

The Supreme Court of South Carolina

The State,

Respondent,

v.

David M. Rocquemore,

Petitioner.

The Honorable Daniel F. Pieper
Charleston County
Trial Court Case No. 2005-GS-10-08601
2005-GS-10-08602

ORDER

For good cause shown, the request for an extension to serve and file the Brief of Petitioner is granted and extended until April 4, 2012. Pursuant to this Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Arenda J. Shealy*
Chief Deputy Clerk

Columbia, South Carolina

March 7, 2012

cc: Chief Appellate Defender Robert M. Dudek
Senior Appellate Defender Joseph L. Savitz, III
Assistant Attorney General Deborah R.J. Shupe
Scarlett Anne Wilson, Esquire

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County
Daniel F. Pieper, Circuit Court Judge

RECEIVED

MAR 5 2012

(3)

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

DAVID M. ROCQUEMORE,

PETITIONER

PETITION FOR EXTENSION TO FILE
BRIEF OF PETITIONER

The undersigned counsel respectfully requests a **final thirty day extension, until April 4, 2012**, in which to file the brief of petitioner in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The brief of petitioner in this case is due to be served and filed today.
2. Counsel is filing the initial brief of appellant and designation of matter in State v. Charles Berlin Pennell with the Court of Appeals today, March 5, 2012. Counsel is also filing the brief of petitioner in State v. Miama Kromah with this Court today, March 5, 2012. Counsel is currently working on the petition for writ of certiorari and accompanying appendix in the death penalty case of Richard Bernard Moore v. State with co-counsel Susan B. Hackett. Counsel presented at the Best Practices Seminar sponsored by the South Carolina Commission on Indigent Defense and the Charleston Law School in Charleston on February 24, 2012. Counsel

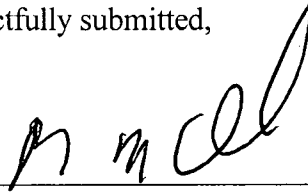
filed the five issue death penalty brief in the case of State v. Steven Barnes on February 22, 2012, with this Court. Counsel argued part of the case of State v. Kathy Salley along with Matt Bogan Nelson-Mullins firm before this Court on February 22, 2012 after the Court of Appeals sought certification. On February 23, 2012, counsel argued part of the case of State v. Chris Anthony Liverman before this Court, also along with Matt Bogan. Counsel filed a petition of for writ of certiorari with the United States Supreme Court in the death penalty case State v. William O. Dickerson on February 15, 2012. Counsel argued State v. Gavin Duvell before the Court of Appeals on February 16, 2012. Counsel argued part of, along with Reid Sherard of the Nelson-Mullins firm, the murder case of State v. Richard Bill Niles, Jr. with the Court of Appeals on Tuesday, February 14, 2012. Counsel filed the initial brief of appellant and designation of matter in State v. Jason Will Williams with the Court of Appeals on February 8, 2012. Counsel is reading the state's brief in the death penalty case of State v. Steven Stanko where he anticipates filing a reply brief. Moreover, two other major cases have just arrived in this office that require attention: Marion Lindsey v. State, a death penalty PCR case, and Steven Beckham v. State, which originally was a death penalty case at the trial level. In addition to the above, counsel has very extensive administrative duties on a daily basis as the Chief Appellate Defender.

3. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

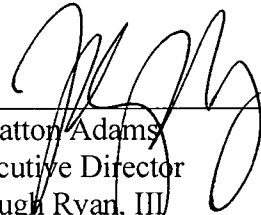
4. As indicated by his consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request **final thirty day extension, until April 4, 2012**. Counsel respectfully requests that the time limits for filing brief of petitioner be held in abeyance pending a ruling on this motion.

Respectfully submitted,



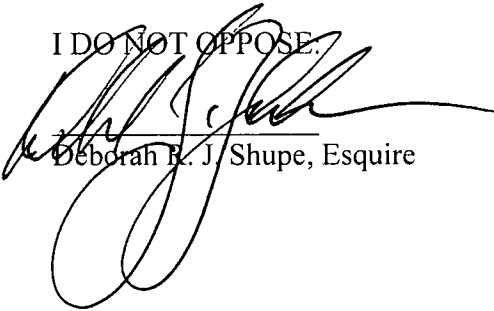
Robert M. Dudek
Chief Appellate Defender



T. Patton Adams
Executive Director
J. Hugh Ryan, III
General Counsel

March 5, 2012

I DO NOT OPPOSE.



Deborah E. J. Shupe, Esquire

The Supreme Court of South Carolina

The State,

Respondent,

v.

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Petitioner.

The Honorable Daniel F. Pieper
Charleston County
Trial Court Case No. 2005-GS-10-08601
2005-GS-10-08602

ORDER

For good cause shown, the request for an extension to serve and file the Brief of Petitioner is granted and extended until March 5, 2012. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

February 3, 2012

cc: Chief Appellate Defender Robert M. Dudek
Attorney General Alan Wilson
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General Deborah R.J. Shupe
Scarlett Anne Wilson, Esquire

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County
Daniel F. Pieper, Circuit Court Judge

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S.C. Supreme Court

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THE STATE,

RESPONDENT,

V.

DAVID M. ROCQUEMORE,

PETITIONER

PETITION FOR EXTENSION TO FILE
BRIEF OF PETITIONER

The undersigned counsel respectfully requests a thirty day extension in which to file the brief of petitioner in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The petition for brief of petitioner in this case is due to be served and filed today.
2. Counsel is filing the initial brief of appellant and designation of matter in State v. Stephania Murray with the Court of Appeals today, February 2, 2012. Counsel is working on the death penalty case of Richard Moore v. State. Counsel is expecting the state's brief in the death penalty case of State v. Steven Stanko which he will also have to read and research for a reply brief. Moreover, two other major cases have just arrived in this office that require attention: Marion Lindsey v. State, a death penalty PCR case, and Steven Beckham v. State, which

STATE OF SOUTH CAROLINA
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THE STATE,

RESPONDENT,

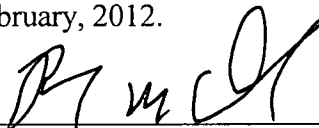
V.

DAVID M. ROCQUEMORE,

PETITIONER

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the petition for extension to file petition for writ of certiorari and accompanying appendix in the above referenced case has been served upon Deborah R. J. Shupe, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 2nd day of February, 2012.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 2nd day of February, 2012.



(L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021

The Supreme Court of South Carolina

The State,

Respondent,

v.

David M. Rocquemore,

Petitioner.

