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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEROME RAYMOND WILLIS

APPELLANT

APPELLATE CASE NO. 2014-001221

ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Whether the trial court erred in charging the jury on flight?

## STATEMENT OF THE CASE

Appellant was convicted of indecent exposure after a jury trial held before the Honorable J.C. Nicholson, Jr., on June 5 – 7, 2013, in Charleston County. Megan S. Ehrlich, Esquire and Mary F. Ford, Esquire, represented appellant. Thomas R. Waring, II, Esquire and Timothy F. Finch, Esquire were the assistant solicitors. On May 28, 2014, appellant was sentenced to three (3) years with credit for 620 days served. He was also ordered to be placed on the sexual offender registry.

This appeal follows.

## ARGUMENT

The trial court erred in charging the jury on flight.

The indictment charging appellant with indecent exposure alleged the following:

That in Charleston County, South Carolina, on or about September 15, 2012, the Defendant, JEROME RAYMOND WILLIS, willfully, maliciously, and indecently did expose his person in a public place or property of others or to the view of another person on a street or highway; to wit: the defendant did expose himself while at Highway 17 on the Ravenel Bridge, Mt. Pleasant, South Carolina. All in violation of Section 16 – 15 – 130 of the South Carolina Code of Laws (1976) as amended.

Rebecca Dew testified that on September 15, 2012, around 1:00 p.m. she was walking on the Ravenel Bridge with a friend. They started on the Mt. Pleasant side and were headed towards downtown. It was a beautiful, blue sky day. They got to the top of where there are benches and stopped to take in the sights. She was looking at the Shem Creek / Sullivan's side. She felt a presence to the left of her. She looked over and there was a man sitting with his penis out. The man was about ten feet from her. He was holding his penis outside of his pants. She looked at him for 5 seconds and when she realized what was happening she turned away to get out of the situation. (Tr. p. 78, l. 16 – p. 80, l. 18.)

She said the defendant was alone, but he did have a bicycle with him. She identified him in the courtroom. (Tr. p. 81, ls. 2-9.) She and her friend got up abruptly and headed toward downtown. On the way, they borrowed a cell phone and called the police. The

defendant was also walking toward downtown. When the police car arrived, the defendant changed his direction and ran. (Tr. p. 82, l 3 – p. 83, l. 14.)

At the end of the case, the trial court gave the following jury instruction flight:

Attempts to run away may be considered as evidence of guilt, knowledge and intent. To find that Defendant was in flight, you must find beyond a reasonable doubt that the Defendant departed with a consciousness of guilt in order to avoid arrest from the crime with which he is charged. If after a consideration of all the evidence you find beyond a reasonable doubt that the Defendant was in flight, then this flight is a circumstance which you may consider with all the other evidence in this case in determining the question of the Defendant's guilt.

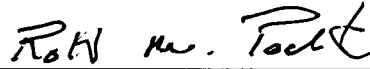
However, if you have a reasonable doubt that the Defendant was not in flight, then the fact of the man's departure is not circumstances for you to consider. (Tr. p. 160, l. 21 – p. 161, l. 8.)

While there was no objection to this jury's instruction, the Court has held such an instruction is erroneous and necessitates a new trial. State v. Grant, 275 S.C. 404, 272 S.E.2d 169 (1980).

CONCLUSION

Appellant's conviction should be reversed.

Respectfully submitted,



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Robert M. Pachak  
Appellate Defender

ATTORNEY FOR APPELLANT

This 22<sup>nd</sup> day of December, 2014

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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PETITION TO BE RELIEVED AS COUNSEL

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Counsel for Jerome R. Willis states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge J. C. Buddy Nicholson, Jr., which was held on June 7, 2013; and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Jerome R. Willis.

Respectfully submitted,



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Robert M. Pachak  
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of December, 2014.

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IN THE COURT OF APPEALS

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Appeal from Charleston County  
J. C. Buddy Nicholson, Jr., Circuit Court Judge

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APPELLATE CASE NO. 2014-001221

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

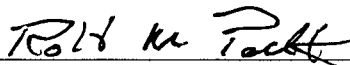
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Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) June 5 – 7, 2013 Trial Transcript;
- (3) August 29, 2013 Trial Transcript;
- (4) May 28, 2014 Sentencing Transcript;
- (5) Motion for a New Trial;
- (6) Amended Order Authorizing Funds for the Services of an Expert for a Court Order Evaluation

I certify that this designation contains no matter which is irrelevant to this appeal.

December 22nd, 2014



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Robert M. Pachak  
Appellate Defender

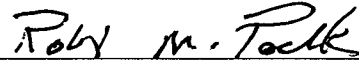
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant 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."

December 22, 2014



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Robert M. Pachak  
Appellate Defender

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Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

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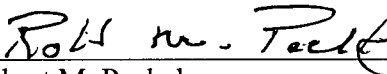
JEROME R. WILLIS,

APPELLANT

APPELLATE CASE NO. 2014-001221

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Jerome R. Willis, at 3816 Dame Court North Charleston, SC 29405, this 22nd day of December, 2014.



Robert M. Pachak  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 22nd day of December, 2014.



(L.S.)

Notary Public for South Carolina  
My Commission Expires: July 3, 2023.