

6

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KING CHEVAIS CONYERS

APPELLANT

APPELLATE CASE NO. 2015-002405

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
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South Carolina Commission on Indigent Defense
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ORIGINAL

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SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in determining that the business records exception permitted the clerk of court to offer vague testimony about appellant's address based on an arrest warrant and which violated appellant's Confrontation Clause rights?

STATEMENT OF THE CASE

A Charleston County grand jury indicted appellant for murder, first-degree burglary, and a weapons charge. R. 35, l. 9 – 36, l. 8. On November 2, 2015, appellant was tried before the Honorable Kristi L. Harrington and a jury. R. 1. Appellant was tried with Jeremiah Fitzgerald Belton. R. 1. Jennifer K. Shealy and Daniel Cooper represented the State. R. 2. Adam Mlynarczyk represented Belton. Christopher L. Murphy represented appellant. R. 2. The jury convicted appellant. R. 1157, l. 24 – 1158, l. 14. Judge Harrington sentenced appellant to two concurrent terms of life imprisonment for murder and burglary and five years' imprisonment on the weapons charge. R. 1173, ll. 15 – 25. This appeal follows.

ARGUMENT

The trial court erred in determining that the business records exception permitted the clerk of court to offer vague testimony about appellant's address based on an arrest warrant and this testimony violated appellant's Confrontation Clause rights.

Factual Background

Despite the eyewitnesses to this home invasion testifying that they only saw three men, the State prosecuted appellant and his co-defendant under the theory that seven people participated. R. 161, ll. 7 – 10. R. 401, ll. 15 – 17. R. 120, l. 20 – 121, l. 25. The home invasion and ensuing gun battle resulted in the death of Melvin Simmons a/k/a “Kip” (“Simmons”). R. 138, ll. 3 – 6. Simmons lived on a dirt road in the country. R. 140, ll. 6 – 12. Shemika Stokes (“Stokes”) was the decedent's girlfriend. R. 139, ll. 5 – 6. Stokes admitted that Simmons used to be a drug dealer. R. 423, ll. 3 – 11. A large amount of cocaine was found in Simmons' house. R. 777, ll. 5 – 18.

The Eyewitnesses' Testimony

M.S. was the decedent's daughter. R. 138, ll. 3 – 4. On the evening of the shooting, M.S. was in her bedroom where she watched television and played on her computer. R. 147, ll. 4 – 13. She signed out of her computer at 3:58 AM. R. 166, ll. 20 – 22. She went to sleep. R. 147, ll. 19 – 21.

Not long after falling asleep M.S. heard “a loud boom.” R. 147, l. 19 – 148, l. 7. She then heard “a bunch of tussling” followed by gunshots. R. 147, l. 22 – 148, l. 7. Someone wearing black clothing, a black ski mask, and mittens entered her room and put a gun to her head. R. 148, ll. 3 – 15. The man told her to “shut up and just lay down, shut up.” R. 148, ll. 3 – 7. The man pulled the covers over M.S.'s head. R. 149, ll. 17 – 22. She continued to hear

tussling and gunshots. R. 150, ll. 2 – 3. When the house became quiet, Stokes called out and asked if she was okay. R. 150, ll. 7 – 17.

After Stokes went to sleep, she was awakened by “a loud crashing at the door.” R. 399, ll. 13 – 17. She heard men yelling “FBI or Charleston County police or something.” R. 399, ll. 13 – 17. Stokes was on the floor of the bedroom and heard multiple gunshots. R. 400, l. 12 – 401, l. 21. She only saw two people. R. 401, ll. 15 – 17. Stokes could see hair “coming out of the bottom” of one of the men’s masks. R. 401, ll. 18 – 23.

Stokes got a gun from Simmons. R. 402, ll. 4 – 15. She could tell that Simmons had been shot. R. 402, ll. 16 – 18. Stokes shot one of the men and saw him stumbling in the hallway. R. 404, ll. 8 – 12. Stokes continued to fire at the men who fled into the yard and the men returned fire. R. 404, l. 22 – 406, l. 20. She saw the men trying to help the person she shot. R. 406, ll. 10 – 13.

