STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions
Thomas W. Cooper, Circuit Court Judge

Appellate Case No. 2015-001814

THE STATE, ...RESPONDENT,

v.

AUSTIN MCQUARTERS, ...APPELLANT.

INITIAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

The trial court properly denied Appellant's motion for a new trial based on after discovered evidence because Appellant failed to prove he acted with due diligence, the evidence was material to his guilt, or that the evidence would change the result of a new trial.

STATEMENT OF THE CASE

On January 23, 2014, the Beaufort County Grand Jury indicted Appellant for armed robbery and first-degree assault and battery. On July 20, 2015, Appellant proceeded to jury trial[1] before the Honorable Thomas W. Cooper, Jr. Arie Bax, Esquire and James Bell, Esquire, represented Appellant; Assistant Solicitor Mary Jordan Lempesis, Esquire, represented the State. The jury found Appellant guilty as indicted and sentenced him to twenty-five years' imprisonment for the armed robbery and a concurrent ten year sentence for first-degree assault and battery. On August 12, 2015, at Appellant's motion hearing for a new trial, the trial judge reduced Appellant's armed robbery sentence to twenty years' imprisonment.

Appellant filed a timely Notice of Appeal and subsequently submitted a Brief in support of his appeal. This Brief of Respondent follows.

[1] This was a retrial, as Appellant's first trial ended with a hung jury.

STATEMENT OF FACTS

Arrest

On October 20, 2013, John Snodgrass, the general manager of Northridge Cinemas on Hilton Head Island was robbed and assaulted as he left the theater for the night. Snodgrass, the last employee at the theater, left sometime between 10:30 p.m. and 11:00 p.m. with a bank deposit bag containing approximately $4,500. As he walked toward his car, he noticed a separate vehicle with a female driver and a man crouched down next to its driver's door. The man approached Snodgrass and asked him questions regarding movie times, borrowing his cell phone, and a final query about the time. As Snodgrass looked down at his watch, Appellant attacked him with a hard object, knocking Snodgrass unconscious after several blows. When he awoke, he discovered the bank bag and its contents had been stolen. (Tr.Vol.III.p.167, line 2–p.177, line 14).

When Snodgrass met with Investigator Doug Seifert of the Beaufort County Sheriff's Office, he informed the officer that his attacker was approximately 6 feet tall, male, two hundred pounds, "very broad shouldered," possessed curly hair, and was African American. Sometime after the attack, he provided officers with the names and information for everyone working at the theater that night and the full dollar amount stolen that night. (Tr.Vol.III.p.178, lines 8–17; Tr.Vol.III.p.190, lines 13–23; Tr.Vol.V.p.354, line 14–p.355, line 17).

Investigator Seifert began interviewing the theater's employees, including Colton Delaplane. Delaplane initially disclaimed any involvement in the crime, but later identified Appellant and Jacklyn Perez as the two people who robbed Snodgrass and admitted that after the robbery, Appellant gave him $250. He also admitted to telling Appellant that Snodgrass was in possession of the movie theater's cash. When he interviewed Perez, she identified Appellant

from a photo lineup as the man who attacked and robbed Snodgrass. Based on this information, he obtained arrest warrants for Appellant and Perez. He also concluded Delaplane was involved in the crime. (Tr.Vol.V.p.356, line 21–p.363, line 18; Tr.Vol.V.p.381, lines 20–24; Tr.Vol.V.p.386, line 4–p.387, line 17).

Trial

At trial, Investigator Seifert testified he believed, based on interviews with Delaplane and both defendants, Delaplane was also involved in the crime. On cross-examination, trial counsel pointed out that Investigator Seifert wrote in his incident report that Delaplane "confessed to [him] that the entire robbery was set up by [Delaplane]," even though Delaplane did not confess to the crime. Investigator Seifert clarified Delaplane did not directly confess to receiving cash for setting up the robbery, but Delaplane admitted to telling Appellant that Snodgrass was in possession of money and to receiving $250 from Appellant a few hours after the robbery. He also testified he did not obtain a warrant for Delaplane for "anything related to the [robbery]." (Tr.Vol.V.p.381, line 7–p.383, line 13; Tr.Vol.V.p.386, line 7–p.387, line 21; Tr.Vol.V.p.389, line 5–p.390, line 2).