The Honorable Daniel F. Pieper
Charleston County
Trial Court Case No. 2005-GS-10-8601
2005-GS-10-8602

ORDER

The request for an extension to serve and file the Brief of Petitioner is granted and extended until February 2, 2012. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Sandra J. Shaly*
Chief Deputy Clerk

Columbia, South Carolina

January 5, 2012

cc: Chief Appellate Defender Robert M. Dudek
Senior Appellate Defender Joseph L. Savitz, III
Attorney General Alan Wilson
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General Deborah R.J. Shupe
Scarlett Anne Wilson, Esquire



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 3, 2012

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JAN - 3 2012

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
P.O. Box 11330
Columbia, SC 29211

S.C. Supreme Court

Re: The State v. David M. Rocquemore

Dear Mr. Shearouse:

The Brief of Petitioner is due to be served and filed with the Court today. However, because of my heavy workload at this time, I am requesting a thirty day extension in which to serve and file the petition.

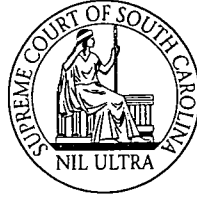
By copy of this letter, I am informing Deborah R. J. Shupe, Esquire, of the Attorney General's Office, of my request.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/cms

cc: Deborah R. J. Shupe, Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 1, 2011

Chief Appellate Defender Robert M. Dudek
Senior Appellate Defender Joseph L. Savitz, III
South Carolina Commission
on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Rocquemore, David M.

Dear Counsel:

Enclosed is the Order granting your Petition for Writ of Certiorari in the above entitled matter.

It will be necessary for you to furnish this office with an additional thirteen (13) copies of the appendix within thirty (30) days from the date of this letter.

Brief of Petitioner should be served and filed on or before January 3, 2012. The brief is not properly filed until we have proof of service.

Brief of Respondent should be served and filed within thirty (30) days after petitioner's brief is filed. We must have proof of service. Any reply brief should be served and filed within ten (10) days after filing of respondent's brief.

Very truly yours,

Daniel E. Shearouse
CLERK

The State v. David M. Rocquemore
Page Two
December 1, 2011

DES/lda

Enclosure

cc: Attorney General Alan Wilson
Chief Dputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General Deborah R.J. Shupe
Scarlett Anne Wilson, Esquire
The Honorable Tanya Gee

The Supreme Court of South Carolina

The State,

Respondent,

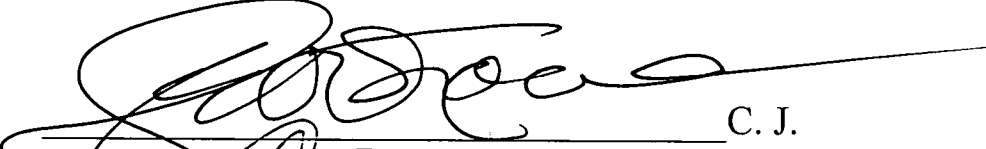
v.

David M. Rocquemore,


Petitioner.

ORDER

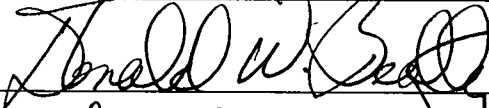
We grant the petition for a writ of certiorari to review the Court of Appeals' decision in State v. Rocquemore, Op. No. 2010-UP-331 (S.C. Ct. App. filed June 28, 2010). The parties shall proceed to serve and file the appendix and briefs as provided by Rule 242(i), SCACR.



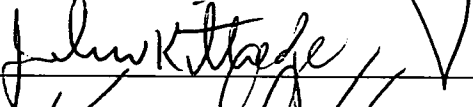
C. J.



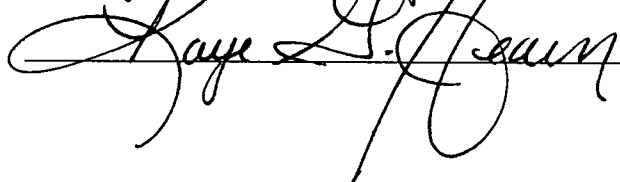
J.



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J.



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Columbia, South Carolina

December 1, 2011

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Daniel F. Pieper, Circuit Court Judge

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S.C. SUPREME COURT

Opinion No. 2010-UP-331 (S.C. Ct. App. filed 6/28/2010)

05-GS-10-8601 & 8602

THE STATE,

RESPONDENT,

V.

DAVID M. ROCQUEMORE,

APPELLANT

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS

JOSEPH L. SAVITZ, III
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
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ATTORNEY FOR PETITIONER

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on 8/27/2010.

QUESTION PRESENTED

The trial judge committed reversible error by refusing to grant a mistrial once it was revealed that the State had neglected to disclose that a sitting juror was a close cousin of an Assistant Solicitor in their office and that the two had been communicating with each other throughout the trial.

STATEMENT OF THE CASE

On July 9 through 19, 2007, David Michael Rocquemore stood trial in Charleston County, before Judge Daniel F. Pieper and a jury, on indictments charging him with murder (2005-GS-10-8602) and possession of a firearm during the commission of a violent crime (2005-GS-10-8601). Rocquemore acknowledged that he had shot and killed the victim, Hershall Demar Denson, but insisted that he did so while defending himself from a homicidal lynch-mob, which included Denson among its number. “[A]s I was tackled and beaten to the ground,” Rocquemore explained, “the gun went off.” ROA p. 521, line 14 – p. 522, line 11. (Denson was shot twice: once in the upper left abdomen – the fatal injury – and once close to the left armpit. ROA p. 307, lines 1-12.)

During the early morning hours of August 14, 2005, Rocquemore went to an afterhours party with a friend, but he did not know many of the people there. ROA p. 393, line 21 – p. 394, line 7. A State’s witness remembered him as a polite and “[q]uiet guy” who “[b]arely said two words all night.” ROA p. 77, lines 1-8. In fact, Rocquemore appeared to be “the only sober one in the crowd.” ROA p. 77, lines 9-13.

The tone of the gathering abruptly turned ugly when another man became sexually aggressive toward a disinterested female and threw a drink in her friend’s face when she sought to intervene. ROA p. 108, line 19 – p. 109, line 14; ROA p. 243, lines 10-22; ROA p. 325, line 17 – p. 331, line 8. This lout and his friends hastily departed before the friends of the woman he had assaulted could find him and retaliate. ROA p. 359, line 4 – p. 361, line 8. But they returned after the party had broken up and confronted Rocquemore and his friend, who were also preparing to leave, in the street. ROA p. 110, line 20 – p. 111, line 10; ROA p. 116, lines 8-15; ROA p. 178, lines 13-22; ROA p. 245, line 17 – p. 246, line 9; ROA p. 397, line 7 – p. 399, line 6; ROA p. 468, line 11 – p. 471, line 1.

