THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
DEC 31 2015
SC Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of General Sessions
Donald B. Hocker, Circuit Judge
Appellate Case No. 2014-002322

The State,	Respondent,
v.	
Curtis Brent Gorny,	Appellant.

BRIEF OF APPELLANT

M.W. Cockrell, III
Sarah C. Campbell
Andrew M. Privette
Barrister Building
Old Towne Centre
159 Main Street
Chesterfield, SC 29709
Phone: (843) 623-5911
ATTORNYS FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

OTHER

STATEMENT OF ISSUES ON APPEAL

I. CONDUCTING APPELLANT'S TRIAL AT THE SCENE OF THE ALLEGED CRIME, WAS INHERENTLY PREJUDICIAL AND DENIED APPELLANT HIS RIGHT TO A FAIR TRIAL.

STATEMENT OF THE CASE

The question, here, is a novel one, a case of first impression in South Carolina—can jurors be impartial, indifferent as they sit at the scene of an attempted murder listening to the horrific crime. The answer must be "no." This extraordinarily rare procedure created such a probability of prejudice that it wholly lacked due process. This appeal is the result of the criminal prosecution of the Appellant in the Court of General Sessions in the County of Chesterfield, State of South Carolina. On or about January 28, 2014, Appellant was indicted on one count of Failure to Stop for Blue Light/Siren and one count of Attempted Murder. (R. p. 10-19). Subsequently, on or about September 2, 2014, Appellant was indicted on one count of Possession of a Weapon During the Commission of a Violent Crime and two additional Attempted Murder counts. (R. p. 30-34). Prior to the trial on these matters, counsel for the Appellant made a Motion for Change of Venue based on pre-trial publicity and because ironically the Chesterfield County Courthouse was itself the scene of the alleged crimes. (R. p. 75-105 lines 6-5). The hearing on Appellant's motion spanned two (2) days and following significant and extended argument, the motion was ultimately denied. (R. p. 105 line 5). Appellant was tried on the charges contained in the five above indictments on October 21-22, 2014. On October 22, 2014, Appellant was convicted of the charges contained in the five indictments. As to Indictment Number 2014-GS-13-0077, Appellant was sentenced to twenty-five (25) years in the State Department of Corrections. (R. p. 6). As to Indictment Number 2014-GS-13-0076, Appellant was sentenced to three (3) years in the

State Department of Corrections. (R. p. 5). As to Indictment Number 2014-GS-13-0604, Appellant was sentenced to five (5) years in the State Department of Corrections. (R. p. 9). As to Indictment Number 2014-GS- 13-0603, Appellant was sentenced to twenty-five (25) years in the State Department of Corrections. (R. p. 8). As to Indictment Number 2014-GS-13-602, Appellant was sentenced to twenty-five (25) years in the State Department of Corrections. (R. p. 7). The twenty-five (25) year sentences were ordered to be served concurrently, with the five (5) and three (3) year sentences ordered to be served consecutively to the twenty-five (25) year sentences.

STATEMENT OF THE FACTS

This matter arose from events occurring at the Chesterfield County Courthouse on February 13, 2013. The uncontroverted facts are: On the morning of February 13, 2013, Appellant and Olivia Weaver were scheduled to appear at a hearing before the Chesterfield County Family Court. (R. p. 127 lines 13-15). However, Appellant arrived after the conclusion of this hearing. As Appellant was entering the courthouse, he encountered Ms. Weaver as she was leaving through the same door. (R. p. 129 lines 5-13). Ms. Weaver proceeded to her vehicle, which was parked at the courthouse. Appellant went to his vehicle, parked elsewhere on the courthouse grounds. Appellant pulled his vehicle around the courthouse and parked near the vehicle in which Ms. Weaver was sitting. (R. p. 130 lines 10-23). As Appellant approached Ms. Weaver's vehicle, some sort of confrontation ensued. Appellant produced a firearm and fired a number of shots, the number and reason for brandishing the firearm being a matter at issue in this trial. (R. p. 131 lines 1-11). The exact number of shots fired by Appellant was in dispute at trial, as was the reason Appellant produced said firearm. (R. p. 370-371 lines 6-19). In the events that fol

lowed, Ms. Weaver was shot twice and her male companion and "friend", Mr. Johnny Nolan, was shot once. Multiple Chesterfield County employees, most of whom either work for the court or at the courthouse, responded. Many others witnessed at least some portion of the events, either prior to the shooting, during the shooting, or in the chaos that ensued following the courthouse shooting. (R. p. 181 lines 9-22).