Delaplane testified that on the night of the robbery, he had worked at the theater for half a year and had known Appellant for approximately the same length of time. He and Appellant were good friends who hung out "about every other day." He claimed that on the day of the incident, approximately an hour and a half before the end of his shift, Appellant and Perez approached him at the ticket booth and Appellant requested money from the drawer. Delaplane denied the request but did inform Appellant that Snodgrass was the manager of the theater, stating "if you want money, that's the manager. He's the one who's going to have money."

(Tr.Vol.IV.p.310, line 5–p.312, line 20; Tr.Vol.IV.p.314, line 15–p.315, line 10; Tr.Vol.IV.p.320, line 21–p.321, line 6).

Delaplane again ran into Appellant in the parking lot of the theater at the end of his shift and exchanged pleasantries before leaving. Three to four hours after the parking lot conversation, Appellant called Delaplane and they agreed to meet near the house of Delaplane's girlfriend. Appellant handed Delaplane $250, said "Merry Christmas," and claimed he "ran into money" at the theater. The following day, Appellant admitted to Delaplane that he had robbed Snodgrass outside of the theater and had assaulted him with brass knuckles. Delaplane claimed he did not go to the police because he was scared. (Tr.Vol.IV.p.312, line 21–p.314, line 11; Tr.Vol.IV.p.315, line 11–p.317, line 24).

On cross-examination, Delaplane stated Perez asked him, "Where's the bread?" during the same conversation in which Appellant asked him for money from the cash register. He admitted he thought the statement was a reference to money, but that Perez was asking for gas money because she had given Delaplane a ride the work the week before. He admitted he was not truthful in his initial interviews with Investigator Seifert and he had not been charged with any crimes related to the robbery, despite telling Appellant that Snodgrass had the money. Trial counsel pointed out the suspicious circumstances regarding Delaplane's meeting with Appellant hours after the robbery, noting: (1) he met with Appellant outside between 1:30 a.m. and 2:30 a.m.; (2) Appellant gave him $250; (3) Appellant said "Merry Christmas" when handing Delaplane the money. (Tr.Vol.IV.p.324, line 15–p.326, line 3; Tr.Vol.327, line 12–p.332, line 21).

Paola Labrador, a theater employee, testified she saw Delaplane with a large, African American male in the theater's parking lot as the staff was leaving on the night of the robbery. (Tr.Vol.V.p.394, line 23–p.397, line 7).

Perez testified she was good friends with Appellant and they were both friends with Delaplane. On the night of the robbery, she was working at McDonalds until 9:00 p.m. Appellant was waiting for her, and asked for a ride to Northridge Cinemas. At that time, she believed Appellant wished to meet up with a girl at the theater. When they arrived, Appellant told Perez he was going inside the theater to talk to Delaplane. Both Appellant and Perez spoke with Delaplane, and then sat in the parking lot. They spoke with Delaplane as he left the theater and then continued to wait in the parking lot. Perez, who had to return to work by midnight, asked Appellant why they were waiting in the parking lot and Appellant told her he was waiting to see what time the movies let out. A short time later, Snodgrass exited the theater. Perez testified Appellant approached him, asked what time "the movie [got] out," and then began hitting Snodgrass when he looked down at his watch. Appellant took the money, and ordered Perez to drive him back towards Bluffton. During the drive, Appellant "reminded" Perez he had known for a long time and he also knew her mom and sister. Perez dropped Appellant off about halfway into the trip and went back to work. (Tr.Vol.VIII.p.527, line 15–p.542, line 25).

Perez admitted she failed to initiate contact with law enforcement and report the armed robbery and that she was facing charges for armed robbery due to her participation in the crime. She claimed she did not report the crime and did not initially disclose the facts of the crime to Investigator Seifert because she was concerned she may be charged with a crime and also feared Appellant may retaliate against her because of the violent behavior he demonstrated during the

robbery and the veiled threats against her family. (Tr.Vol.VIII.p.544, line 12–p.545, line 10; Tr.Vol.VIII.p.558, line 11–p.566, line 20).

