

THE SUPREME COURT OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
MAY - 6 2016
SC SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
The Honorable Casey L. Manning Circuit Court Judge

Appellate Case No. 2014-000786
Lower Court Case No. 2011-CP-40-0190

John J. Moore, Jr. #326455
Petitioner,
V.
The State of South Carolina
Respondent.

PETITION FOR REHEARING PURSUANT
TO APPELLATE COURT RULE 221(a) and 240(j)

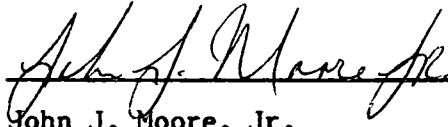
Comes now the Petitioner, pursuant to Appellate Court Rule 221(a) Rehearing and 240(j) Authority of an individual judge or justice, requesting a full panel vote. On April 21st, 2016, the Petitioner received an Order denying Petition for Writ of Certiorari, dated April 15, 2016. According to Rule 221(a), a petition for rehearing shall state with particularity the points supposed to have been overlooked or misapprehended by the court. Also, according to Rule 240(j) any review of an order issued by an individual judge or justice shall be by petition for rehearing.

Without any given decisions(s) from the court for the Petitioner to rebut. The following particular points are set forth as having been overlooked or misapprehended by the court:

The Petitioner is clearly stating that the trial attorney failed to request that the trial judge instruct the jury that the jury may give weight, evaluate and/or consider Mr. Derrick's vehicle as a deadly weapon, by evaluating its use in this case. Also, how this failure to request prejudiced the Petitioner as well as denied Petitioner a fair trial by enabling the jury the ability to properly and effectively consider all the self-defense elements in contrast with Mr. Derrick's vehicle as a dangerous instrumentality. The jurors are presumed to follow only the instructions explained by the trial judge. The jurors were not instructed, at all, on the proper and permissible evaluations of Derrick's vehicle in this incident as a "deadly weapon."

P.C.R. Court Manning abused his discretion by clearly basing his ruling from his own opinion, which is contrary to established South Carolina jurisprudence. P.C.R. Judge Manning found as a matter of law and fact that there is no sanctioned jury charge existing nor relevant case law in South Carolina jurisprudence upon which trial counsel Greg Collins could have based a jury instruction request to support the legality of a charge to have the vehicle driven by Derrick evaluated as a deadly weapon by the defendant's jury (See P.C.R. Dismissal App. pg 933 paragraph 2). Thus, being a grossly illegal, unsound, unreasonable ruling, unsupported by any evidence of probative value in the record as well as established case law. In South Carolina an automobile is regarded as a dangerous instrumentality. (State v. Wilds, 584 S.E.2d 138 (S.C. App. 2003), Yaun v. Baldrige, 134 S.E.2d 248, 251 (1964); State v. Hanahan, 96 S.E. 667 (S.C. 1918). It is indisputable that an automobile can inflict deadly force on a person and that it can be used as a deadly weapon.

May 4th, 2016
Date



John J. Moore, Jr.
Petitioner
Prose

THE SUPREME COURT OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
MAY - 6 2016
SC SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
The Honorable Casey L. Manning Circuit Court Judge

Appellate Case No. 2014-000786
Lower Court Case No. 2011-CP-40-0190

John J. Moore, Jr. #326455
Petitioner,
v.
The State of South Carolina
Respondent.

CERTIFICATE OF SERVICE

I certify that a true copy of the Petition for Rehearing Pursuant to Appellate Court Rule 221(a) and 240(j) has been served upon and on Megan Harrigan Esquire, at Rembert Dennis Building 1000 Assembly Street, Room 519, Columbia, SC 29201, and Daniel E. Shearouse, Clerk of the Supreme Court of S.C., Post Office Box 11330, Columbia, SC 29211, by mailing a copy in the U.S. Mail postage prepaid, this 4th day of May, 2016.

May 4th 2016
Date

John J. Moore, Jr.
John J. Moore, Jr.
Petitioner
Prose

Sworn and subscribed to me before
me this 4th Day of
May, 2016

Janelle T. Spearman
JANELLE T. SPEARMAN
Notary Public, State of South Carolina
My Commission Expires
August 26, 2025

