

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No.: 2014-002414

IN THE MATTER OF THE CARE AND TREATMENT OF
JOHNNY GARRETT, Appellant

REPLY TO RESPONDENT'S INITIAL BRIEF

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SC Court of Appeals

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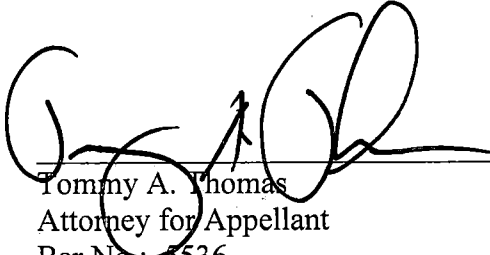
REPLY ARGUMENT

That the Respondent argues that the mistrial issue is not preserved for Appellate review. The Respondent cites State v. Tucker 324 S.C. 155, 478 S.E. 2d 260 (1996). That in order to preserve an issue for review, the party must make a contemporaneous objection and cannot later bootstrap the issue with a mistrial Motion. The Respondent argues that the Appellant did not contemporaneously object when the State asked Dr. Gehle who would be at risk if the Jury released the Appellate.

The Appellant would assert that objection was contemporaneously made. Dr. Gehle was asked by trial counsel about the Appellant "if he is released by this Jury" (Tr. p. 62, lines 4 and 5; Tr. p. 68, lines 16-17 and "Who would be at risk if the Jury releases Mr. Garrett". At this point, objection is made by counsel (Tr. p. 69, line 14).

Pursuant to this objection, the Court sent the Jury out. (Tr. p. 70, lines 3-4) and it is at this point that the Court hears the objection and the Motion for mistrial. (Tr. p. 70, lines 6-7)

Therefore the Appellant would assert that this issue is preserved for appellate review.



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November 2, 2015

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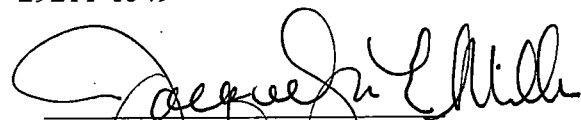
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CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for the Appellant, hereby certify that I placed in the United States Mail, a copy of a Reply to Respondent's Initial Brief with postage prepaid and the return address clearly shown on said envelope, to Deborah R.J. Shupe, Esq., at:

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November 2, 2015