After-Discovered Evidence Hearing

On July 23, 2015, Snodgrass contacted Investigator Seifert and advised him a theater employee, Christi Ross, had information indicating that Delaplane planned the robbery. On July 24, Investigator Seifert obtained a written statement from Ross in which she described a conversation she had with Delaplane after the robbery. She claimed Delaplane knew the robbery would occur, but he did not know Snodgrass was going to get beaten so badly and was "very apologetic and stunned" about the extent of the attack. She did not disclose this information during her initial interview with law enforcement on October 22, 2014, as she had recently been a victim in an unrelated criminal domestic violence incident and feared contacting the police could put her in danger, but her identifying information was in the sheriff office's incident report provided to Appellant during discovery. (Court's Exhibit #1, pp. 3–5).

In his notes about the conversation, Investigator Seifert noted Ross also claimed to have had a conversation with Delaplane two weeks before the robbery in which Delaplane stated, "If [Snodgrass] ever screams at me in my face again, I'm going to punch him." (Court's Exhibit #1, p.4).

On July 28, 2015, Appellant filed a motion to vacate conviction and order a new trial based on after-discovered evidence. A hearing was held on August 12, 2015. No witnesses or affidavits were presented. Trial counsel argued Ross's statements would have probably changed the result of the trial because: (1) Appellant's first trial ended in a hung jury, with Delaplane's credibility and culpability in the crime playing crucial roles in that result; (2) Officer Seifert's testimony regarding his belief that Delaplane was involved in the crime "changed" between

Appellant's two trials, as Officer Seifert initially testified Delaplane confessed to the crime, but at the second trial stated Delaplane only admitted to receiving $250 and to identifying Snodgrass to Appellant; (3) Ross's statement is direct evidence of Delaplane's criminal intent and liability for the crime, especially given Delaplane threatened to hit Snodgrass in the face; (4) counsel had no reason to believe Ross possessed this information until the solicitor informed them about her statement; (5) Ross's information was material to the guilt or innocence of Appellant because "it could be a third party guilt issue . . . ," and counsel argued throughout the trial that Appellant was not the attacker; (6) the evidence was not cumulative as it speaks to Delaplane's motive in claiming Appellant committed the crime; (7) Delaplane was one of only two witnesses who identified Appellant as the perpetrator of the crime, both of whom had credibility issues; and (8) the fact that someone else orchestrated the attack and gave Appellant instructions to commit the crime should, at the very least, be a consideration in resentencing Appellant as the brutality of the attack was one of the reasons the trial judge gave Appellant such a serious sentence. Trial counsel admitted he could not actually say whether, in a new trial, he would attempt to argue Delaplane was the person who committed the attack and it was "difficult" to argue Ross's statements made Delaplane's guilt inconsistent with Appellant's. (Tr.Mot.Hear.p.7, line 8–p.18, line 8; p.22, line 17–p.24, line 7; p.32, lines 10–22).

The State argued the information about Delaplane demonstrated he could have been a member of the conspiracy to rob Snodgrass, but that fact did not impact Appellant's conviction. The State argued: (1) Delaplane does not match the physical description of the man who attacked Snodgrass, as Delaplane was a "smaller in stature white male," and looked nothing like the person Snodgrass described to police; (2) Snodgrass knew Delaplane and could have easily identified him if he were the attacker; (3) Ross's statements were cumulative impeachment

evidence as various evidence presented at trial impeached Delaplane's credibility, including his own admissions and Investigator Seifert's assertions that he believed Delaplane was involved; (4) Appellant had Ross's contact information, and if he had contacted her Appellant may have discovered the information she possessed; (5) the evidence was not material to Appellant's guilt, only Delaplane's; and (6) Perez, an eyewitness to the robbery, identified Appellant as the perpetrator. (Tr.Mot.Hear.p.25, line 21–p.30, line 21).