These men, upon whom the State's case depended, testified that the killing of Denson was "senseless" and unprovoked. ROA p. 233, line 16 – p. 234, line 2. "Nobody laid a hand on [Rocquemore]" before he opened fire, one of them testified. ROA p. 188, lines 8-11. Two witnesses even went so far as to assert that Denson's hands were raised in surrender and that he was backing away when Rocquemore fired the first shot. ROA p. 185, line 6 – p. 187, line 2; ROA p. 283, line 22 – p. 284, line 3.

But the physical evidence does not support this account of the incident. Denson had traces of gunshot residue on the back of his right hand but not his shirt. ROA p. 301, line 20 – p. 302, line 25. These findings indicate that he was in the process of throwing a punch at Rocquemore when he was shot. ROA p. 306, lines 8-14.

The men who later testified for the State were still beating Rocquemore when police arrived on the scene. ROA p. 15, lines 1-7. One officer testified:

[I]t was a pretty agitated scene. They were pretty agitated. It took several orders to tell them to get off. One of the individuals kicked him in the groin. I think one more might have punched him.

ROA p. 21, lines 2-15. A lynch-mob atmosphere still prevailed. Officers feared for their own safety and called for backup. ROA p. 40, lines 11-18; ROA p. 42, lines 22-24.

As previously indicated, Rocquemore specifically testified that he shot Denson in self-defense after he and his friend were brutally attacked without provocation. ROA p. 469, line 6 – p. 472, line 9; ROA p. 479, lines 2-15. He believed he had no other choice. ROA p. 490, lines 7-9. Rocquemore's friend, who was also attacked, corroborated his account of the incident. ROA p. 398, line 8 – p. 409, line 7.

In addition to murder, the judge instructed the jury on voluntary and involuntary manslaughter, self-defense and accident. The jury found Rocquemore guilty of voluntary

manslaughter, and the judge sentenced him to imprisonment for ten years and a concurrent sentence of five years for possession of a firearm during the commission of a violent crime. This case was Rocquemore's first contact with the criminal justice system. ROA p. 720, lines 8-10. As defense counsel pointed out, he had never been thought of as "anything but a good young man." ROA p. 720, lines 10-12.

On direct appeal to the South Carolina Court of Appeals, one of the two issues Rocquemore raised was:

The trial judge committed reversible error by refusing to grant a mistrial once it was revealed that the State had neglected to disclose that a sitting juror was a close cousin of an Assistant Solicitor in their office and that the two had been communicating with each other throughout the trial.

The Court of Appeals affirmed in an unpublished opinion holding, as to this issue, "[A]ssuming, without deciding, that the trial [judge] committed error, we find Rocquemore failed to demonstrate any prejudice." *State v. David M. Rocquemore*, Unpublished Opinion No. 2010-UP-331, filed June 28, 2010. It denied rehearing by order dated August 27, 2010.

David M. Rocquemore now petitions the Supreme Court for writ of certiorari to review the Court of Appeals' disposition of this issue.

ARGUMENT

The trial judge committed reversible error by refusing to grant a mistrial once it was revealed that the State had neglected to disclose that a sitting juror was a close cousin of an Assistant Solicitor in their office and that the two had been communicating with each other throughout the trial.

None of the potential jurors responded when the judge asked:

Are any of you related by blood, connected by marriage, or have any social, business, or professional dealings with [the prosecutors on Rocquemore's case], or any dealings or connections with the Solicitor's office?

ROA p. 1, lines 16-22. After the State had rested its case, the defense learned that a sitting juror was in fact the cousin of an Assistant Solicitor in that very office. ROA p. 376, line 6 – p. 380, line 18. At no time did the State disclose this information to the judge or the defense. When this juror was seated, the defense had used only four of the ten peremptory strikes allotted. ROA p. 2, line 3 – p. 6, line 16.

Further investigation by the defense revealed that the juror had been in contact with his cousin the Assistant Solicitor by text message and telephone *during the trial*. ROA p. 380, line 22 – p. 383, line 14. Defense counsel then moved to have the juror dismissed and replaced with an alternate. ROA p. 383, lines 15-18. The State did not object. ROA p. 384, lines 11 and 12. The judge granted the motion. ROA p. 389, lines 3-6.

Defense counsel next asked the judge to determine whether this juror's presence on the jury had "tainted any other jury members." ROA p. 384, line 22 – p. 385, line 4. Under questioning by the judge, the juror admitted that he had a cousin who worked in the Solicitor's office, but claimed he did not disclose that information during jury qualification because he did not feel it would have

any effect on his ability to be fair, *not* that he did not understand the question. ROA p. 386, line 7 – p. 387, line 8. He and his cousin had “talked ... [a]bout his wedding and stuff” since the start of trial. ROA p. 387, lines 9-18. The juror denied having discussed the matter with his fellow jurors. ROA p. 387, line 19 – p. 388, line 3.

But the incident continued to trouble defense counsel. ROA p. 573, line 8 – p. 575, line 2. The Assistant Solicitor in question testified that his cousin had called to tell him that he was on Rocquemore’s jury and that he had responded to a second phone call made during the trial with a text message stating, “I’m sorry, I can’t talk to you.” ROA p. 596, line 16 – p. 598, line 19. He communicated this information to one or two of the three attorneys prosecuting Rocquemore. ROA p. 600, line 14 – p. 601, line 6. The Deputy Solicitor acknowledged that the Assistant Solicitor told him as they passed in the hall that “his cousin was on the jury.” ROA p. 604, lines 3-22. He did not realize it was something he needed to follow up or disclose. ROA p. 604, line 23 – p. 605, line 1. “I think he told me that his cousin was on the jury panel,” he explained, “but I didn’t know who his cousin was.” ROA p. 608, lines 2-15. Another member of the prosecution team revealed that he also knew his colleague had “a cousin on the jury panel.” ROA p. 607, lines 20-24. “[T]hat was before qualification,” he added, and “I didn’t go to qualification. ... I didn’t know his name.” ROA p. 607, line 24 – p. 608, line 5.

Defense counsel got right to the point:

[N]ames don’t matter. ... It could have been any juror. The name doesn’t matter. They’re on notice that “a juror” misled the court when he was seated on this jury.

ROA. p. 608, lines 17-23. He suggested (and the judge agreed) that the remaining jurors should be questioned individually. ROA p. 610, line 3 – p. 611, line 1.