M.S. opened the door for the police when they arrived and she saw a dead body in her front yard. R. 155, ll. 13 – 24. Stokes was performing CPR on the decedent. R. 156, ll. 16 – 18. M.S. gave statements that evening to the police and told them that three men broke into the house. R. 161, ll. 7 – 10. M.S. admitted that she did not know how many men came into the house but just gave a number to the police officer at the time. R. 161, l. 11 – 162, l. 7. R. 164, ll. 4 – 8. R. 171, ll. 15 – 19. R. 172, ll. 7 – 9.

One of the first police officers on the scene described the interior of the house as a “disaster.” R. 181, ll. 13 – 15. It was obvious to the officer that a struggle had taken place. R. 183, ll. 10 – 19. The officer heard a female voice calling for help and found Stokes administering CPR to the decedent. R. 185, l. 15 – 186, l. 22. The officer checked the decedent’s body and he was dead. R. 187, ll. 5 – 18. Simmons died from a gunshot wound to

the chest. R. 371, ll. 14 – 19. The pathologist recovered a bullet from Simmons body. R. 374, ll. 2 – 4.

Troy Mason and Mario Caldwell

That same morning, Officer Wayne Sealey (“Sealey”) was dispatched to Trident Medical Center. R. 209, ll. 16 – 25. He encountered Troy Mason (“Mason”) who had been shot. R. 210, ll. 3 – 5. Mason told Officer Sealey that he had been robbed and shot while trying to buy cigarettes at a convenience store. R. 215, ll. 3 – 22. Mason claimed that he escaped and ran to his parents’ apartment. R. 215, ll. 3 – 22. Officer Sealey instantly knew that Mason was lying. R. 218, ll. 3 – 10. R. 219, ll. 18 – 20.

The police collected Mason’s personal belongings, including his cell phone and clothing, from him at the hospital. R. 227, ll. 1 – 9. Mason’s mother told the police that her son and his cousin, Mario Caldwell (“Caldwell”), came to her house at 5:30 AM, yelling that Mason had been shot. R. 234, l. 3 – 235, l. 3.

The police arrested Mason and he was indicted for murder and other crimes in connection with Simmons’ death and the home invasion. R. 241, l. 8 – 242, l. 5. Mason testified the State had not made him any promises in exchange for his testimony. R. 242, ll. 3 – 18. Mason wanted “something favorable to happen” in exchange for his testimony “If it’s possible.” R. 242, ll. 6 – 11.

Mason described Caldwell as his “cousin – I mean, Godbrother.” R. 239, ll. 15 – 16. In July 2010, Mason used ecstasy and marijuana every day. R. 240, ll. 5 – 12. He sold cocaine or crack. R. 240, ll. 13 – 16. Caldwell and Mason became particularly close after Caldwell returned home from prison. R. 240, ll. 17 – 19.

Mason admitted he was untruthful with the authorities up until the eve of trial. R. 242, l. 19 – 243, l. 18. Mason was first arrested in 2010 and gave his first statement to the police in August, 2012. R. 244, l. 25 – 245, l. 3. In his first statement, he told the police that he went to the decedent's house with Caldwell and that Conyers and Belton were already at the decedent's house when he arrived. R. 244, l. 11 – 245, l. 3. He did not admit firing a weapon. He did not admit that he had a 9 mm pistol with him on the night of the shooting. R. 246, ll. 1 – 9. He did not admit stopping at a house on the way to the decedent's house nor did he admit going to Charlotte to get Belton. R. 246, ll. 10 – 23.

Mason's testimony at trial, which he claimed was the truth, was that Caldwell came over to Mason's girlfriend's house and they rented a Dodge Avenger. R. 247, l. 14 – 248, l. 22. They drove to Charlotte to see Belton. R. 249, ll. 6 – 25. They picked up Belton and another man, Curtis Delaney ("Delaney"), whose nickname was "Crime." R. 250, ll. 6 – 22. Mason was using ecstasy and marijuana during the drive. R. 251, ll. 1 – 23.

The group then went to Columbia and picked up Conyers. R. 252, ll. 10 – 21. Conyers had a phone. R. 253, ll. 15 – 16. Delaney did not have a phone. R. 253, ll. 17 – 18. Delaney used someone else's phone. R. 253, ll. 19 – 22. Belton drove them back to Charleston and they went to a house on Dorchester Road. R. 253, l. 25 – 254, l. 14. Two other people who Mason had never seen before were at this house. R. 254, l. 21 – 255, l. 8. The group was talking and using drugs. R. 255, ll. 9 – 20.