Following these events at the courthouse, Appellant fled in his vehicle. At least three Chesterfield County Sheriff's Deputies from the courthouse area gave chase. At some point during the chase, Appellant put his firearm out the window of the vehicle, at which time the firearm discharged. Whether or not the discharge was the intent of Appellant was an issue at trial. (R. p. 335 lines 10-24). The chase concluded with Appellant's arrest approximately seventeen miles from the Chesterfield County Courthouse, near the town of Pageland. (R. p. 88 lines 13-14).

It is uncontested that the events of February 13, 2013 were highly publicized in multiple local and state media outlets. The case was known locally as the "Courthouse Shooting." (R. p. 58). During *voir dire*, eight (8) members of the jury panel admitted to having been exposed to pretrial publicity of various degrees. (R. p. 63-66).

The Chesterfield County Courthouse, a small facility, consists of two floors open to the public. In addition to these public areas, the courthouse also houses the family court courtroom, the circuit court courtroom, and various other county offices. Most of the relevant events occurred around the only public entrance to the courthouse, which also serves as the only public exit to the courthouse. (R. p. 425-464).

During arguments on Appellant's Motion for Change of Venue counsel for Appellant proposed multiple options short of transferring the case to another court within the Fourth Circuit.

For instance, Appellant's counsel proposed that the jury's impartiality could be preserved by simply relocating the trial to another suitable courtroom within the town of Chesterfield, located less than one fourth mile from the Chesterfield County Courthouse. (R. p. 74 Lines 6-13).

Over the course of the two day trial, jurors heard hours of testimony from each victim, law enforcement, and other witnesses to the acts. Five of the twelve witnesses' testimony centered around events which occurred at the courthouse where the jury sat. (R. p. 35-424).

STANDARD OF REVIEW

When addressing motions to change venue, the courts of this state typically, but not exclusively or universally have held that "venue is addressed to the sound discretion of the trial judge and will not be disturbed on appeal absent an abuse of discretion." *State v. Patterson, 324 S.C. 5, 482 S.E.2d 760.*

Holding Appellant's attempted murder trial at the scene of the alleged crime is an extremely rare procedure. So rare, that in the absence of a different venue, simply holding trial at the crime scene (the courthouse), would indeed constitute a denial of due process — inherently so. The trial court's denial of Appellant's Motion for Change of Venue is a mixed question of law and fact. *Irvin v. Dowd*, 366 U.S. 717, 81 S.Ct. 1639, 6 L.Ed.2d 751 (1961). Accordingly, this court must review *de novo* and independently evaluate the circumstances of Appellant's trial. *Sheppard v. Maxwell,* 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d 600 (1966).

[Space Intentionally Left Blank]

ARGUMENT

I. THE TRIAL COURT ERRED IN TRYING APPELLANT'S CASE IN THE CHESTERFIELD COUNTY COURTHOUSE, THE SCENE OF THE ALLEGED CRIME, BECAUSE SUCH RULING DENIED APPELLATE DUE PROCESS, A FAIR TRIAL, AND AN IMPARTIAL JURY.

The question presented by Appellant is a question of first impression: is it possible for jurors to be impartial as they sit at the very scene of the subject crime-hearing emotional and, at times, heinous testimony? Does this particular venue with these particular facts (i.e. trial venue itself is the crime scene) inherently prevent a fair trial? "[N]o one [can] be punished for a crime without 'a charge fairly made and fairly tried in a public tribunal free of prejudice, passion, excitement, and tyrannical power.'" *Sheppard v. Maxwell*, 384 U.S. 333,350 (1966)(quotation omitted). Criminal trials must be conducted in "calmness and solemnity." *Id.*(citation omitted). On rare occasions, the State employs a procedure so consumed by "the probability that prejudice will result that it is deemed inherently lacking in due process." *Id.*, quoting *Estes v. Texas*, 381 U.S. 532,542-543(1965)(both involving a media circus inside the courtroom); *Irvin v. Dowd*, 366 U.S. 717,723(1961) ("wave of public passion" created by massive pretrial publicity); *Turner v. Louisiana*, 379 U.S. 466(1965)(sustained contact between the state's key witnesses and the jury).

