to be deemed appropriate. Id. at 2427.

Exclusion is proper under the facts of this case to deter the police from unilaterally seeking cell phone records of individuals from cell phone companies without judicial review through the use of a search warrant or court order. The good faith exception to the exclusionary rule should not apply in this case especially in light of the factual discrepancies contained in the exigency form. The error in admitting the illegally obtained cell phone records is not harmless and requires reversal.

CONCLUSION

Based on the above argument, Appellant's conviction and sentence should be reversed and the case remanded for a new trial.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of October, 2015.

CERTIFICATE OF COUNSEL FOR APPELLANT

The undersigned certifies that to the best of my ability the Final Brief complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 7th, 2014

Kathrine H. Hudgins
Appellate Defender

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WILLIAM ANTHONY WALLACE,

APPELLANT

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 Caroline M. Scrantom, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of April, 2015.

Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of October, 2015.

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