Mason claimed that Conyers said he knew Simmons. R. 255, ll. 21 – 24. The group decided to rob Simmons. R. 256, ll. 2 – 21. They went to Simmons' house in McClellanville in two cars. R. 257, ll. 15 – 25.

When they got to Simmons' house, the group stood in the front yard. R. 259, ll. 1 – 3. Everyone had weapons. R. 259, ll. 11 – 12. Someone kicked open the door. R. 259, ll. 15 – 16. Delaney went into the house first. R. 262, ll. 20 – 24. Mason entered the house behind Caldwell. R. 259, ll. 19 – 20. Someone started shooting in the rear of the house. R. 259, ll. 21 – 23. Mason was with Caldwell in M.S.'s room. R. 260, ll. 6 – 12. Mason walked to the back of the house toward Simmons' bedroom. R. 260, ll. 13 – 20. When Mason looked around the corner, he got shot in the face. R. 262, ll. 1 – 10. He returned fire and ran out of the house. R. 262, ll. 1 – 19. He could not tell who was still in the house. R. 262, ll. 13 – 15. Mason could not remember if Belton ever entered the house. R. 262, ll. 20 – 24. When Belton ran outside, Conyers was already outside of the house. R. 262, ll. 20 – 24. Conyers were shooting at the house. R. 264, ll. 17 – 25.

Mason got in the back seat of the car, Conyers got in the back seat with him, and Caldwell got in the front seat. R. 265, ll. 7 – 16. They went to his mother's apartment. R. 266, ll. 9 – 18. Caldwell helped Mason concoct the story about being robbed at the convenience store. R. 266, l. 21 – 267, l. 10.

Mason was arrested on August 11, 2010. R. 268, ll. 16 – 17. Before he was arrested, Mason heard talk on the Street that Caldwell was the one who shot him. R. 268, ll. 1 – 5. Caldwell visited Mason at the jail and put money in his canteen account. R. 268, ll. 20 – 24. Caldwell told Mason that he planned to turn himself in but he never did. R. 269, ll. 2 – 15.

During one of the multiple statements Mason gave to the police, he told them that Caldwell came to his house that night and told Mason that he and Belton wanted to buy drugs and they knew a supplier. R. 271, ll. 13 – 16. Mason could not explain at trial why he gave that statement but claimed it was untrue. R. 271, ll. 17 – 20.

On cross-examination, Mason admitted that he had given at least two false statements to the police, but claimed that the week before trial when he met with the solicitor, he was honest. R. 289, l. 15 – 290, l. 14. In his first statement, Masson denied going to Charlotte. R. 292, ll. 1 – 6. Mason lied about the kind of gun he had. R. 308, l. 22 – 309, l. 24. He told the police that he had a Glock .40 caliber. R. 308, l. 25 – 309, l. 2. He also told the police he had a .22 caliber revolver. R. 309, ll. 14 – 18. Mason admitted that from 2010, when he was first arrested, he began getting periodic updates from his attorney with discovery. R. 320, l. 11 – 321, l. 3.

Mason's explanations for coming forward with what he claimed was the truth a week before trial were difficult to follow. R. 322, ll. 16 – 325, l. 16. Mason claimed that between 2010 and 2012, he believed that Caldwell would come forward, but could not explain how that would help him. R. 323, ll. 4 – 24. Mason also claimed he was afraid to come forward and tell the truth because he was worried about his family. R. 324, l. 8 – 325, l. 11. However, Mason admitted that he still did not tell the truth. R. 324, l. 15 – 325, l. 2. Mason also admitted he had no idea why his changing stories would help him with Caldwell. R. 324, l. 19 – 325, l. 2.

A week before trial, Mason's lawyer asked if he would be willing to go to the Solicitor's office. R. 325, ll. 17 – 22. For the first time, Mason claimed that he went to Charlotte, that there were seven people, and that he had a .9mm pistol. R. 327, l. 11 – 328, l. 13. Mason had no details about what Belton and Conyers did at the Simmons house. R. 329, ll. 1 – 4. Mason stated he had never met Conyers until he got to Columbia. R. 336, ll. 2 – 6. Mason claimed his cell phone was dead that night. R. 336, ll. 7 – 9.

