ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JUSTIN JERMAINE JOHNSON,

APPELLANT

APPELLATE CASE NO. 2014-001219

INITIAL REPLY BRIEF OF APPELLANT

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INTRODUCTION

On July 22, 2015, Appellant Justin Johnson filed his Brief of Appellant, raising six issues. On February 22, 2016, Respondent filed its Brief. Recognizing the limited purpose of a Reply Brief, Appellant will reply to Respondent's arguments with respect to Appellant's Issues I and II, which include:

> I. Whether the trial court erred in admitting the irrelevant pre-death photographs of each of the victims where their sole purpose was to arouse the sympathy and prejudice of the jury?
>
> II. Whether the trial court erred in allowing one of the State's witnesses, Mason Moore, to testify via Skype in violation of Appellant's right under the Confrontation Clause of the Sixth Amendment and pursuant to S.C. CODE ANN. § 17-23-60, where the State failed to show any important public policy necessitating the use of video testimony and the trial court improperly required Appellant to show prejudice?

See Appellant's Brief, p.

DISCUSSION

A. No portion of Appellant's argument related to the error in admitting the irrelevant and unduly prejudicial pre-death photographs of each of the victims was unpreserved. Further, the error was not harmless.

Contrary to Respondent's assertions, Appellant's arguments are properly preserved and the errors made by the trial court are not harmless beyond a reasonable doubt. Further, **sole purpose** of admitting the pre-death photographs of the victims was to play upon the sympathy and prejudice of the jury. See Appellant's Brief, pp. 22-25. Respondent's shameless attempt to characterize the photographs as relevant to identity or malice is without merit.

1. Appellant's Discussion of *Livingston* and *Langley* is Proper

Respondent contends that because defense counsel did not cite to State v. Livingston, 327 S.C. 17, 488 S.E.2d 313 (1997), or State v. Langley, 334 S.C. 643, 515 S.E.2d 98 (1999), at the trial, the "argument that these cases required exclusion of the photographs is not properly before this Court." Respondent's Brief, p. 5. On the contrary, during the motion *in limine* hearing regarding the pre-death photographs, defense counsel argued:

> Your Honor, I don't know that her pre-death condition would be **relevant** to anything in this case, quite frankly. And I think that it plays on the jury's **sympathies and compassions** and is certainly **more prejudicial than it is probative**. It's **not probative of anything relevant** to this case. Certainly, the medical personnel can testify that she was alive. In other words, there's no question that she died on that date. So I don't believe that that does anything other than **appeal to the passions and caprice** of the jury. And on those grounds, I would object.

Trial Tr. 119, ll. 7-17 (emphasis added); and

> The same type injury that -- again, the identity of the child is not in question -- showing -- especially a child in a happy state, prior to death, is going to be **very emotional** to the jury. It **does not lend anything to the case whatsoever** other than to **stir the emotions** of the jury. This is a case -- although it is going to be very emotional, it's **supposed to be decided without emotion** on the jury's behalf based simply on the facts of the case. And that **picture lends nothing to the case**. Identity is not an issue. That doesn't demonstrate -- you know, I don't think cause of death is going to be an issue based on the information that I've been provided. So, again, I don't think that lends anything to the case other than **plays on the emotion and sympathy of the jury to perhaps cloud their judgment.**

Trial Tr. 121, l. 12 – 122, l. 3 (emphasis added). Defense counsel then made contemporaneous objections to the admission of both photographs when they were offered into evidence by the State. Trial Tr. 166, ll. 5-9; Trial Tr. 191, ll. 2-14.

"[A] photograph should be excluded if it is calculated to arouse the sympathy or prejudice of the jury or is irrelevant or unnecessary to substantiate facts." Livingston, . 327 S.C. at 20, 488 S.E.2d at 314. Similar to the present case, the trial attorney in Livingston objected that the pre-death photograph of the victim and her husband, along with testimony about her background, were irrelevant and prejudicial. 327 S.C. at 19, 488 S.E.2d at 314. The Livingston Court held that the testimony and photograph "**irrelevant** to any matter in issue." Id. (emphasis added). The trial attorney in Langley likewise argued that neither testimony from the victim's sister nor the pre-death photograph of the victim were relevant, and even if relevant, its probative value was outweighed by its prejudicial effect. 334 S.C. at 647, 515 S.E.2d at 100. The Langley Court held that the "testimony and the victim's photograph were **not relevant** to proving the guilt of appellant." Id. at 649, 515 S.E.2d at 100.

