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JAN 20 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County
Edward W. Miller, Circuit Court Judge
Appellate Case No. 2015-001199

THE STATE,

Respondent,

vs.

PRESTON SHANDS, JR.,

Appellant.

**RETURN TO PETITION
TO TRANSFER APPEAL
TO THE SUPREME COURT**

Respondent now makes its return to Appellant's motion to transfer this appeal to the Supreme Court under the authority of Rules 203(d)(1)(A)(ii), SCACR and 204(a), SCACR based on his challenge to the kidnapping statute, S.C. Code 16-3-910, as unconstitutionally vague and overbroad. But see State v. Smith, 275 S.C. 164, 268 S.E.2d 276 (1980) (finding section 16-3-910 is not unconstitutionally vague and finding the defendant lacked standing to challenge the statute as overbroad).

In the instant case, the evidence shows the victim announced she was leaving the house after Appellant started cursing at her, Appellant kept closing the garage door while victim tried to open it, and Appellant pulled victim's hair to keep her from leaving. Trial transcript pp. 58-59;

pp. 66-67. Therefore, due to the previous determination the statute is not vague, and the evidence showing Appellant lacks standing based on his conduct to challenge the statute as overbroad, the issue is not a significant one. Smith.

However, based on the plain language of these rules, it would appear to Respondent that this Court is constrained to transfer this case as a ministerial duty. However, Respondent respectfully reserves the right to move before the Supreme Court for transfer of this case back to this Court under its authority to transfer cases to this Court where it determines the issue raised is not a significant one. Rule 203(d)(1)(A)(ii), SCACR.

Respectfully submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General

BY: 

DAVID SPENCER

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 20, 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal From Laurens County
Honorable Edward W. Miller, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

vs.

PRESTON SHANDS, JR.,

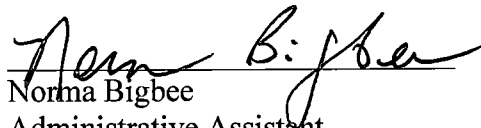
APPELLANT.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the Return To Petition To Transfer Appeal To The Supreme Court on Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to Ernest Charles Grose, Jr., Esquire, 404 Main St., Greenwood, SC 29646.

I further certify that all parties required by Rule to be served have been served.

This 20th day of January, 2016.



Norma Bigbee
Administrative Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

January 20, 2016

VIA HAND DELIVERY

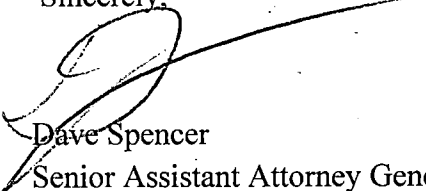
The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: **State of South Carolina v. Preston Shands, Jr.**
Appellate Case No: 2015-001199

Dear Ms. Kitchings:

Enclosed please find the Original Return To Petition To Transfer Appeal To The Supreme Court in the above case.

Sincerely,



Dave Spencer
Senior Assistant Attorney General
Bar No: 68571

DS/nb

Enclosures

cc: Ernest C. Grose, Jr., Esquire
Trisha Allen