

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable G. Edward Welmaker, Circuit Court Judge
Appellate Case No. 2014-001594

THE STATE,

Respondent,

vs.

JAMEL DASHAWN WATT,

Appellant.

**MOTION TO HOLD APPEAL
IN ABEYANCE PENDING RESOLUTION OF
ISSUE BY SUPREME COURT**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On August 16, 2013, Appellant Jamel Dashawn Watt was arrested following a shooting outside of TJ Whispers nightclub in Anderson County, South Carolina. On May 21, 2013, the Anderson County Grand Jury indicted Appellant on two counts of attempted murder (2013-GS-04-1023,-1926), and one count of resisting arrest (2013-GS-04-1022). Appellant proceeded to a jury trial *in absentia* before the Honorable G. Edward Welmaker on June 16, 2014. On June 18, 2014, the jury convicted Appellant of resisting arrest and one count of attempted murder. The jury found Appellant not guilty as to the second count of attempted murder, but convicted Appellant of the lesser-included offense of assault and battery of a high and aggravated nature.

Judge Welmaker sentenced Appellant, with the sentence to be unsealed upon Appellant's appearance.

On July 15, 2014, the Honorable J. Cordell Maddox, Jr. unsealed Judge Welmaker's sentence and sentenced Appellant to one hundred and thirty-five months for attempted murder, one hundred and ten months for assault and battery of a high ad aggravated nature, and twelve months for resisting arrest, with all sentenced to be served concurrently. Thereafter, Appellant filed a timely notice of appeal.

II.

On July 8, 2015, Appellant filed an Initial Brief of Appellant and Designation of Matter. In this brief, Appellant argues that the trial court erred by instructing the jury that attempted murder does not require a specific intent to kill. Appellant's argument is premised on State v. King, 412 S.C. 403, 772 S.E.2d 189 (Ct. App. 2015), reh'g denied (June 5, 2015).

III.

On April 22, 2015, while Appellant's case was pending on appeal, this Court issued its opinion in King. King was convicted of attempted murder, armed robbery, and possession of a firearm during the commission of a violent crime following the robbery and shooting of a taxi driver. The King court held "the Legislature intended to require the State to prove specific intent to commit murder as an element of attempted murder" and the trial court erred in charging the jury that attempted murder is a general intent crime. Id. This Court additionally found the trial court erred in admitting hearsay testimony from the responding officer as to how many shots were fired. The Court concluded the trial court's errors prejudiced King as to his attempted murder charge, finding the officer's "inadmissible testimony as to the number of shots King fired affected the jury's verdict on attempted murder, and we cannot say that either the admission of

the evidence or the erroneous jury charge are harmless beyond a reasonable doubt. Id., at 417, at 196. The Court affirmed the other convictions, finding that the trial court's errors did not prejudice King as to his armed robbery and possession of a firearm convictions because the errors did not affect the result of his trial those charges. Id. Both King and the State filed timely petitions for rehearing, which this Court denied by order filed June 5, 2015.

IV.

Following this Court's decision in King, King and the State filed timely petitions for a writ of certiorari to the South Carolina Supreme Court. In its petition, the State asks the Supreme Court to resolve whether it is error for a trial court to instruct the jury that the offense of attempted murder does not require a specific intent to kill.¹ The State's petition was filed on June 15, 2015, and is currently pending before the Supreme Court.

V.

In Appellant's case, the sole issue raised to this Court to resolve is whether the trial court erred in instructing the jury that the offense of attempted murder did not require a specific intent to kill. Appellant's argument is almost entirely premised on King. Furthermore, the State's argument in reply will be significantly and directly impacted by whether the Supreme Court grants or denies certiorari in King to address this issue.

VI.

Because the Supreme Court's decision in King is highly relevant to Appellant's case and will likely play a large and perhaps decisive role in the ultimate outcome of Appellant's appeal, the State believes it is critical and necessary for the final decision in King to be issued before the State can fully and properly respond to Appellant's challenge to his conviction. Accordingly, the State asks this Court to hold Appellant's appeal and the time for filing the Initial Brief of

¹ A copy of the State's petition for a writ of certiorari in State v. King is attached to this motion as Exhibit "A."

Respondent and Designation of Matter in abeyance pending the Supreme Court's resolution of King and to permit the State thirty days to file the Initial Brief of Respondent and Designation of Matter in this case after the Supreme Court issues its final decision in King. The State also asks this Court to hold the filing deadlines in abeyance pending resolution of this motion. Should this Court grant the State's motion, the State will immediately notify this Court in writing when the Supreme Court issues its final decision in King. Further, the State also asks that should this Court deny the State's motion, the State have thirty days from such order to submit its Initial Brief of Respondent and Designation of Matter in this case.

WHEREFORE, Respondent prays that the Court hold the time for filing the Initial Brief of Respondent and Designation of Matter in abeyance pending a final disposition by the Supreme Court in State v. King; extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty days from the date the Supreme Court issues the final decision in State v. King; hold the filing deadlines in abeyance pending resolution of this motion; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Assistant Attorney General

By: 
Megan Harrigan Jameson

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November 20, 2015

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IN THE COURT OF APPEALS

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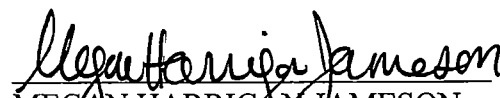
Appellant.

PROOF OF SERVICE

I, Megan Harrigan Jameson, certify that I have served the within Motion to Hold Appeal in Abeyance Pending Resolution of Issue By Supreme Court by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

John H. Strom, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 20th day November, 2015.


MEGAN HARRIGAN JAMESON
Assistant Attorney General

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Columbia, SC 29211
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NOV 20 2015
SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

November 20, 2015

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jamel Dashawn Watt – Appellate Case No. 2014-001594

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion to Hold Appeal in Abeyance Pending Resolution of Issue by Supreme Court, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Megan Harrigan Jameson
Assistant Attorney General
S.C. Bar No. 100108

MHJ/
Enclosures

cc: John H. Strom, Esquire
Victim Services