Our Supreme Court has never required that the entirety of the Brief of Appellant be argued before the trial court. See Atlantic Coast Builders and Contractors, LLC v. Lewis, 398 S.C. 323, 329, 333, 730 S.E.2d 282, 285, 287 (2012) (recognizing that error preservation is a critical part of the appellate process to ensure that the appellate courts do not reach issues that were not ruled upon by the trial court but is not a "'gotcha' game with attorneys."); State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 694 (2003) ("A party need not use the exact name of a legal doctrine in order to preserve it, but it must be clear that the argument has been presented on that ground."). The objections at trial in Livingston and Langley were properly based on relevance and undue prejudice. Therefore, defense counsel's virtually identical objections in the present case were

sufficient to preserve Appellant's Issue I for appeal and the citations to Livingston and Langley were not improper.

2. The Pre-Death Photographs of the Victims Were Irrelevant and Prejudicial

The trial court overruled defense counsel's objections to the pre-death photographs, saying "I think who the person was is a part of this case." Trial Tr. 122, ll. 5-6. The basis for his ruling was error, as "who the [victim] was" is not a relevant consideration by the jury in determining a defendant's guilt or innocence. Respondent argues that the pre-death photographs were nonetheless relevant to establish the victims' identities and as evidence of malice as to Maxine Caraway.[1] Respondent's Brief, p. 4. Respectfully, the State's purpose in admitting the pre-death photographs was solely to garner sympathy from the jury. The trial judge sanctioned their admission for that purpose and his error demands reversal.

Similar arguments that the pre-death photographs were "relevant to establish the victim's identity" were rejected by our Supreme Court in both Livingston, 327 S.C. at 20, 488 S.E.2d at 314, and Langley, 334 at 648 n. 3, 515 S.E.2d at 100 n. 3. Here too, the victims' identities were not in dispute such that identity was *not* an issue at the trial.

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[1] Notably, the pre-death photographs relevance to malice was not argued by the solicitor at trial. "While the current rules do not require the respondent to present an issue to the lower court in order to raise it as an additional sustaining ground, an appellate court is less likely to rely on such a ground when the respondent has failed to present it to the lower court." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 421, 526 S.E.2d 716, 724 (2000). "In such cases, the appellate court likely would perceive it as being unfair or unwise to resolve a case on a ground never mentioned by the respondent prior to appeal." Id. "Stated another way, the respondent may raise an additional sustaining ground that was not even presented to the lower court, but the appellate court is likely to ignore it." Id.

Contrary to Respondent's assertion otherwise, the identity of the victims is not an element of murder such that the State "has the right to prove" it regardless of defendant's stipulation. Respondent's Brief, p. 4. Rather, it is the identity of the defendant as the perpetrator that is an element of murder. See State v. Gillian, 373 S.C. 601, 609-11, 646 S.E.2d 872, 876-77 (2007) (holding that some evidence of the defendant's involvement in a prior burglaries was admissible to show his identity as the perpetrator in trial for murder). Moreover, the introduction of a pre-death photograph of the victims was hardly necessary to prove their identities in light of the other evidence at trial.

Respondent asserts that the pre-death photograph of Maxine Caraway was relevant and probative of malice because it showed how she looked before Johnson allegedly broke her nose. Respondent's Brief, p. 4. Dr. Cynthia Schandt testified that she observed Ms. Caraway's broken nose when she performed the autopsy. Trial Tr. 554, l. 15 – 556, l. 18. Notably, Dr. Schandt did not utilize the pre-death photograph of Ms. Caraway in support of her testimony. While she did reference State's Exhibit 37, which showed Ms. Caraway after her nose was broken, she testified that you cannot tell that a nose is broken from looks alone. She was unable to confirm a fracture until she felt it. Trial Tr. 555, ll. 4-11. Thus, the pre-death photograph of Maxine Caraway was not relevant or probative of malice in this case.