A criminal defendant's right to trial by an impartial jury is guaranteed by the Sixth Amendment to the United States Constitution and Article I Section 14 of the South Carolina Constitution. The Sixth Amendment to the United States Constitution guarantees to criminal defendants "the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed." Such right is applied to the states by the Four

teenth Amendment's Due Process Clause. *Parker v. Gladden,* 385 U.S. 363, 87 S.Ct. 468, 17 L.Ed.2d 420 (1966).

Accordingly, it has been held that "due process requires that the accused receive a trial by an impartial jury free from outside influences." *Sheppard v. Maxwell,* 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d 600 (1966). (emphasis added) Further, "the requirement that a jury's verdict must be based upon the evidence developed at the trial goes to the fundamental integrity of all that is embraced in the constitutional concept of trial by jury." *Turner v. State of Louisiana,* 379 U.S. 466, 85S.Ct. 546, 13 L.Ed. 2d 424 (1965) (emphasis added). "Due process requires that the accused receive a trial by an impartial jury free from outside influences." *Sheppard v. Maxwell,* 384 U.S. 333, 362 (1966). (emphasis added). When a courtroom practice creates "an unacceptable risk" of "impermissible factors coming into play," that practice causes inherent prejudice to the defendant's right to a fair trial. *Estelle v. Williams*, 425 U.S. 501, 504-05 (1976). Thereby denying Gorny due process, a fair, impartial, indifferent jury and subjected him to cruel/unusual punishment.

Holding Gorny's attempted murder trial at the scene is a rare procedure inherently lacking due process. With his life at stake, Gorny should have been tried elsewhere. No South Carolina case has addressed this extraordinarily rare procedure. Previous cases have addressed only whether pretrial publicity created disruptions making a fair trial impossible. *State v. Parker*, 671 S.E.2d 619, 381 S.C. 68 (S.C. App., 2008). *Parker* does not help resolve whether trying Gorny at the attempted murder scene created too great a probability of prejudice for justice to endure. South Carolina guarantees its defendants a jury trial. *S.C. Const. art. 1, §14.* But South Carolina cannot simply provide a jury. It must provide a panel of "impartial, indifferent jurors." *Turner,*

379 U.S. at 471-472(added). "This is true, regardless of the heinousness of the crime charged [or] the apparent guilt of the offender...." *Id.*

Turner presented a unique situation. There, two key state witnesses were deputies who also served as "shepherds" for the sequestered jury. *Id.* 467-468. The deputies swore that they had not talked to the jury about the case, thus no outward prejudice was shown. Id.at469. "[E]ven if it could be assumed that the deputies never did discuss the case directly with members of the jury, it would be blinking reality not to recognize the extreme prejudice inherent in this continual association throughout the trial between the jurors and these two key witnesses for the prosecution." *Id.* at 473. The potential for prejudice rendered Turner's trial "little more than a hollow formality." *Id.* After all, "[a]ny judge who has sat with juries knows that in spite of forms they are extremely likely to be impregnated by the environing atmosphere." *Id.* at 472(quotation omitted). Turner's convictions and death sentence were reversed. Id. at 474.

The State tried Gorny at the crime scene. His jurors entered the attempted murder scene for voir dire and Gorny's jurors spent their days in continual association with the crime scene, which was transformed from a faceless piece of architecture into the face of a victim. "The proceedings [here—like *Irvin* and its progeny] were entirely lacking in the solemnity and sobriety to which a defendant is entitled in a system that subscribes to any notion of fairness and rejects the verdict of a mob." *Murphy v. Florida*, 421 U.S. 794,799(1975). The probability that this bizarre procedure created prejudice is too greatfor our system to endure. The jury serves as "an appendage" of the trial court. *Turner*, 379 U.S.at472. It must exercise "calm and informed judgment." *Id.* No citizen of Chesterfield County could sit in their Courthouse and remain "indifferent." It would be blinking reality not to recognize the extraordinary prejudice inherent in trying

Gorny at the attempted murder scene. "What happened in this case operated to subvert [the] basic guarantees of trial by jury." *Id.* at 473. This Court must reverse Gorny's conviction and sentence and remand for trial in a different venue.