Most of the jurors were unaware that their fellow juror had a cousin in the Solicitor's Office. One had gone to school with him and knew of the relationship independently. ROA p. 617, line 24 – p. 618, line 5. Another, on the other hand, had overheard the juror announce that his cousin was a prosecutor and that he was going to ask him what was going on in the courtroom while they waited in the jury room. ROA p. 621, line 10 – p. 623, line 18. Another juror partially corroborated this account. ROA p. 627, lines 1-13.

At this point, defense counsel moved for a mistrial:

The only reason that this is a problem before the court this morning is because the State failed to disclose [the relationship between the juror and the Assistant Solicitor] in a timely basis. Therefore, the State should be sanctioned, and we believe that the sanction is a mistrial.

ROA p. 634, lines 1-5. The Assistant Solicitor suddenly became less certain about when he had told the prosecution team “my cousin's on the jury.” ROA p. 638, line 9 – p. 641, line 16. He had assumed this information would have come to light during jury qualification. ROA p. 641, line 25 – p. 642, line 4.

The judge observed, “I'm not prepared to say there was some kind of intentional conduct on the part of the State.” ROA p. 644, lines 11-17. He subsequently added, “I do believe that the juror should have disclosed that information, and I'm not convinced that the juror misunderstood the question.” ROA p. 659, lines 11-16.

The defense renewed its mistrial motion:

My client's due process rights have been violated by the failure to disclose that there was a seated juror who was not honest with the court, who had a relationship – a special relationship – with a member of the Solicitor's office.

ROA p. 656, lines 8-12. He added, “If the information ... had been brought to the attention of the defendant at that time, we could have exercised a peremptory.” ROA p. 659, lines 20-24. The judge denied the mistrial motion. ROA p. 660, lines 7-15.

After Rocquemore had been found guilty of voluntary manslaughter, defense counsel renewed the mistrial motion based on “new information” the defense had uncovered. ROA p. 708, lines 19-21. Specifically:

[I]t appears that the juror and the Assistant [Solicitor] were not forthright with the court in the court’s examination of the number of contacts. ... There has now been established twenty contacts between the juror and the member of the Solicitor’s staff.

ROA p. 710, lines 6-13. In support of this motion, counsel introduced telephone records documenting the contacts, but not their substance. ROA p. 719, lines 9-24; ROA pp. 723-728. Defense counsel subsequently filed a written motion requesting an order “for the release of the substance of the text-messages sent and received” by the Assistant Solicitor during Rocquemore’s trial. ROA pp. 735-736. Following a conference call, the judge denied the motion by written order. ROA pp. 737. (The Court of Appeals denied a similar motion filed by the undersigned during the pendency of this appeal.) The judge denied the mistrial motion. ROA p. 718, line 17 – p. 719, line 8.

S.C. Code Section 14-7-1020 states in relevant part, “The court shall, on motion of either party in the suit, examine on oath any person who is called as a juror to know whether he is related to either party.” In accordance with this directive, the trial judge asked the prospective jurors in Rocquemore’s case to reveal any relationship “by blood” with the Solicitor’s Office. By their own admission, two of the three prosecutors knew at that point that one of the potential jurors was the cousin of an Assistant Solicitor in their office. Yet they did not reveal this information to either the

judge or defense counsel when no one responded to the judge's inquiry. They apparently believed they were under no obligation to reveal the deception of a juror unless they had actual knowledge of his identity.

"It is fundamental that a defendant is entitled to a trial by an impartial jury." *State v. Gullledge*, 277 S.C. 368, 287 S.E.2d 488, 489 (1982), citing the *Sixth Amendment to the United States Constitution* and *Article 1, Section 14, of the South Carolina Constitution*.

Every fair-minded person will readily recognize the importance of having the jury to whom a case is submitted for trial composed of persons who, as far as practicable, are free from any bias or prejudice, either for or against one or the other of the parties, whether the same arises from interest, by reason of relationship or otherwise, or from having previously formed or expressed an opinion as to the merits of the controversy.

State v. Robertson, 53 S.C. 147, 31 S.E. 868, 869 (1899). *Gullledge* acknowledges that "a relationship with counsel" is a primary source of juror bias. 287 S.E.2d at 490. Nevertheless, "[t]here is no absolute rule of disqualification based on a juror's relationship to an attorney in the case." *Thompson v. O'Rourke*, 288 S.C. 13, 339 S.E.2d 505, 506 (1986).

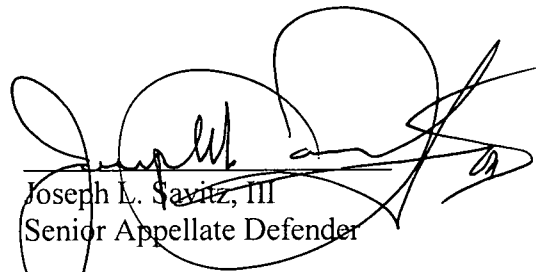
"Prosecutors are ministers of justice and not merely advocates." *State v. Quattlebaum*, 338 S.C. 441, 527 S.E.2d 105, 109 (2000), citing *Rule 3.8, Rules of Professional Conduct*. By neglecting to reveal the blood relationship between an Assistant Solicitor in their office and a juror on Rocquemore's case, the State failed to exercise even a modicum of due diligence. See, for example, *Wilson v. Childs*, 315 S.C. 431, 434 S.E.2d 286 (Ct. App. 1993). Their unconscionable silence prevented the defense from intelligently exercising its peremptory strikes. Compare *Wall v. Keels*, 331 S.C. 310, 501 S.E.2d 754 (Ct. App. 1998). This relationship may have supported the challenge for cause but would definitely have been a material factor in the defense's use of its peremptory strikes. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001). If this information had

been brought to his attention in a timely manner, defense counsel stated, “we could have exercised a peremptory.” ROA p. 659, lines 20-24. Compare *State v. Savage*, 306 S.C. 5, 409 S.E.2d 809 (Ct. App. 1991), certiorari denied January 22, 1992.

The Court of Appeals affirmed on direct appeal because it found “Rocquemore failed to demonstrate any prejudice.” The Court’s unpublished opinion does not address the culpability of the Solicitor’s Office, nor does it acknowledge the trial judge’s refusal – and its own – to allow trial and appellate counsel access to the content of the text-messages sent and received by the Assistant Solicitor and his cousin during Rocquemore’s trial. It is somewhat disingenuous to deny defense counsel access to the means of establishing actual prejudice (if this is even necessary) and then bootstrapping that restriction into a finding of no prejudice.

Based on the foregoing argument, the Supreme Court should grant certiorari and ultimately reverse David M. Rocquemore’s convictions for voluntary manslaughter and possession of a firearm during the commission of a violent crime.

