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RECEIVED
DEC 18 2015
SC Court of Appeals

December 15, 2015

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter St.
P.O. Box 11629
Columbia, SC 29211

Re: State v. Perry Eichor
Appellate Case No. 2015-001648
Indictment Numbers 2014-GS-23-4229 and 2014-GS-23-4230

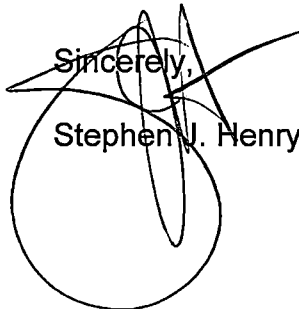
Dear Ms. Kitchings,

I am asking the court to stay the appeal until two issues with respect to the record can be resolved.

One issue relates to the transcript. I have enclosed my letter to April Herron, the court reporter, as well as the enclosures that are connected to that question.

The other issue relates to the jury charges. The appellant's written jury charge requests were submitted to the trial judge with a copy to the prosecutor and were discussed at length in the record. However a copy of the jury charges themselves were not made part of the record. I am asking the Attorney General to agree to include those jury charge requests as part of this appeal record.

Thank you.

Sincerely,

Stephen J. Henry

Sjh/tbff

Cc: Salley W. Elliott
Senior Assistant Deputy Attorney General

Cc: April Herron, Court Reporter

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DEC 18 2015

SC Court of Appeals

December 15, 2015

Salley W. Elliott
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211-1549

Re: State v. Perry Eichor
Appellate Case No. 2015-001648
Indictment Numbers 2014-GS-23-4229 and 2014-GS-23-4230

Salley,

There are two issues with respect to the trial record I would like to resolve. One is explained in the attached letter to the court reporter, April Herron.

The second issue is that I would like to include the jury charges submitted to the judge and prosecutor but which were inadvertently not included as part of the record. The jury charges are enclosed.

Please let me know if we can agree on the inclusion of the defendant's proposed jury charges as part of the record.

Thanks.

Sincerely,

Stephen J. Henry

Sjh/tbff

Cc: Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals

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DEC 18 2015

SC Court of Appeals

December 15, 2015

April Herron, Court Reporter
PO Box 17675
Greenville, SC 29606

Re: STATE v. PERRY EICHOR
Indictment #s 2014-GS-23-4229 & 4230
Trial dates: June 8-9, 2015

April,

I reviewed the transcript and noticed something that I wanted to bring to your attention and see if it can be corrected.

After the jury started deliberating they asked two or three questions of the court, including to be recharged. I have enclosed a copy of those questions so you can see them. However, the transcript does not reflect that the jury asked any questions, which I think it should.

I am asking the Court of Appeals to stay the case until this issue and one other that does not involve the transcript can be resolved.

Please contact me about this as soon as you can.

Thanks.

Sincerely,

Stephen J. Henry

Sjh/tbff

Cc: Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals

Cc: Salley W. Elliott
Senior Assistant Deputy Attorney General

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2014-GS-23-4229, 4230 & 4231

STATE OF SOUTH CAROLINA,)
v.)
PERRY EICHOR,)
Defendant.)

JURY CHARGE REQUESTS
FROM THE DEFENDANT

RECEIVED

NUMBER 1
(Indictments)

DEC 18 2015

SC Court of Appeals

The indictments in this case charge the defendant with obstruction of justice, misconduct by a public official and intimidation of a court official. The fact that the defendant was arrested, charged and indicted in this case is not evidence and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. These indictment documents are simply the formal written instruments which contain the charges made against the defendant. They are the formal documents by which these cases are brought into this court.

S.C. Judicial Department website

NUMBER 2

(Defendant's good character)

Evidence of the defendant's good character and good reputation may in and of itself create doubt as to guilt and should be considered by the jury, along with all of the other evidence, in determining the guilt or innocence of the defendant.

Ralph King Anderson, Jr., South Carolina Requests to Charge – Criminal, 2012, §1-13

State v. Green, 278 S.C. 239, 294 S.E.2d 335 (1982)

State v. Harrison, 343 S.C. 165, 539 S.E.2d 71 (Ct. App. 2000)

NUMBER 3

(Criminal intent)

In order to establish criminal liability, criminal intent is required. Criminal intent must be proven by the State beyond a reasonable doubt.