Respondent also argues that the pre-death photographs were not prejudicial because they were not coupled with "victim impact" testimony. Respondent's Brief p. 6. In Livingston, the Court found that the testimony that accompanied the introduction of the pre-death photograph "is not extensive, but it creates a poignant image." 327 S.C. at

19, 488 S.E.2d at 314. Notably, the pre-death photographs here were utilized during the testimony of Maxine Caraway's husband, John Caraway, Jr., and the testimony of the minor victim's mother, Kaisha Caraway. Trial Tr. 165, l. 20 – 166, l. 20; Trial Tr. 190, l. 13 – 193, l. 5. Mr. Caraway testified that he and Maxine Caraway were married for thirty-seven years and that she would have turned "sixty-two [years old] today." Trial Tr. 165, l. 20 – 166, l. 20. The minor child's picture was admitted while Kaisha Caraway testified about the child's birth and the purported lack of support that she received from Johnson in caring for their children. Trial Tr. 190, l. 13 – 193, l. 5. Thus, contrary to Respondent's assertion, the photographs were admitted in conjunction with some victim-impact testimony and their admission was prejudicial.

3. The Error in Introducing the Pre-Death Photographs of the Victims Was Not Harmless

Respondent argues that even if the trial court erred in the introduction of the pre-death photographs, such error was harmless. Respondent then cites the evidence that tended to support the solicitor's theory of the case. Respondent's Brief, pp. 6-14. However, a harmless error analysis cannot be based solely upon the State's perceived strength of its case alone. See Holmes v. South Carolina, 547 U.S. 319, 331, 126 S.Ct. 1727, 1735 (2006) ("[B]y evaluating the strength of only one party's evidence, no logical conclusion can be reached regarding the strength of contrary evidence offered by the other side to rebut or cast doubt"). While that evidence may have been sufficient to present the case to a jury, it fails to establish overwhelming evidence of Johnson's guilt. See Langley, 334 S.C. at 101, 515 S.E.2d at 649.

Respondent omitted from his recitation of the evidence that there was an unknown third parties' DNA and footprint found at the crime scene and never identified. Trial Tr. 719, ll. 16-24; Trial Tr. 720, ll. 7-13; Trial Tr. 681, l. 10 – 684, l. 6; Trial Tr. 692, ll. 1-8. Though Kaisha Caraway later changed her story, both she and Johnson originally told law enforcement that Kaisha's boyfriend, Robert, shot the victims. State's Ex. 55 (Recording of 911 calls) (on file with this Court); State's Ex. 59-63 (DVDs of Apr. 6, 2011 Interrogation). Johnson maintained that Robert was the responsible party throughout the majority of his interrogation.

The discovery of Maxine Caraway's blood on Johnson's shoe and gunshot residue on Johnson's hand were explained by Johnson's admission that that he was there when the incident occurred and fired one shot at Robert as he fled. Thus, the only evidence that actually placed Johnson as the triggerman when the deadly shots were fired was the testimony of Kaisha Caraway, who was angry with Johnson due to what she perceived as his deficient support for their children and his possible infidelity.

Lastly, even though Johnson had no criminal record, he chose to assert his constitutional right not to testify. U.S. CONST. AMDT. V; Trial Tr. 842, l. 16 – 845, l. 2; Trial Tr. 857, l. 20 – 858, l. 9; Trial Tr. 966, ll. 18-21. It is improper for Respondent to argue to this Court that it should impermissibly hold Johnson's assertion of this right against him on appeal. See Respondent's Brief, p. 14.; State v. Adkins, 353 S.C. 312, 577 S.E.2d 460 (Ct. App. 2003) ("A defendant is not required to present a defense and can instead rely entirely on the weakness of the State's case since the State has the burden of proving guilt beyond a reasonable doubt.").

B. No portion of Appellant's argument related to the error in allowing one of the State's witnesses, Mason Moore, to testify via Skype in violation of Appellant's right under the Confrontation Clause of the Sixth Amendment and pursuant to S.C. CODE ANN. § 17-23-60, was unpreserved. Further, the error was not harmless.

