

**RECEIVED**

JUL 18 2016

**SC SUPREME COURT**

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to the Court of Appeals  
Appeal From Georgetown County  
Hon. Edward B. Cottingham, Circuit Court Judge  
Appellate Case Tracking No. 2015-002394  
\_\_\_\_\_

The State,

Respondent,

v.

Michael Lee Cardwell,

Petitioner.

\_\_\_\_\_  
Opinion No. 2015-UP-455 (S.C. Ct. App. filed September 9, 2015)  
\_\_\_\_\_

**RETURN TO MOTION TO CONSOLIDATE**

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Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

Petitioner has asked this Court to consolidate the appeal of Michael Cardwell with the appeal of Sarah Cardwell. This Court has already granted the writ of certiorari in the case of Sarah Cardwell and the Petition for Writ of Certiorari is still outstanding in the case of Michael Cardwell as of the time of this Return.

Respondent opposes a formal consolidation of the cases. Respondent believes the cases, assuming the writ of certiorari is granted as to Michael Cardwell<sup>1</sup>, should be argued on the same day, but should not be consolidated as they contain different issues,

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<sup>1</sup> Respondent, of course, continues to believe the grant of the writ of certiorari is not warranted in the case of Michael Cardwell.

some of which may be in conflict with issues or defenses raised by Sarah Cardwell. For example, in Michael Cardwell's appeal there is a standing issue related to the fact the computer belonged to Sarah Cardwell and whether Michael Cardwell had any expectation of privacy in the computer. This issue could be in conflict with any arguments raised by Sarah Cardwell regarding the computer and who had the right to assert an expectation of privacy.

WHEREFORE, Respondent asks this Court to not consolidate the cases for review. The undersigned believes it is entirely appropriate, if the writ of certiorari is granted in the case of Michael Cardwell, for the cases to be argued on the same day, but asks the Court to retain the cases as two separate appeals.

Respectfully submitted,

ALAN WILSON  
Attorney General

WILLIAM M. BLITCH, JR.  
Assistant Attorney General  
S.C. Bar No. 15608

BY:   
William M. Blich, Jr.

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ATTORNEYS FOR RESPONDENT

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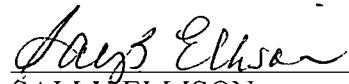
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**PROOF OF SERVICE**  
\_\_\_\_\_

I, Sally Ellison, certify that I have served the within Return to Motion to Consolidate by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Melissa A. Fried, Esquire  
Nexsen Pruet, LLC  
Post Office Box 486  
Charleston, South Carolina 29402

Robert Dudek, Esquire  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, South Carolina 29211

I further certify that all parties required by Rule to be served have been served.  
This 18<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
SALLY ELLISON  
Legal Assistant  
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