Ralph King Anderson, Jr., South Carolina Requests to Charge – Criminal, 2012 § 1-11

S.C. Judicial Department website

NUMBER 4

(Ambiguous threats)

When a communication contains language which is equally susceptible of two interpretations, one threatening, and the other nonthreatening, the state carries the burden of presenting evidence to remove that ambiguity. If the state does not remove that ambiguity beyond a reasonable doubt, you must find the defendant not guilty.

U.S. v. Barclay, 452 F.2d 930 (8th Cir. 1971)

NUMBER 5

(Obstruction of justice – act in furtherance)

The state must prove beyond a reasonable doubt that the defendant committed some act in furtherance of his endeavor to obstruct justice.

State v. Love, 275 S.C. 55, 271 S.E.2d 110 (1980)

NUMBER 6

(Misconduct of a public official)

To find the defendant guilty of misconduct in office you must find that he acted with dishonesty and corruption.

State v. Hess, 279 S.C. 14, 301 S.E.2d 547 (1983)

NUMBER 7

(Threat – as to all charges)

The state has the burden of proving beyond a reasonable doubt that any threat made by the defendant was made with the specific intent to execute it.

U.S. v. Patillo, 438 F.2d 13 (4th Cir. 1971)
Elonis v. U.S. 575 U.S. ____ (2015)

NUMBER 8

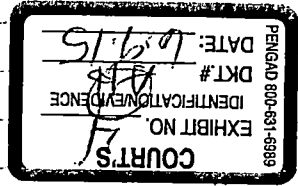
The State must prove beyond a reasonable doubt that the communication in this case was made by the defendant for the purpose of issuing a threat or that the defendant knew that the communication would be viewed as a threat.

Elonis v. United States, 575 U.S. ____ (2015)

Can the judge provide the
wording he used defining
the 3 charges:

- 1) Intimidation
- 2) Misconduct
- 3) Obstruction of Justice

Can we get a definition of
"matters" what he
can't say + do -
"custom of ethics"
If, can he talk about cases &
anyone, or is it actually
a violation?



Why Justice

Can we hear the audio?

7 Proctor
New

PENGAD 800-631-6969	COURT'S
	EXHIBIT NO. 5
	IDENTIFICATION/EVIDENCE
	DKT.# AB
DATE: 6.9.15	

THE AUDIO WAS
NOT ENTERED
INTO EVIDENCE.

1/35

1 Defendant was made with the specific intent to
2 execute it. You rejected that. I just want to make
3 sure I'm protected on the record.

4 THE COURT: Yes, sir, you are.

5 MR. HENRY: Thank you, Judge.

6 THE COURT: Yes, sir.

7 Okay. All right. Counsel, if you will do an
8 inventory of the exhibits and then when you are
9 satisfied that all the exhibits are present, give
10 them to the bailiff to deliver to the jury to begin
11 their deliberations. The two alternate jurors,
12 Ms. Abercrombie and Mr. Godfrey, I intend to dismiss
13 from chambers.

14 I will say -- I do want to say before we receive
15 the verdict that I congratulate y'all on having tried
16 an excellent case. I congratulate everyone involved
17 for having been civil and gracious and professional.
18 I don't know what the result of this case will be,
19 but I can tell you that you all acquitted yourself
20 very favorably and for that, I am very thankful and I
21 congratulate you for it.

22 MR. HENRY: Thank you, Judge.

23 (WHEREUPON, deliberations of the jury began at
24 approximately 2:00 p.m.)

25 (WHEREUPON, the Court was in recess awaiting a

1 verdict.)

2 THE COURT: I have been advised the jury has
3 reached a verdict. Counsel, are we prepared to
4 receive the verdict?

5 MS. BENTLEY: Mr. Sharff is on his way up to the
6 courtroom.

7 THE COURT: Good enough. We'll wait a minute.
8 Well, I tell you what, y'all let me know when he gets
9 here. I'm going to give him probably five minutes,
10 no more than 10.

11 MS. BENTLEY: Yes, sir.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: Okay. Are we prepared to receive
14 the verdict?

15 MR. HENRY: Yes, Your Honor.

16 MS. BENTLEY: Yes, Your Honor.

17 THE COURT: Okay. Bring the jury in, please.

18 (WHEREUPON, the jury came into open court at
19 approximately 3:13 p.m.)

20 VERDICT

21 THE COURT: All right, Ms. Preston, has the jury
22 reached a unanimous verdict, ma'am?

23 MADAM FORELADY: We have.

24 THE COURT: Would you hand the verdict form to
25 the bailiff, please.