Respectfully submitted,



Joseph L. Savitz, III
Senior Appellate Defender
ATTORNEY FOR PETITIONER

This 23rd day of September, 2010

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County
Daniel F. Pieper, Circuit Court Judge

Opinion No. 2010-UP-331 (S.C. Ct. App. filed 6/28/2010)
05-GS-10-8601 & 8602

THE STATE,

RESPONDENT,

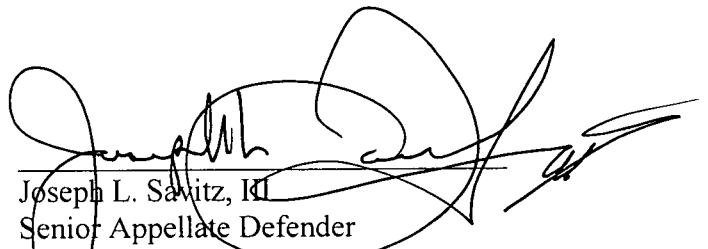
V.

DAVID M. ROCQUEMORE,

APPELLANT

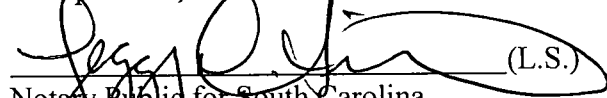
CERTIFICATE OF SERVICE

I certify that a true copy of the petition for writ of certiorari and a copy of the appendix, in this case has been served on Deborah R.J. Shupe, Esquire, David M. Rocquemore and the S.C. Court of Appeals this 23rd day of September, 2010.



Joseph L. Sawitz, III
Senior Appellate Defender
ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 23rd day
of September, 2010.



(L.S.)
Notary Public for South Carolina
My Commission Expires: December 4, 2017.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal From Charleston County
The Honorable Daniel F. Pieper, Circuit Court Judge

THE STATE,

vs.

DAVID MICHAEL ROCQUEMORE,

**RETURN TO PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS**

HENRY DARGAN McMASTER
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JOHN W. McINTOSH
Chief Deputy Attorney General

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ORIGINAL

RECEIVED

NOV 27 2010

Respondent,
S.C. SUPREME COURT

RECEIVED

NOV 24 2010

Petitioner,
S.C. Supreme Court

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STATEMENT OF ISSUE PRESENTED

The Court of Appeals properly affirmed the denial of Rocquemore's motion for a mistrial, because the circuit court dismissed the juror in question, and took appropriate steps to ensure the remaining jurors were not tainted by the dismissed juror's relationship to a prosecutor who not involved in the case.

STATEMENT OF THE CASE

At approximately 4:05 a.m. on August 14, 2005, Charleston County deputies responded to a "shots fired" call. When they arrived, two men were restraining Appellant David Michael Rocquemore ("Rocquemore"), and another man, identified as Herschel Denson ("Denson"), was laying on the ground with a bullet wound. Denson was alive, but unconscious and unresponsive. The responding deputies got the two men off Rocquemore and took control of him. As a result of information conveyed to the Sheriff's Department, they also recovered the gun used to shoot Denson, which was registered to Rocquemore. (Record on Appeal [R.], pp. 9-12, 19- 31, 288-291).

Denson died from injuries sustained in the shooting. (R., pp. 311-314). On December 5, 2005, the Charleston County Grand Jury indicted Rocquemore on one count of murder and one count of possession of a firearm during a crime of violence. The case was called for a jury trial on July 9, 2007, before the Honorable Daniel F. Peiper, Circuit Court Judge.

Four eyewitnesses, Dexter Brown, Ronald Gibbs, Troy Eason and Rodney Gibbs, testified Rocquemore and his friend, Chris Thomas, started an altercation with them and Denson. Thomas made a statement about getting something out of his trunk, and the witnesses thought he meant a gun. Ronald Gibbs followed Thomas to his car and tackled him when he reached into the trunk.

While Ronald Gibbs and Thomas were struggling, Rocquemore went to his car and got a gun. He swung the gun at Denson, dropped it on the ground, picked it up and shot Denson twice. Troy Eason and Rodney Gibbs wrestled with Rocquemore in an effort to get

the gun away from him, but it was underneath him on the ground, and Rocquemore did not release it until Ronald Gibbs came over and used a pressure point hold on him. (R., pp. 43-67, 97-130, 164-193, 237-261).

During the defense's case, defense counsel informed the court he learned that a juror was related to an assistant solicitor, Michael Nelson ("Nelson"), and had communicated with Nelson during the trial. When the court asked what relief counsel was requesting, he replied: "I think [the juror] should be dismissed." The court indicated it would dismiss the juror, and the State agreed. The court also agreed to ask the juror if he told other jurors about his relationship with Nelson. (R., pp. 376-385).

The court then called the juror, Austin Davey ("Davey"), into the courtroom, and confirmed his cousin worked at the Solicitor's Office. Davey admitted he did not inform the court of that relationship during jury *voir dire*, stating: "[w]ell, somebody stood up and you asked if that was going to have any affect, you know. And it wouldn't, wouldn't affect me." He also stated he had talked with Nelson since the trial started, but they did not talk about the case in any way, and he did not disclose his relationship to Nelson to the other jurors. (R., pp. 386-388).

Before dismissing Davey, the court again asked defense counsel what he wanted the court to do, and specifically if he had any further questions he wanted to ask Davey. Counsel stated he did not have any further questions. After the court dismissed Davey and instructed him not to discuss the case with anyone or contact Nelson until the case was over, defense counsel stated: "[t]he defendant is ready to proceed." (R., pp. 388-390). Rocquemore did not move for a mistrial, or ask the court to individually poll the remaining jurors about

communications with Davey.

Rocquemore then called Thomas, who testified that just prior to the shooting, he and Rocquemore were standing outside talking to Dexter Brown when an SUV “came flying down the streets with no lights on, a gentleman hanging out the window, yelling all kind of stuff, sorts of things.” After the car pulled up in front of Dexter Brown’s house, the men inside got out “in an aggressive manner, traveling towards [Thomas], Dexter Brown, and David Rocquemore.” After a verbal altercation, one of the men started to put his hands in Rocquemore’s face and Rocquemore slapped his hand down. Thomas turned “to go to [his] trunk to try to get something to hit [one of the men] with, and [the man] tackled [Thomas].” While the man was holding him on the ground, Thomas heard scuffling and two shots, but he could not see what happened. (R., pp. 392-424).

Rocquemore testified he, Thomas and Dexter Brown were standing in front of Dexter Brown’s house talking when a SUV came down the street, with loud profanities and noises coming from inside. When the SUV stopped, two men got out and came in Rocquemore’s direction, cursing and screaming at him. One man put his finger in Rocquemore’s face and poked his chest, saying Rocquemore did not “belong there.” Rocquemore knocked the man’s hand away and the man swung at him.