The trial judge noted: (1) Perez's testimony was consistent with Snodgrass's memories of the robbery; (2) Appellant's testimony was inconsistent with both Perez and Snodgrass's testimonies; (3) Delaplane already incriminated himself by testifying he received $250 from Appellant after the robbery; (4) Delaplane's testimony was cumulative to Perez's, and even if the jury disregarded his testimony in its entirety Perez clearly identified Appellant as the culprit; (5) Delaplane's alleged guilt in orchestrating the robbery was not inconsistent with Appellant's guilt of the crime; and (6) Delaplane does not match the physical description of the attacker. Accordingly, the trial judge found trial counsel failed to prove the after-discovered evidence would probably not change the result if a new trial were granted and the evidence was immaterial to the issue of Appellant's guilt or innocence. However, the trial judge reduced Appellant's sentence for armed robbery to twenty years' imprisonment, based on Appellant's age at the time of the attack. (Tr.Mot.Hear.p.34, line 3–p.39, line 25).

ARGUMENT

The trial court properly denied Appellant's motion for a new trial based on after discovered evidence because Appellant failed to prove he acted with due diligence, the evidence was material to his guilt, or that the evidence would change the result of a new trial.

Appellant argues the trial judge abused his discretion in denying his motion for a new trial based on after-discovered evidence because Appellant's statements to Ross satisfied all five elements of the test to determine the admissibility of such statements. The State disagrees with Appellant's allegation of error: (1) Appellant's alleged statements were inadmissible statements of third-party guilt; (2) he failed to file an affidavit showing he was unaware of the existence of the evidence or that he could not have discovered it by the exercise of due diligence; and (3) Appellant failed to prove the evidence was material to the issue of his guilt, could not have been discovered by the exercise of due diligence prior to trial, or that it would have changed the result of a new trial.

The United States Constitution guarantees a criminal defendant a meaningful opportunity to present a complete defense. Holmes v. South Carolina, 547 U.S. 319, 324 (2006); Crane v. Kentucky, 476 U.S. 683, 690 (1986). However, the right to introduce even relevant evidence "is not unlimited, but rather is subject to reasonable restrictions." U.S. v. Scheffer, 523 U.S. 303, 308 (1998).

In Holmes, the United States Supreme Court articulated its approval of the rule adopted by this Court in State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941), for the admission of evidence of third party guilt. Holmes, 547 U.S. at 328. In Gregory, this Court explained:

> [E]vidence offered by accused as to the commission of the crime by another person must be limited to such facts as are **inconsistent**

> **with his own guilt**, and to such facts as raise a **reasonable inference or presumption as to his own innocence**; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible. . . . [B]efore such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party. **Remote acts, disconnected and outside the crime itself, cannot be separately proved for such a purpose**.

State v. Gregory, 198 S.C. 98, 104–05, 16 S.E.2d 532, 534–35 (1941) (internal citations omitted) (emphasis added).

The Court of Appeals addressed the standard to apply in State v. Burgess, 391 S.C. 15, 703 S.E.2d 512 (Ct. App. 2010). The Court specifically acknowledged the United States Supreme Court in Holmes rejected the analysis of State v. Gay, 343 S.C. 543, 541 S.E.2d 541 (2001), and instead, "specifically stated that the rule of State v. Gregory is the type of rule that does not deny a defendant his right to present evidence." Burgess, 391 S.C. at 23, 703 S.E.2d at 516-517 (citing Holmes, 547 U.S. at 328). In Burgess, the defendant sought to admit testimony the murder victims received threats related to their drug debts in the months leading up to their murder. The Court of Appeals affirmed the trial court's refusal to admit the testimony because it was remote and was not inconsistent with Burgess' guilt. Burgess, 391 S.C. at 22–23, 703 S.E.2d at 515–16. The South Carolina Supreme Court confirmed the propriety of the Gregory standard in State v. Cope, 405 S.C. 317, 341, 748 S.E.2d 194, 206 (2013).

In State v. Jones, 185 S.C. 274, 194 S.E. 11 (1937), the Supreme Court set out five requirements a party must show to prevail on an after-discovered evidence claim after a criminal conviction:

> (1) That the evidence is such as will probably change the result if a new trial is granted; (2) . . . has been discovered since the trial; (3)

> . . . could not have been discovered before the trial by the exercise of due diligence; (4) . . . is material to the issue [of guilt or innocence; and] (5) . . . is not merely cumulative or impeaching.