In *Williams*, the Supreme Court emphasized that "courts must be alert to factors that may undermine the fairness of the fact-finding process," *See* 525 U.S. at 504-05, because notwithstanding the "actual impact of a particular practice on the judgment of jurors cannot always be fully determined") there is "no doubt that the probability of deleterious effects on fundamental rights calls for close judicial scrutiny." *Id.* at 504. Thus, courts must closely scrutinize any "possible impairment" a fair trial. *Id.* at 504. Wearing prison garb creates a "possible impairment" because it is a "constant reminder" to the jury of the defendant's status as an accused, which "may affect a juror's judgment." *Id.* at 505. (emphasis added). The convenience of jail administrators was "no justification for the practice." *Williams*, 425 U.S. at 505. Stated another way, the inconvenience of moving the trial to another location that assures constitutional mandated protections of Mr. Gorny's rights is immaterial. The Supreme Court of the United States held in *Estelle v. Williams*, convenience to the State is "no justification for [a] practice" that creates "any possible impairment" or "deleterious effects on fundamental rights" of the accused. *See* 425 U.S. 501 (1976).

Similarly, a criminal defendant's right to a fair and impartial jury must be preserved by not allowing the jury that will decide guilt or innocence to sit and observe the trial mere feet from the scene of the crime. Appellant is accused of shooting two individuals just outside the entrance of the Chesterfield County Courthouse, on Courthouse premises. (R. p. 7-8). Just over a year later, a jury of twelve passed through the crime scene each morning of the trial as they ap

peared for their service. They passed through the crime scene during breaks in the trial. They passed through the crime scene when they left the courtroom each evening. (R. p. 75-76 lines 15-5) (R. p. 425-464). Each day the jury sat at the scene of the crime which served as a "constant reminder" of the events of February 13, 2013. How many jurors replayed the images of the shooting in their heads with the accused acting out the testimony on location. Such mental images are unavoidable before the fact and impossible to correct — after the fact — during and after deliberations. Such cannot be viewed as anything other than inflammatory and a "possible impairment" to the impartiality of the jury in accordance with *Estelle v. Williams*, 425 U.S. 501, 504-05 (1976). As such, the trial judge in the instant case should have granted Appellant's Motion to Change Venue in order to ensure Appellant's constitutional rights to a fair trial by an impartial jury.

The Fourteenth Amendment incorporates the essence of the Sixth Amendment right to be tried by a panel of impartial jurors whose verdict must be based upon the evidence developed at trial. *Irwin v. Dowd*, 366 U.S. 717, 722 (1961). Due process requires courts to safeguard against the intrusion of facts into the trial process that tend to subvert its purpose. *Estes v. Texas*, 381 U.S. 532, 560 (1965) (Warren, C.J. concurring). When the consequence of a court's practice is that the jury is exposed to factors not warranted by the judicial process, there is inherent prejudice to a defendant's constitutional right to a fair trial and reversal is required. *Flynn*, 475 U.S. at 570. Certain practices attendant to the conduct of a trial can create such an unacceptable risk of impermissible factors coming into play so as to be inherently prejudicial to a criminal defendant. This was clearly established by the Supreme Court in *Estelle v. Williams*, 425 U.S. 501 (1976), and *Holbrook v. Flynn*, 475 U.S. 560, 656 (1986).

South Carolina Code § 14-7-1320 provides for a jury view. This is the correct procedure to allow a jury to " view the place or premises in question" "or any property, matter or thing relating to the controversy" during the trial. In *Gossett v. State*, 300 S.C. 473, 388 S.E.2d 804 (1990), the South Carolina Supreme Court held that S.C. Code §14-7-1320 "mandate[s] that a party make a motion before the jury may be allowed to view the crime situs." The court in *Gossett* further held that the statute "mandates that the trial judge regard such a view of the scene as 'necessary to a just decision' before he can allow it." (emphasis added)

In the immediate case, the proceedings offended Appellant's right to a trial by an impartial jury by placing the jurors at the scene of the crime for the duration of the trial. (R. p. 75-76 lines 15-5) (R. p. 425-464). Applied here, the due process and fair trial principles clearly established in *Williams* and *Gossett* clearly and unambiguously require reversal of Appellant's conviction. Neither party made motion under S.C. Code § 14-7-1320 requesting that the trial court allow the jury to see the scene of the crime, yet the jury had unrestricted and unfettered access to the entire scene of the crime for the duration of the trial. The trial judge made no finding that any view, much less an unsupervised view, of the crime scene was necessary to a just (jury's) decision. Holding defendant's jury trial at the very scene of the crimes is not "a carefully supervised field trip," overseen by the judge, solicitor, and defense counsel. To the contrary, the very crux of Appellant's argument is that allowing the jury to determine guilt or innocence while sitting at the very crime scene, having been allowed unsupervised access to the crime scene, stripped Appellant of his constitutional rights to due process.