Rocquemore stated he “took off running to his [truck],” but “was being hit from behind and pulled and just beat.” He tried to get in his truck, but he “was being hit and pulled,” and he held on to the steering wheel and console to keep from getting pulled out.

While all this hitting and pulling was happening, however, Rocquemore was able to open the console and get his gun. He testified the men then drug him from the truck, and he

swung the gun at one of them. He dropped the gun, picked it back up and tried to run, but “was still being beaten and pulled and kicked.” The men fell on top of him, and he just remembered a loud noise. (R., pp. 468-537, 543-555).

The defense rested after Rocquemore’s testimony, and after a brief charge conference, court adjourned for the day. When court reconvened the next morning, Rocquemore’s counsel asked for further “discussion” of the dismissed juror, specifically stating he was “not asking for a mistrial.” After discussing the issue, the circuit court questioned Nelson and the assistant solicitors about the situation involving Davey. In addition, with the State’s agreement, the court individually questioned the remaining jurors to ascertain if they knew about the relationship between Nelson and Davey, and if so, did that knowledge impact their ability to give the parties a fair and impartial trial. (R., pp. 573-586, 596-610).

Ten jurors stated they were not aware of any relationship between the dismissed juror and someone in the Solicitor’s Office. One juror indicated he knew about the relationship only because he went to school with Davey, but it would not affect his ability to render a fair and impartial verdict. One juror stated Davey said he had a cousin in the Solicitor’s Office, but they never discussed the case and the knowledge would not affect his ability to render a fair and impartial verdict. The remaining juror stated Davey only said he had a relative who worked in the building, but did not say where the relative worked, and the knowledge would not affect her ability to render a fair verdict. (R., pp. 612-631).

Rocquemore then moved for a mistrial, arguing the State failed to disclose the relationship and should be sanctioned. After further questioning Nelson and the assistant solicitors, and based on the remaining jurors’ responses, the circuit court denied the motion,

finding there was insufficient evidence of intentional conduct by the State, Davey had been removed from the jury, and the remaining jurors were not tainted. (R., pp. 632-660).

The jury convicted Rocquemore of the lesser included offense of voluntary manslaughter on the murder indictment, and the possession of a firearm during a crime of violence charge. (R., pp. 706). After the verdict, Rocquemore moved for a mistrial on the dismissed juror issue, arguing Nelson and Davey communicated more often during the trial than they related to the court. The court denied the motion, again finding the jury was not tainted. (R., pp. 707-719).

The court sentenced Rocquemore to ten years incarceration on the voluntary manslaughter conviction and five years, concurrent, on the possession of a firearm conviction. (R., pp. 721-722). This appeal followed.

By unpublished opinion filed June 28, 2010, the Court of Appeals affirmed Rocquemore's conviction. Even assuming (without deciding) error in denying Rocquemore's mistrial motion based on the State's failure to disclose the juror relationship, the Court found Rocquemore did not demonstrate any prejudice. (Appendix, pp. 1-3).

The Court denied Rocquemore's Petition for Rehearing by Order dated August 27, 2010. (Appendix, p. 7). On September 23, 2010, Rocquemore filed a Petition for Writ of Certiorari to the Court of Appeals, asking this Court to review the Court of Appeals decision.

ARGUMENT

The Court of Appeals properly affirmed the denial of Rocquemore's motion for a mistrial, because the circuit court dismissed the juror in question, and took appropriate steps to ensure the remaining jurors were not tainted by the dismissed juror's relationship to a prosecutor who not involved in the case.

Rocquemore contends the Court of Appeals erred in affirming based on a lack of prejudice without addressing "the culpability of the Solicitor's Office," or allowing counsel access to the content of text messages between the dismissed juror and the assistant solicitor. As he did in the circuit court and the Court of Appeals, Rocquemore ignores the evidence regarding what the solicitors trying the case knew about Davey and when they knew it, the posture of the case at the time the information was revealed, and more significantly, the circuit court's actions which essentially eliminated any potential prejudice to Rocquemore. Further, given the undisputed absence of any taint as to the remaining jurors, text messages between the dismissed juror and the assistant solicitor were irrelevant, regardless of their content.

A. Preservation

As a threshold matter, this issue was not preserved for appellate review. When Rocquemore raised the issue, the circuit court specifically asked counsel what relief he was requesting, and counsel responded: "I think [the juror] should be dismissed." (R., pp. 376-384). After questioning Davey, the circuit court granted Rocquemore's request and seated an alternate juror. Rocquemore's counsel then stated: "The defendant is ready to proceed." (R., pp. 384-390, 391).

Thereafter, Rocquemore presented a witness, testified on his own behalf and rested

his case. (R., pp. 391-556). When court reconvened the next day, however, Rocquemore's counsel stated he was not moving for a mistrial, but just wanted to discuss his "thoughts last night" about the dismissed juror. Counsel did not offer new evidence regarding the juror, and stated he was not questioning the way the court handled the issue or the integrity of the Solicitor's Office. (TT, pp.1077-1082; R., pp. 573-578).

When the juror issue was initially before the court, Rocquemore clearly had ample opportunity to request individual polling of the remaining jurors, or move for a mistrial based on Davey's admitted failure to disclose his relationship with Nelson. Rocquemore received all the relief he requested - dismissal of the juror - then affirmatively informed the court he was ready to proceed with presentation of his case, presented two witnesses and rested his case. His failure to seek additional relief when the issue was before the court waived the issue for appellate review. *Cf. Epting v. Brumble*, 264 S.C. 114, 212 S.E.2d 711, 712 (1975) (since trial court granted only relief sought, appellant cannot complain that he should have been granted more); *State v. McCord*, 349 S.C. 477, 562 S.E.2d 698, 694 (Ct. App. 2002) (no issue for appellate review if objecting party accepts judge's ruling on admission of evidence and does not contemporaneously make an additional objection to the sufficiency of the curative charge or move for a mistrial).

B. Abuse of Discretion

Even if the belated motion for a mistrial preserved an issue for appellate review, however, the Court of Appeals properly affirmed the circuit court's ruling. Whether to grant or deny a mistrial motion is a matter within the trial court's sound discretion, and the court's decision will not be disturbed on appeal absent an abuse of discretion amounting to an error

of law. *E.g.*, State v. Council, 335 S.C. 1, 515 S.E.2d 508, 514 (1999); State v. Harris, 382 S.C. 107, 674 S.E.2d 532 (Ct. App. 2009); State v. Thompson, 352 S.C. 552, 575 S.E.2d 77 (Ct. App. 2003). A mistrial is an extreme measure, and the court's power to declare a mistrial should be used with the greatest caution, and only when the defendant can show both error and resulting prejudice. Harris, 674 S.E.2d at 537; *see also* State v. Beckham, 334 S.C. 302, 513 S.E.2d 606 (1999); State v. White, 371 S.C. 439, 639 S.E.2d 160, 162-63 (Ct. App. 2006).