When asked if he thought it was odd that Conyers, who was from Columbia, knew someone from McClellanville (Simmons), Mason answered, "It was a possibility that he was from down here and just moved to Columbia." R. 339, ll. 5 – 8. While Mason maintained that

he did not know Simmons, on examination by defense counsel he admitted telling the Solicitor's office that Simmons used to live in a neighborhood near him. R. 350, l. 20 – 351, l. 3. When asked if he knew who Simmons was, Mason first replied, "No, sir." R. 351, ll. 4 – 5. After continued questioning, he admitted that he had heard of Simmons and that he sold drugs and had a chop shop. R. 351, ll. 6 – 21. Mason admitted it was possible that Caldwell bought drugs from Simmons. R. 352, ll. 13 – 25.

Caldwell also testified for the State. R. 468, ll. 1 – 8. His criminal record included five armed robberies. R. 468, ll. 15 – 19. In this case, he was indicted for murder and other crimes. R. 469, ll. 7 – 11. He made a plea deal with the State. R. 469, l. 15 – 470, l. 10. The terms of the plea deal gave Caldwell a sentencing range of 15 to 45 years. R. 470, ll. 3 – 10. Caldwell admitted that he avoided LWOP by making his plea deal. R. 526, ll. 3 – 24.

Caldwell described himself as a "go-between man." R. 473, ll. 19 – 21. He transported people for drug deals and other illegal activities. R. 474, ll. 14 – 21. He frequently used rental cars. R. 474, ll. 5 – 13. Caldwell also sold drugs. R. 474, l. 24 – 475, l. 5.

Caldwell had known Belton since he was thirteen years old. R. 475, ll. 6 – 19. Belton's nickname was "Finger" because he had a rod in one of his fingers and the finger did not bend. R. 475, ll. 18 – 25. Before the night of the shooting, Caldwell had never met Conyers. R. 476, ll. 10 – 11.

Caldwell's testimony differed from Mason's in several key respects. First, Caldwell contradicted Mason's version of who entered the house. R. 508, ll. 1 – 17. According to Caldwell, Delaney kicked in the door and entered the house first, followed by Mason and then Belton. R. 508, ll. 5 – 8. Conyers entered next. R. 508, ll. 5 – 8. Caldwell never made it inside the house and was waiting behind one of Belton's men who remained unidentified. R. 508, ll. 9

– 17. Second, Caldwell claimed that Mason was the first person to exit the house. R. 509, ll. 7 – 8. Delaney came out and Conyers was behind him. R. 512, ll. 16 – 17. Conyers tried to help Delaney, but abandoned him after he determined he was dead. R. 512, l. 13 – 513, l. 10. Caldwell claimed that the unknown man was shooting at the house but never described Conyers shooting at the house. R. 514, ll. 1 – 12. Caldwell did not remember seeing anyone else shooting. R. 560, ll. 1 – 19.

Caldwell denied firing his gun that night. R. 551, ll. 24 – 25. Caldwell expressly denied entering the house. R. 554, ll. 1 – 12. He also expressly denied speaking to Mason inside the house. R. 554, ll. 10 – 12. Mason was the only member of the group with dreadlocks. R. 559, ll. 19 – 21.

Caldwell had an associate burn the rented Dodge Avenger for him. R. 482, ll. 6 – 8. He reported the car stolen to the police. R. 482, ll. 20 – 25. Caldwell owned a light blue Chevrolet Blazer. R. 544, ll. 10 – 12. Earlier that evening M.S. saw a white Ford Explorer on the road near her father's house. R. 164, ll. 11 – 23. She thought she saw three black men in the car. R. 165, ll. 7 – 13. Caldwell denied knowing Simmons or having never heard of him as a drug dealer. R. 580, l. 14 – 581, l. 5.

Delaney

Delaney died from a gunshot wound to the chest. R. 377, ll. 7 – 17. Delaney was also shot in his left arm. R. 377, ll. 18 – 19. Among the items the police recovered from Delaney's body were a flashlight, a stocking, and six .357 magnum bullets. R. 383, l. 8 – 384, l. 5. Delaney had marijuana in his system. R. 385, ll. 4 – 17.

Constance Manigault ("Manigault") was Delaney's girlfriend. R. 427, ll. 10 – 12. She testified that Conyers and Delaney were friends and that she had previously met Conyers. R.

428, ll. 17 – 21. Manigault would sometimes call Conyers' telephone when she wanted to find Delaney. R. 429, ll. 7 – 430, l. 7.