The use of two-way video for the State's witness, Mason Moore, violated Johnson's constitutional right to confront the witnesses against him where the solicitors failed to assert any important public policy concern necessitating Moore's testimony via Skype. See Appellant's Brief, pp. 26-41. Respondent's allegations that Appellant's Issue II is unpreserved and harmless are again without merit. The cases which Respondent urges this Court to rely upon are inapposite, especially in comparison to the many jurisdictions that have applied Maryland v. Craig, 497 U.S. 836, 100 S.Ct. 3157 (1990) to require findings that "denial of such confrontation is necessary to further an important public policy" and that "the reliability of the testimony is otherwise assured."

1. Appellant's Argument and Citation to Relevant Authority is Proper

Respondent again cites general authority regarding issue preservation in support of his absurd argument that that any case not specifically cited to the trial court is not properly cited in the Brief of Appellant. Respondent's Brief, p. 21. Respondent further asserts that trial counsel was required to argue to the trial judge that his ruling was an error of law. Respondent's Brief, p. 26 n. 11.

Defense counsel placed his detailed objections on the record and renewed his objection to Moore's testimony via Skype prior to and after Moore's testimony. Pre-trial Tr. 62, l. 2 – 63, l. 11; Trial Tr. 390, ll. 14-17; Trial Tr. 414, ll. 3-16. Defense counsel argued that the testimony via Skype violated the Confrontation Clause and specifically

referenced Maryland v. Craig. Pre-trial Tr. 63, l. 21 – 64, l. 11. Defense Counsel then explained that Craig employed a test that required that "there was some public policy to protect and some unavailability element" to justify a trumping the defendant's right to face-to-face confrontation. He argued that something more than the "State's convenience and expense" must be involved. Pre-Trial Tr. 65, l. 13 – 66, l. 5. Defense counsel explained that the limited cases in which remote testimony was allowed were "either cases where the witnesses were terminally ill, physically unable to travel, international witnesses for matters of national security" or other "special exceptions." Pre-trial Tr. 64, ll. 11-15; Pre-trial Tr. 66, ll. 6-12.

Though defense counsel did not reference State v. Schwartz, 327 P.3d 1108 (N.M. App. 2014), by name, he specifically referenced "a case out of New Mexico" and offered to give the trial judge a copy of it. Pre-trial Tr. 64, ll. 15-21. He further argued that a video does not have "the same impact and import" that a face-to-face confrontation provides and that there is a greater propensity for the witness to lie. Pre-trial Tr. 64, l. 21 – 65, l. 8. Defense counsel also mentioned the United States Supreme Court's failure to recommend an addition to the Rules of Federal Criminal Procedure that would allow the remote appearance of witnesses. Pre-trial Tr. 65, ll. 8-12.

Thus, while counsel did not reference any specific case names other than Craig at Johnson's trial, his objections and argument below are sufficient to raise the issue related to Moore's testimony that was argued in the Brief of Appellant. Further, once the trial court announced his ruling, it would have been improper for defense counsel to argue with him and tell him that he did not properly apply the standard announced in Craig.

See Rule 18(a), SCRCrimP ("Counsel shall not attempt to further argue any matter after he has been heard and the ruling of the court has been pronounced.")

2. The Cases Relied Upon by Respondent are Inapposite

Respondent argues that this Court should ignore the well-reasoned cases cited in the Brief of Appellant and instead rely on the decisions in City of Missoula v. Duane, 355 P.3d 729 (Mont. 2015), Commonwealth v. Leahy, 2003 WL 1270525 (Ky. Ct. App. 2003) and People v. Novak, 41 Misc.3d 733, 971 N.Y.S.2d 197 (Ny. Co. Ct. 2013). In Missoula, the Montana Supreme Court found both that "the electronic connection was made without difficulty" and "the City made a compelling showing that requiring Sjolin to travel to Missoula from California to testify live at three separate trials would impose a prohibitive expense on the City and a significant burden on Sjolin." 355 P.3d at 733-34. While a majority of courts have found that mere cost-savings alone is not sufficient, see Appellant's Brief, pp. 32-36 and 39-41, Missoula is distinguishable because the costs and burden associated with three separate trials would obviously be much greater than appearance for one trial.