When Rocquemore raised the juror issue the second time, even though counsel presented no new evidence of misconduct, the circuit court summoned Nelson to the courtroom, who testified under oath Davey called him after the jury was picked and they discussed Nelson's engagement party. Nelson stated Davey mentioned he had been selected for the jury, Nelson told Davey he could not talk about it, and they never discussed the case. Davey also called him during lunch the previous day, but Nelson did not answer the call, and subsequently told Davey by text message he could not talk to him. (R., pp. 596-600).

Nelson testified he told two of his colleagues his cousin was on the jury panel, but did not remember whether the conversations occurred before or after the jury was selected. One assistant solicitor (Alfaro) stated Nelson told him his cousin was on the jury panel before jury qualifications, but he did not know the cousin's name or that he was on the jury in this case. The other assistant solicitor (Durant) stated he thought Nelson told him his cousin was on the jury panel, but he did not know the cousin's name when the jury was selected. (R., pp. 600-608).

Rocquemore's counsel then argued there was a due process violation. The following

colloquy occurred between counsel and the circuit court:

MR. SAVAGE: Perhaps at a minimum we have to individually voir dire the remaining jurors, at a minimum, and then the question is: **If there has been any taint**, then I don't think that there's any alternative to a mistrial.

THE COURT: Well, I don't need to speculate about a taint until I hear from the jurors.

MR. SAVAGE: Yes, sir.

THE COURT: And almost an hour ago we started with the assumption that I would talk to the jurors. I'm not sure that absent that type of taint disclosed by the jurors, though, you know - - I mean, I still don't know what remedy you're asking for, and I think the reason you want to ask for this is you don't know what the jury is going to say either.

MR. SAVAGE: Correct.

THE COURT: And the question that you would suggest would be?

MR. SAVAGE: The next step I think is an individual voir dire of the jury.

THE COURT: The question which would be to the juror?

MR. SAVAGE: Has the juror that's been dismissed had any conversation about his relationship with the Solicitor's Office or any information about the case?

It's just not about the case, but it's the relationship that would give credibility or believability to enhance credibility or believability to the state's position because of a voucher for, if you will, by that juror of the good name of the trial counsel.

(R., pp. 609-611) (emphasis added).

The court then called each juror out individually and asked them whether the dismissed juror discussed his relationship with someone in the Solicitor's Office. Eleven jurors (including the remaining alternate) stated the juror did not say anything about a relationship with someone in the Solicitor's Office, or discuss the case in any way. One juror

(McQueeney) indicated he knew the juror had a cousin with the Solicitor's Office only because he went to school with the juror, and it would not affect his ability to give a fair and impartial verdict. (R., pp. 612-631).

One juror (Bowie) stated that during a general discussion about courtroom procedures, the dismissed juror said his cousin worked in the Solicitor's Office, but he did not discuss anything relating to the case. Bowie told the court nothing the dismissed juror said affected his ability to give everyone a fair and impartial trial. (R., pp.621-623).

Another juror (Gallagher) stated the dismissed juror said his cousin worked in the building, but did not say where the cousin worked. Gallagher told the court the information did not affect her ability to give everyone in the case a fair and impartial trial. (R., pp. 626-627).

After the jurors were questioned, Rocquemore's counsel argued the State knew an impaneled juror failed to disclose information to the court, and Davey's telling other jurors about his relationship with Nelson bolstered the State's credibility. He then asked the State be sanctioned by way of a mistrial that would trigger double jeopardy. (R., pp. 632-634).

The court again questioned the two assistant solicitors about what they knew regarding Nelson's cousin and when they knew it. Both stated Nelson told them his cousin was in the jury pool, but they did not know he was seated on the jury until defense counsel raised the issue during trial. (R., pp. 634-636).

Nelson was summoned to the courtroom again, and testified Davey called him the Sunday before jury qualifications to ask how he could get off jury duty, and said he was going to tell the judge Nelson was his cousin. Based on their conversation, Nelson assumed

Davey disclosed the relationship during jury qualification, and only learned it was not disclosed when Rocquemore's counsel informed him during the trial. Nelson stated he passed one of the assistant solicitors trying the case in the hall the day of jury qualifications and mentioned his cousin was on the jury, but could not recall whether he said jury or jury panel. He never told either of the assistant solicitors his cousin's name. (R., pp. 638-642).

Based on testimony from Nelson and the assistant solicitors, the circuit court determined the State did not intentionally fail to disclose Davey's relationship with Nelson. Rather, Nelson assumed Davey disclosed the relationship during *voir dire*, and the two assistant solicitors did not know Nelson's cousin was on the jury.¹ The court further noted the relationship would not have sustained a challenge for cause, and Rocquemore did not show he would have used a preemptory strike.² The court then found the remaining jurors were not tainted, and denied the motion for a mistrial. (R., pp. 643-660).

This case is clearly distinguishable from State v. Woods, 345 S.C. 583, 550 S.E.2d 282 (2001) (trial court erred in denying post-verdict new trial motion when juror intentionally concealed information on *voir dire* regarding her prior work as a victims'

¹Rocquemore asserts the two assistant solicitors "knew" one of the potential jurors was Nelson's cousin and failed to disclose that fact to the court or defense counsel. As noted above, both assistant solicitors testified Nelson told them his cousin was in the jury pool. (R., pp. 635-636). Nelson testified he was not sure when his conversations with the assistant solicitors took place or exactly what was said, but he never told them his cousin's name. (R., pp. 597-601, 638-642). Since it is undisputed neither assistant solicitor knew the cousin's name, they could not know the cousin was in the jury panel called for this case, much less that he was seated as a juror.

²Rocquemore merely told the circuit court he "could" have exercised a preemptory strike if he was aware of the relationship between Nelson and Davey. When the circuit court noted it was "not clear that the defendant would have used a preemptory," counsel conceded "there may have been other prevailing reasons to seat [Davey]." (R., pp. 659-660).

advocate); and State v. Gulledge, 277 S.C. 368, 287 S.E.2d 488 (1982) (trial court erred in denying mistrial upon discovery of juror's failure to disclose relationship with deputy who viewed the crime scene and had custody of the defendant in the courtroom during trial; juror remained on jury and participated in deliberations). Davey was removed from the jury well before jury deliberations and the verdict, and the circuit court took appropriate steps to determine the remaining jurors were not tainted by anything he may have said while serving on the jury. Thus, the analysis in Woods and Gulledge does not apply in this case. See State v. Savage, 306 S.C. 5, 409 S.E.2d 809 (Ct. App. 1991) (mistrial properly denied in the absence of prejudice to the defendant from a juror's failure to disclose a relationship with a witness).