In this state, jury views are governed by statute and are only authorized when "it appears to the Court that such view is necessary to a just decision." *S.C. Code Ann.* §14-7-1320. In such

an instance the Appellant's rights of confrontation, of cross-examination, and of counsel can not have been offended. However, in the instant case, neither party moved for the jury to "take a view," the Court made no finding that a view was necessary to a "just decision," and no one was provided to "attend them in taking the view." *Id.* The jurors were left to their own devices, free to view the scene, and draw their own conclusions. They entered the Courthouse through the same entrance where the Appellant encountered one of his alleged victims, from that same entrance they would have been able to view the places where the shooting allegedly occurred, they were free to park in those same spots, and they were surrounded by courthouse staff, many of whom personally witnessed the events of February 13, 2013. (R. p. 75-76 lines 19-5) (R. p. 425-464). The South Carolina Supreme Court has held that an unauthorized view by a juror constitutes juror misconduct. *Holy Cross v. Orkin Exterminating Co.*, 682 S.E.2d 489, 384 S.C. 441 (S.C., 2009). (emphasis added). Ignoring these Constitutional and Statutory safeguards, the trial court created a de facto jury view! The jurors were required, by their very service, to engage in activities that would constitute juror misconduct in any other trial.

The jury was, at worst, put in the shoes of the alleged victims and, at best, they were put in a situation where, in the conduct of their service, they could not help but conduct their own investigation. When they arrived for service each morning, during every recess, and when they left in the evening they would have been surrounded by evidence of the crime. (R. p. 75-76 lines 15-5) (R. p. 425-464). This case with its' unique and complex facts need more than just a proper instruction to meet due process requirements. The only safeguard given to protect the impartiality of the jury was the instruction that the jurors were to decide the case:

based solely, 100 percent on the evidence presented here in this courtroom. This means that you can not consider anything whatsoever outside the four walls of this courtroom in reaching a decision in this case. That includes, certainly not limited to, includes your not being allowed to conduct any independent research about this case on your own, the facts in this case, the evidence presented in this case, any of the individuals involved in this case. Please do not try to find out information from any source outside the four walls of this courtroom.

(R. p. 117-118 lines 18-3).

Assuming that the trial jury was fairly selected, Appellant contends that the trial of this case at the scene of the alleged crime was inherently prejudicial. In *Groppi v. Wisconsin,* Justice Holmes observed that "any judge who has sat with juries knows that they [the jury] are extremely likely to be impregnated by the environs' atmosphere." *Groppi v. Wisconsin*, 400 U.S. at 510, 91 S.Ct. 490(1971)(quoting Holmes' dissent in *Frank v. Mangum*, 237 U.S. 309, 349, 35 S.Ct. 582, 59 L.Ed. 969 (1915)). The unique circumstances of this case create an issue of first impression in South Carolina. Under these circumstances, courts typically grant change of venue motions to protect the accused's right to a fair trial. (R. p. 101 lines 11-24) The Supreme Court of the State of Missouri has considered this question *State v. Baumruk*, 85 S.W.3d 644 (Mo., 2002).

On May 5, 1992, Kenneth Baumruk and his wife were before the Circuit Court of St. Louis County. Prior to the hearing, Baumruk produced two handguns and began firing on his wife, her counsel, the trial judge, security personal, and others present in the court room. As relevant to the instant case, the Missouri Supreme Court held that trying the Defendant at the scene of the earlier shootings violated due process under the Sixth and Fourteenth Amendments. Specifically, this court stated:

> This Court's constitutional duty, as set forth in decisions of the United States Supreme Court and this Court, is to assure that a defendant receives a fair and impartial trial. No such assurance is possible where the jurors were influenced by pretrial publicity and by the atmosphere of the trial setting. The jurors, for the entire duration of their service, were invited to re-live Baumruk's reign of terror and to identify with his victims at the very place where the events took place.

Id.

