

STATE OF SOUTH CAROLINA

 ORIGINAL

In The Court of Appeals

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APPEAL FROM HORRY COUNTY

OCT 20 2015

Steven H. John, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ARMANDO K. CHESTNUT,

APPELLANT

APPELLANT CASE NO. 2013-002123

SUPPLEMENTAL RECORD ON APPEAL

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Chief Appellate Defender

ALAN WILSON
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South Carolina Commission on Indigent Defense
Division of Appellate Defense
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Attorneys for Respondent

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ORDER DENYING MOTION FOR NEW TRIAL (FILED OCTOBER 4, 2013) 1

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STATE OF SOUTH CAROLINA]
 COUNTY OF HORRY]
 vs.]
 ARMANDO CHESTNUT,]
 DEFENDANT.]

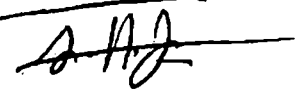
IN THE COURT OF GENERAL SESSIONS
 Indictment No.: 2012-GS26-3115
 2012-GS26-3116
 2012-GS26-3117
 2012-GS26-3118

**ORDER DENYING MOTION FOR
 NEW TRIAL - AMENDED**
 (Motion to Reconsider)

This matter comes before this honorable Court on Defendant's Notice of Motion and Motion to Reconsider its ruling on the Motion for New Trial and the sentence imposed on the above-cited matter. Defendant, through his attorney of record, renewed all objections included in the original Motion for a New Trial, and specifically argued the inadmissibility of the Defendant's confession, the inappropriate statements of the Solicitor during closing argument concerning the Defendant's failure to produce a particular witness, the bolstering of the credibility of State's witnesses, and the jury instruction with regard to the inference of guilt by the use of a deadly weapon. Additionally, Defendant moved to set aside the sentence of Life without the Possibility of Parole under South Carolina Code of Laws §17-25-45 and requested that the Defendant be sentenced within the range of sentences imposed for the crimes of which he was convicted. A hearing on this motion was held before me on September 4, 2013. Present at the hearing were Armando Chestnut, defendant, Barbara Pratt, counsel for Defendant and Senior Assistant Solicitor Brad C. Richardson on behalf of the State.

Upon hearing from both the Defense and the State the Court found:

- 1- Regarding the admission of the Confession: the Court's ruling at the time of the hearing on the motion to suppress the statement by the Defendant is confirmed; further, the jury was informed that it was the State's burden to prove that the confession was voluntary beyond a reasonable doubt, and that it was proper that the confession be considered by the jury;
- 2- Regarding the Solicitor's comments during closing argument: any inappropriate comment by the State with regard to vouching for witnesses and the failure of the



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 Horry County
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 COURT HOUSE
 HORRY COUNTY

Defense to call a witness was appropriately objected to and sustained; the State was not allowed to continue, and any resulting error was harmless;

3- Regarding the jury instruction concerning the inference of Malice: while the Court should not have given this instruction, when objected to by the Defendant, the Court gave the proper curative instruction; further, upon request by the jury to be recharged on "Murder" and "Voluntary Manslaughter," the Court properly omitted any reference to the inference of Malice by Use of a Deadly Weapon and offered to give a further charge of Self-Defense, which offer was rejected by the foreman of the jury; and

4- The sentence of Life without the Possibility of Parole is mandatory and not discretionary pursuant to South Carolina Code of Law § 17-25-45 for the conviction of Voluntary Manslaughter and Attempted Murder when the defendant has been previously convicted of a Prior Most Serious Offense; as there is no judicial discretion as to the sentence, the sentence is appropriate.

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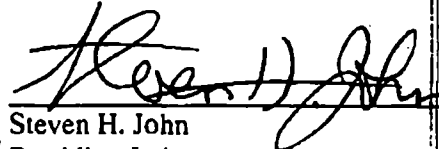
THEREFORE, Motion to Reconsider the ruling on the Motion for New Trial and the Sentence imposed is DENIED and the Defendant is hereby remanded to the SC Department of Corrections pursuant to the sentences imposed on July 19, 2013.

AND IT IS SO ORDERED.


September 26, 2013

Conroy, S.P.

Resident



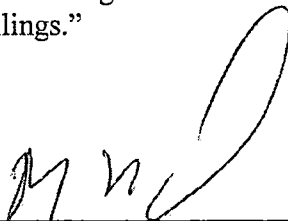
Steven H. John
Presiding Judge
Fifteenth Judicial Circuit



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

October 20, 2015



Robert M. Dudek
Chief Appellate Defender

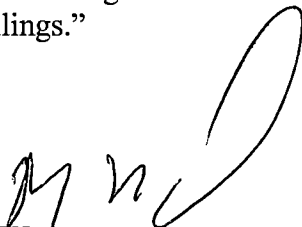
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ATTORNEY FOR APPELLANT

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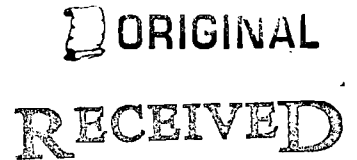
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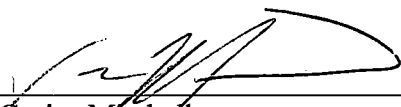
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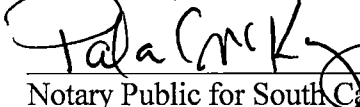
APPELLANT CASE NO. 2013-002123

CERTIFICATE OF SERVICE

I certify that a true copy of the Supplemental Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 20th day of October, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of October, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022