The analysis remains the same regardless of the number and substance of contacts between Davey and Nelson. As the circuit court recognized in denying Rocquemore's Motion for Release of Records, the remaining jurors were not influenced or tainted in any way regardless of the level of communication between Davey and Nelson while Davey was on the jury. (R., pp. 732-734). Therefore, whether Davey and Nelson exchanged two or twenty conversations/text messages is irrelevant to the issue in this appeal. See State v. Jarrell 350 S.C. 90, 104, 564 S.E.2d 362, 370 (Ct. App. 2002) (recognizing an overriding rule of civil procedure that "whatever doesn't make any difference, doesn't matter")(citing McCall v. Finley, 294 S.C. 1, 4, 362 S.E.2d 26, 28 [Ct. App.1987]).

The record amply supports the circuit court's determination the jury that ultimately heard all the evidence, deliberated the case and rendered a verdict, was capable of giving the

parties a fair and impartial trial.³ See State v. Bell, 374 S.C. 136, 646 S.E.2d 888, 894 (Ct. App. 2007) (Determination of whether a juror is biased by the receipt of outside information concerning the case being tried, and the decision whether to dismiss a juror and replace him with an alternate, are matters within the trial court's discretion, and the court's decisions will not be reversed on appeal absent an abuse of discretion.). Thus, there was no abuse of discretion and the Petition for a Writ of Certiorari to the Court of Appeals opinion should be denied.

³Rocquemore's assertion Davey's relationship with Nelson somehow bolstered the credibility and believability of the State's case is belied by the fact the jury convicted Rocquemore of the lesser included offense of voluntary manslaughter rather than the murder charge as indicted. In order to reach that verdict, the jury apparently gave some credence to Rocquemore's evidence regarding the incident.

CONCLUSION

Based on the foregoing, Respondent respectfully submits the Petition for Writ of Certiorari to the Court of Appeals should be denied.

Respectfully submitted,


HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

DEBORAH R.J. SHUPE
Assistant Attorney General

SCARLETT WILSON
Solicitor, Ninth Judicial Circuit

BY: 
DEBORAH R.J. SHUPE

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ATTORNEYS FOR RESPONDENT

November 24, 2010

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County
The Honorable Daniel F. Pieper, Circuit Court Judge

RECEIVED

NOV 24 2010

S.C. Supreme Court

THE STATE,

Respondent,

vs.

DAVID MICHAEL ROCQUEMORE,

Petitioner.

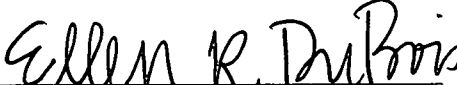
PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the Return to Petition for Writ of Certiorari to the Court of Appeals on Petitioner by depositing two copies in the United States mail, postage prepaid, addressed to:

Joseph L. Savitz, III
Senior Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 24th day of November, 2010.



ELLEN R. DUBOIS
Legal Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



HENRY McMASTER
ATTORNEY GENERAL

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NOV 24 2010

S.C. SUPREME COURT

November 24, 2010

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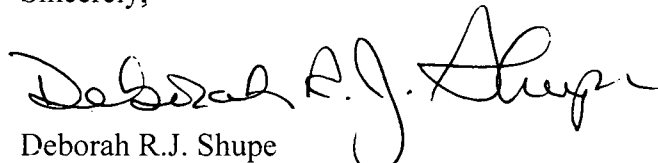
The Honorable Daniel E. Shearouse
Clerk of Court, S. C. Supreme Court
1231 Gervais Street
Columbia, S. C. 29211

Re: State v. David Michael Rocquemore

Dear Mr. Shearouse:

Enclosed for filing please find an original and seven (7) copies of the Return to Petition for Writ of Certiorari, with proof of service, in the above-referenced case.

Sincerely,


Deborah R.J. Shupe
Assistant Attorney General

DRJS/erd

Enclosures

cc: Joseph L. Savitz, III, Senior Appellate Defender (2 copies enclosed)
The Honorable Scarlett Wilson (1 copy enclosed)
Victim Services (1 copy enclosed)

The Supreme Court of South Carolina

The State, Respondent,
v.
David M. Rocquemore, Petitioner.

The Honorable Daniel F. Pieper
Charleston County
Trial Court Case No. 2005-GS-10-8601
2005-GS-10-8602

ORDER

The request for an extension to serve and file the Return to the Petition for Writ of Certiorari is granted and extended until November 24, 2010.

Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY Luenda J. Shealy
Chief Deputy Clerk

Columbia, South Carolina

October 26, 2010

cc: Senior Appellate Defender Joseph L. Savitz, III
Attorney General Henry Dargan McMaster
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General Deborah R.J. Shupe
Scarlett Anne Wilson, Esquire





HENRY MCMASTER
ATTORNEY GENERAL

October 25, 2010

RECEIVED

OCT 25 2010

S.C. SUPREME COURT

VIA HAND-DELIVERY

The Honorable Daniel E. Shearouse
Clerk, SC Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: State v. David M. Rocquemore

Dear Mr. Shearouse:

The Return to Petition for Writ of Certiorari in the above appeal is due to be served and filed October 25, 2010. However, due to a heavy workload, I am requesting a 30-day extension to file this document. This is the first extension request at this stage in the process, and it is not intended for the purpose of delay.

I appreciate your consideration of this request and ask that you hold the filing time in abeyance during the time in which this request is pending.

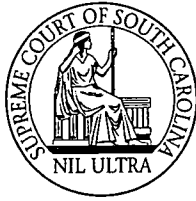
By copy of this letter, I am informing counsel for Appellant of this extension request.

Sincerely,

Deborah R.J. Shupe
Assistant Attorney General

DRJS/erd

cc: Joseph L. Savitz, III, Esquire
Victim Services



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

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September 28, 2010

Senior Appellate Defender Joseph L. Savitz, III
South Carolina Commission
on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. David M. Rocquemore
Case Tracking No. 2010-173067

Dear Counsel:

This office has received your Petition for Writ of Certiorari and Appendix in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

CLERK

The State v. David M. Rocquemore
Page Two
September 28, 2010

DES/lda

cc: Attorney General Henry Dargan McMaster
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General Deborah R.J. Shupe
Scarlett Anne Wilson, Esquire
The Honorable Tanya Gee