The United States Supreme Court announced the doctrine of inherent prejudice. *Murphy v. Florida*, 421 U.S. 794, 799 (1975); *Rideau v. Louisiana*, 373 U.S. 723, 726(1963). *Baumruk* demonstrates the accused is not required to show prejudice; as the location itself is inherently prejudicial.

Baumruk shows that proof of actual prejudice is not necessary when considering matters deemed inherently prejudicial under the doctrine announced in the *Murphy v. Florida* and *Rideau v. Louisiana* cases. The Missouri Supreme Court held that trying a defendant for murder in the same court that the victims were shot met the inherently prejudicial test, hence unconstitutional violating due process and Sixth Amendment standards.

The concept of inherent prejudice in this context is demonstrated by the opening arguments of the State, which centered around the theme that the victim, Olivia Weaver, did not know how her life would change on the day of the alleged crime. Despite not knowing the events that would transpire, "she knew that day would be an important day. It was the day she was scheduled to have a D.S.S. conference regarding child support with the father of her young child . . . she got up that morning, she prepared to come to the courthouse for her appointment . . ." (R. p. 120 lines 11-19). On the morning of the trial, twelve impartial jurors undoubtably awoke that morning not knowing what the day held for them. They did know that that it was an important

day. It was the day they were to sit on a jury and judge a fellow citizen for crimes he allegedly committed. They got up that morning. They prepared to come to the very same courthouse as the victims for their appointment. They parked in the same parking spaces and entered through the same entrance as the victims did on February 13, 2013. On the morning of the trial the jury retraced the footsteps of the victims.

CONCLUSION

From the onset of the case, the jury was placed in the shoes of the victims. This, coupled with the fact that the case had received significant pretrial publicity, created an environment of inherent prejudice that could not be corrected by judicial instructions no matter how thorough or wise. Accordingly, as due process dictates, Appellant's conviction must be reversed and remanded for trial in a new venue.

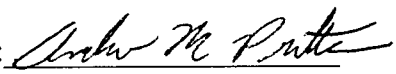
Even if Mr. Gorny is certain to be convicted if he is retried, this cannot justify denying his right to a fair trial. Even a clearly guilty criminal is entitled to be tried before an impartial tribunal, something the jurors in this case may well have failed to understand. *Oswald v. Bertrand*, 374 F.3d 475 (7th Cir., 2004); *Arizona v. Fulminante*, 499 U.S. 279, 309-10, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991); *Irvin v. Dowd*, 366 U.S. 717, 366 U.S. at 722, 81 S.Ct. 1639 (1961); *Tumey v. Ohio*, 273 U.S. 510, 535, 47 S.Ct. 437, 71 L.Ed. 749 (1927); *United States v. Spears*, 558 F.2d 1296, 1297 (7th Cir.1977); *Coleman v. Kemp*, 778 F.2d 1487, 1540-41 (11th Cir.1985); *United States v. Essex*, 734 F.2d 832, 845-46 (D.C.Cir.1984); *State v. Baumruk*, 85 S.W.3d 644, 650-51 (Mo.2002). It is one of the handful of rights of a criminal defendant that is not subject to the doctrine of harmless error. For others see *Vasquez v. Hillery*, 474 U.S. 254, 263-64, 106 S.Ct. 617, 88 L.Ed.2d 598 (1986) (plurality) (racial discrimination in the selection of the grand jury);

Waller v. Georgia, 467 U.S. 39, 49-50 and n. 9, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984) (right to a public trial); *McKaskle v. Wiggins*, 465 U.S. 168, 177 n. 8, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984) (right to self-representation); *Gideon v. Wainwright*, 372 U.S. 335, 343-45, 83 S.Ct. 792, 9 L.Ed. 2d 799 (1963) (right to counsel).

Based upon the foregoing argument and citations of authority, the Appellant respectfully request that this Court reverse the ruling of the trial court and grant Appellant a new trial.

Respectfully Submitted,

COCKRELL LAW FIRM, PC

By: 

M.W.Cockrell, III, SC BAR # 69417
Sarah C. Campbell, SC BAR # 100581
Andrew M. Privette, SC BAR #100978
BARRISTER BUILDING
159 Main Street
Chesterfield, South Carolina
Phone: 843-623-5911
Fax: 843-623-5700

December 28, 2015
Chesterfield, South Carolina