On July 4, 2010, Delaney went to Charlotte to visit his mother. R. 430, ll. 13 – 19. Delaney came back from Charlotte on July 9, 2010. R. 431, ll. 3 – 5. Reviewing her telephone statements, Manigault testified that she spoke with Delaney at 2:09 AM on Conyers' telephone. R. 431, l. 14 – 432, l. 24. Delaney told her that he was going to her house (Manigault was at work). R. 433, ll. 13 – 15.

Manigault did not hear from Delaney after that conversation. R. 434, ll. 1 – 9. Delaney's brother called Manigault and told her that Delaney was dead. R. 434, ll. 10 – 13. Manigault repeatedly called Conyers. R. 434, l. 14 – 435, l. 9. When Manigault and Conyers spoke on the phone, Manigault claimed Conyers said he had been "crying all day" and he did not want to be involved. R. 435, l. 18 – 436, l. 9. Delaney's mother also claimed that she spoke with Conyers on the telephone. R. 457, l. 21 – 458, l. 20. Conyers told Delaney's mother that he "told Curtis not to go, and that if he had went, it wouldn't have been down – went down like that, or something of that nature." R. 458, ll. 1 – 12. Conyers also described one person going to the left of the house and Delaney going to the right of the house. R. 458, ll. 15 – 20. On cross-examination, Delaney's mother admitted that she could not be sure that it was Conyers she spoke with on the telephone. R. 462, ll. 3 – 6.

Conyers' Testimony

Conyers testified and emphatically denied any involvement in the crime. R. 1061, ll. 7 – 9. Conyers adamantly denied knowing Caldwell, Mason, Belton, Stokes, Manigault, and Simmons. R. 1059, l. 11 – 1060, l. 1. The only person Conyers knew was Delaney. R. 1060, l. 18 – 19. Conyers knew him from elementary school and had met his mother. R. 1060, ll. 18 –

25. Conyers denied having a telephone number with an 843 area code—the number claimed by Manigault as the one she used to contact Delaney. R. 1061, ll. 1 – 6. This point was of extreme importance because the State used cell phone records in an attempt to tie Conyers to the rest of the group. R. 883, l. 1 – 994, l. 13.

Conyers' testimony was unwavering despite the solicitor's cross-examination. R. 1066, ll. 3 – 13. Conyers told the solicitor, "I wasn't there, ma'am. I don't know anything about this crime. All I know is I'm in jail fifteen months for this crime that I had nothing to do with." R. 1066, ll. 7 – 10. When the solicitor replied that he deserved to be "in there for a lot longer than fifteen months," Conyers stated, "No, I do not. I deserve to go home today." R. 1066, ll. 11 – 13.

Discussion

The weakness in the State's case against Conyers was proving a connection between him and Simmons, Belton, Caldwell, and Mason. Conyers had lived in Columbia for seven years. R. 1058, ll. 5 – 8. Conyers was thirty-two years old at the time of trial and had not had a phone with an 843 area code since he was a teenager. R. 1058, ll. 10 – 25.

In an effort to prove Conyers had a connection with Charleston and McClellanville, the State indicated its intention to call an employee from the Charleston County Clerk of Court as a "custodian of records" to question her about a "document" on file about Conyers. R. 603, ll. 1 – 16. This document was "a murder warrant from 2002." R. 603, ll. 9 – 11. The solicitor stated she only intended to ask the clerk Conyers' address, the date of the document, and Conyers' date of birth. R. 603, ll. 12 – 16. The solicitor told Judge Harrington the warrant was relecant because "it shows that he used to live in McClellanville." R. 603, ll. 20 – 24.

Conyers argued this questioning, even without a mention that the document was a warrant was hearsay and highly prejudicial. R. 603, l. 25 – 604, l. 5. Trial counsel stated, “to have a clerk of court come up here and say they have his name of record is saying he’s been arrested before.” R. 603, l. 25 – 604, l. 5. Conyers also argued that, in addition to hearsay, the introduction of this testimony violated the confrontation clause because there he could not cross-examine the clerk on the accuracy of the warrant. R. 604, ll. 9 – 23. The trial judge ruled the testimony was admissible based on the business records exception to the hearsay rule and that the clerk could be cross-examined on the point that she did not prepare the document. R. 605, ll. 4 – 7. Judge Harrington indicated that her ruling was final when she stated, “It’s preserved.” R. 605, l. 24.