In Leahy, the Kentucky Court of Appeals held that the use of the closed circuit television system did not violate a defendant's rights under the Confrontation Clause. 2003 WL 1270525. Notably, this unpublished decision contained no discussion of any other federal or state court decisions regarding how a defendant's confrontation right is implicated by the remote testimony. Id. Rather, the court relied on the Kentucky Supreme Court's decision in Bolen v. Commonwealth, 31 S.W.3d 907, 910 (Ky. 2000), which summarily found Bolen's claim that "expert testimony via closed circuit television

violates the Confrontation Clause" to be unpreserved and without merit. Id. at *2; but see Gentry v. Deuth, 381 F.Supp.2d 614 (W.D.Ky.. 2004) (finding state's testimony of expert witnesses via two-way closed-circuit television system violated defendant's Sixth Amendment confrontation rights absent determination of necessity where there was no case-specific showing of important state interest or public policy was made, but rather, closed-circuit system was employed for sake of convenience), *vacated on other grounds by* 381 F.Supp.2d 630 (W.D.Ky.. 2004) (granting writ of habeas corpus after applying correct standard and finding error not harmless), *cert. denied* 549 U.S. 1097, 127 S.Ct. 838 (2006).

Least persuasive of the cases cited by Respondent is Novak, an opinion from the County Court in Sullivan County, New York. 971 N.Y.S.2d 197. While the judge in Novak found that two-way televised live testimony of a witness is permissible, he further wrote:

> Such a finding, however, does not mean a court may flippantly grant such requests without first making a "finding of necessity" and that the communication device will be reliable, so as to protect a defendant's rights under the Confrontation Clause of the Federal and State Constitutions. The United States Supreme Court has held that, where there is an individualized finding that denial of "'physical, face-to-face confrontation' is 'necessary to further an important public policy,'" and will not violate the Confrontation Clause because it is necessary and reliable, the trial court may allow remote, two-way, live testimony.

Id. at 734. Importantly, it was the defendant rather than the government who requested to have a witness testify via Skype. Id. at 735. Thus, while the judge recognized the government's "concern for their fair cross-examination," it is questionable whether the defendant's confrontation right was even implicated in Novak. Id.

3. The Error In Allowing the State's Witness to Testify Remotely Was a Structural Error, or Alternatively, Was Not Harmless

Respondent further argues that because Appellant did not argue to the trial judge that the denial of his right to confrontation was a structural defect and not subject to harmless error, that such an argument is barred on appeal. Respondent's Brief, p. 33 n. 16. Our Supreme Court has made clear that it is improper for a trial court to engage in a harmless error analysis. State v. Bruce, 412 S.C. 504, 509, 772 S.E.2d 753, 755-56 (2015) ("[I]t is clearly improper for the trial court to perform a harmless error analysis on its own evidentiary ruling. Trial courts cannot sit in judgment of their own rulings and proceedings."). Rather, the determination of harmless error is for the appellate courts. Id. (holding that "the harmless error analysis is an appellate doctrine"). Thus, it would be illogical for an attorney to make any argument to the trial court regarding whether its own errors will be subject to a harmless error analysis on appellate review, as that should be of no consequence to the trial court.

In deciding this issue of first impression, Appellant properly argues that the South Carolina courts should not apply a harmless error analysis because the violation of a defendant's right under the Confrontation Clause creates a structural defect in the trial. As our Supreme Court found in State v. Rivera, "there are certain constitutional rights which are "'so basic to a fair trial that their infraction can never be treated as harmless error.'" 402 S.C. 225, 246-47, 741 S.E.2d 694, 705 (2013). The Rivera Court explained:

> These are structural defects in the constitution of the trial mechanism, which defy analysis by harmless-error standards and which affect the framework within which the trial proceeds, rather than simply an error in the trial process itself. Without these basic protections, a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or

> innocence, and no criminal punishment may be regarded as fundamentally fair. Essentially, an error is structural if it is the type of error which transcends the criminal process.

Id. (internal quotations and citations omitted). Though noting that the United States Supreme Court had not directly addressed whether such a denial constituted a structural error, our Supreme Court held "that the right of an accused to testify in his defense is fundamental to the trial process and transcends a mere evidentiary ruling." Id. at 249, 741 S.E.2d at 707. Violations of the Confrontation Clause can arise in a variety of contexts such that our Supreme Courts' determination that "violations of the Confrontation Clause are subject to a harmless error analysis" in other contexts is not dispositive. State v. Holder, 382 S.C. 278, 285, 676 S.E.2d 690, 694 (2009) (holding *Bruton* violation in admission of co-defendants statement harmless in light of defendants own statements and testimony of other witnesses).