The clerk testified that she retrieved “a document on King Conyers.” R. 855, ll. 12 – 14. The date on the document was September 11, 2002. R. 855, ll. 24 – 25. The address for Conyers on the document was in McClellanville. R. 856, ll. 1 – 4. The clerk admitted that she had no way to verify its accuracy. R. 857, ll. 2 – 14.

The trial court erred in allowing this testimony under the business records exception. First, the warrant did not fall under the ambit of the business records exception, but rather under the public records exception, which specifically excludes such a document. Rule 803(8), SCRE. The Clerk of Court is not a business, it is a public office. See Rule 803(6), SCRE (defining “business” as “business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit”). Furthermore, the warrant was prepared by the police, and Rule 803(8) excludes public records and reports “in criminal cases matters observed by police officers and other law enforcement personnel.” Rule 803(8), SCRE. Conyers’ address

on the warrant was prepared by the police based upon their subjective belief about his residency. Therefore, it was inadmissible under this exception to the hearsay rule.

Conyers' Sixth Amendment rights under the confrontation clause were also violated because he could not cross-examine the warrant's maker regarding the accuracy of the address. U.S. Const. amend. VI. See Crawford v. Washington, 541 U.S. 36 (2004). In Crawford, Justice Scalia wrote about the history of the Confrontation Clause and the evil it was designed to remedy. Id. Justice Scalia pointed out that the Founders were well aware that during Sir Walter Raleigh's trial for treason, out-of-court, civil-law examinations of his alleged accomplice, Lord Cobham, were used as the principal evidence against him. Id. Lord Cobham's statements were read to the jury and Raleigh "demanded that the judges call him to appear." Id. The Supreme Court concluded that "dispensing with confrontation because testimony is obviously reliable is akin to dispensing with jury trial because a defendant is obviously guilty. This is not what the Sixth Amendment prescribes." Id. at 1371. The same evil is present here—the State was able to establish that Conyers lived in McClellanville by a police document and without any testimony.

The warrant did not fall under any hearsay exception. Conyers could not cross-examine the clerk on the warrant's accuracy. Conyers could not cross-examine the police officer who drafted the warrant because he did not testify. The State's case depended wholly on admitted liars, Mason and Caldwell. This case should be reversed.

CONCLUSION

For the foregoing reasons, this Court should reverse appellant's convictions and remand this case for a new trial.

A handwritten signature in black ink, appearing to read 'David Alexander', is written over a horizontal line.

David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of November, 2016.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Charleston County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KING CHEVAIS CONYERS

APPELLANT

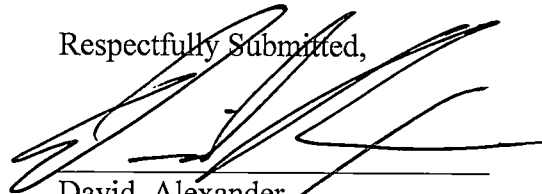
PETITION TO BE RELIEVED AS COUNSEL

Counsel for King Chevais Conyers states:

1. He is an Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before the Honorable Kristi Lea Harrington, which was held on November 2-6, 2015 (Trial), and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for King Chevais Conyers.

Respectfully Submitted,



David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

This 9th day of November, 2016.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Kristi Lea Harrington, Circuit Court Judge

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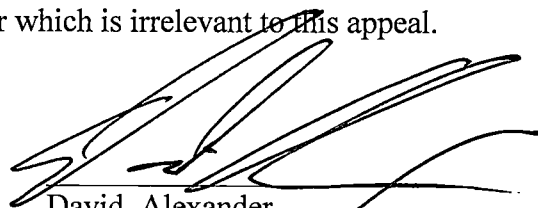
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment(s);
- (2) Sentence sheets;
- (3) Trial transcript dated November 2-7, 2015.

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

November 9, 2016


David Alexander
Appellate Defender

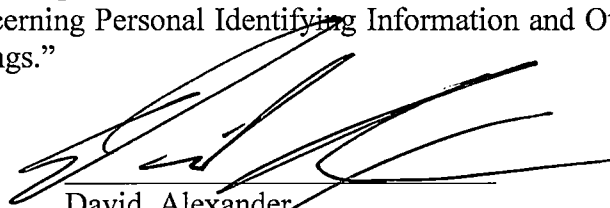
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ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 9, 2016.



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Appellate Defender

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