Respondent argues that "Appellant's discussion of *Schwartz* . . . guts his claim that a Sixth Amendment Confrontation Clause violation is structural error." Respondent's Brief, p. 33 n. 16. On the contrary, in candor to the Court and in anticipation of Respondent's argument, Appellant recognized that other state courts have conducted a harmless error analysis in such cases. Thus, Appellant further argued that, in the event this Court conducts a harmless error analysis, it should find that the error was not harmless. Brief of Appellant, pp. 37-41.

Respondent makes the same failed assertion made by the government in other cases – that Moore was not necessary to the State's case against Johnson. See Schwartz, 327 P.3d 1108, 1119 ("Although the State argues that the documents could have been

authenticated another way, the State chose to rely on Labance to get the documents admitted. Having made that choice, the State cannot now argue, simply because there was another method for admission of the documents, that the jury did not rely on Labance's testimony to convict Defendant."); see also State v. Rogerson, 855 N.W.2d 495, 507 n.7 (Iowa 2014) ("The United States Supreme Court has dispensed with the notion that some witnesses for the prosecution are exempt from the Confrontation Clause. *See Melendez–Diaz v. Massachusetts,* 557 U.S. 305, 313–14, 129 S.Ct. 2527, 2533–34, 174 L.Ed.2d 314, 323 (2009) ("Contrary to respondent's assertion, there is not a third category of witnesses, helpful to the prosecution, but somehow immune from confrontation.")."

The fact remains that the State chose to call Investigator Moore as a witness and he was not merely cumulative. As discussed more fully in the Brief of Appellant, the solicitor made a strategic decision to call Moore as a witness, likely because he played the proverbial "good cop" in Johnson's interrogation and may have been more credible than Investigator Coker. Brief of Appellant, pp. 36-41. In addition to Coker's lies and threats to Johnson shown on the videos of the interrogation, his credibility was further damaged on cross-examination, where he made bold, unsupported accusations against Johnson and minimized his conduct during the interrogation as interview "techniques." Trial Tr. 472, l. 4 – 512, l. 15. Furthermore, as discussed *supra* in Part A.3, there was not overwhelming evidence of Johnson's guilt. Therefore, the error in allowing Investigator Moore to testify via Skype was not harmless.

CONCLUSION

For the reasons set forth herein and in the Brief of Appellant, Appellant Justin Jermaine Johnson respectfully requests this Court reverse his convictions and grant him a new trial (Issues I-IV) and vacate his sentence for possession of weapon during the commission of a violent crime (Issue V).

Respectfully submitted,

Laura R. Baer
Appellate Defender

ATTORNEY FOR APPELLANT.

This 4th day of April, 2016.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JUSTIN JERMAINE JOHNSON,

APPELLANT

APPELLATE CASE NO. 2014-001219

AMENEDED DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

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

(1) True-billed indictment(s) dated July 7, 2011;
(2) Transcript of pre-trial hearing held Mar. 6, 2014;
(3) Transcript of trial held Mar. 10-14 and 18-20, 2014 (designated pages only): 1, 17, 34, 93-113, 118-122, 124-181,183-297, 305-536, 554-868, 877-952, 959-963 and 966;
(4) State's Exhibits 15, 36-39, and 54 (Photographs of victims);
(5) State's Exhibit 55 (Recording of 911 calls);
(6) State's Exhibits 56-65 (DVDs of Apr. 6, 2011 GSR test and Interrogation);
(7) State's Exhibit 66 (DVD of Apr. 7, 2011 Interrogation);
(8) State's Exhibits 82-90 (Photographs of footwear impressions).

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

April 4, 2016

Laura R. Baer

Laura R. Baer
Appellate Defender

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APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Reply Brief of Appellant and *Amended* Designation of Matter in the above referenced case has been served upon William Edgar Salter, III, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Justin Jermaine Johnson, #359323, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 4th day of April, 2016.

Laura R. Baer

Laura R. Baer
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 4th day of April, 2016.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.