"A motion for new trial based on after-discovered evidence is addressed to the sound discretion of the trial judge." State v. Ivrin, 270 S.C. 539, 545, 243 S.E.2d 195, 197 (1978). The credibility of newly discovered evidence is a matter for the trial court's determination. State v. Porter, 269 S.C. 618, 621, 239 S.E.2d 641, 643 (1977) ("In [the trial court], not this court, resides the power to weigh [newly discovered] evidence"). "Only the trial court and not the appellate court has the power to weigh the evidence; the trial court's judgment will not be disturbed except for error of law or abuse of discretion." State v. Harris, 391 S.C. 539, 545, 706 S.E.2d 526, 529 (Ct. App. 2011) (citing Irvin); see State v. Needs, 333 S.C. 134, 158, 508 S.E.2d 857, 869 (1998) (noting the granting of a motion on after-discovered evidence is not favored and reviewing courts will not disturb the trial court's denial absent an error of law or abuse of discretion). "In this post-trial setting, our jurisprudence recognizes the gate-keeping role of the trial court in making a credibility assessment." State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) quoted in Harris.

When filing a motion for a new trial based on after-discovered evidence, it is "essential to consideration of [the] motion" that such motion be supported by an affidavit of the accused himself. State v. DeAngelis, 256 S.C. 364, 371, 182 S.E.2d 732, 735; also 23A C.J.S. *Criminal Procedure and Rights of the Accused* § 2037 (2016) (stating motions for a new trial must be accompanied by proof, "either in the motion itself or by affidavits"). "Unless a valid and sufficient reason for the omission to file such an affidavit is shown, the affidavit of the accused must show that he did not know of the existence of such evidence at the time of the trial and that he used due diligence to discover such evidence, or that he could not have discovered it by the

exercise of due diligence." Id. The affidavit must be from the appellant himself; an affidavit from appellant's counsel discussing these matters is not sufficient. Id.

In Mercer, the defendant was convicted of murder, armed robbery, and possession of a firearm during the commission of a violent crime. He filed a motion for a new trial based, in part, on after-discovered evidence. Id. at 165–66, 672 S.E.2d at 564–65. The newly discovered evidence was a letter from the cellmate (Fuller) of Mercer's codefendant, Thompson, claiming Thompson admitted to him that he shot the victim. In the State's theory of the case, Mercer was the triggerman, but Thompson's participation in, and first-hand knowledge of, the crime was known to Mercer and the State at the time of trial. The trial judge conducted a hearing and denied the motion for a new trial on the basis of after-discovered evidence.

The South Carolina Supreme Court upheld the trial judge's decision, finding no abuse of discretion. The Supreme Court noted Mercer had met four of the five requirements for the new trial, but had failed to prove the newly discovered evidence would probably change the result in a new proceeding. The only information Fuller's testimony provided was Thompson's identity as the triggerman. The Supreme Court pointed out Fuller had numerous credibility issues, including his own extensive criminal record and the inconsistencies in his story and the fact that another cellmate denied Fuller's account of Thompson's confession. Fuller's story was also inconsistent with the facts of the case, including: (1) a witness providing a description of the triggerman that closely matched the "much bigger" Mercer, not the "slender" Thompson; (2) the location of the murder; (3) the distance of the murderer from the victim at the time of the shooting; and other details of the crime. Given these numerous issues, the Supreme Court affirmed the trial judge's determination that there was "essentially no chance" the jury would believe Fuller's testimony.

Failure to File Affidavit and Due Diligence

Initially, the State notes Appellant failed to comply with the procedural requirements of a motion for a new trial based on after-discovered evidence. Appellant failed to file a personal affidavit stating: (1) the facts to which Ross would testify; (2) he did not know of the existence of Ross's information at the time of trial; (3) he had used due diligence to discover such evidence; or (4) he could not have discovered the evidence by exercising due diligence. Thus, Appellant's motion was not proper for the trial judge's consideration. See DeAngelis, 256 S.C. at 371, 182 S.E.2d at 735 ("Unless a valid and sufficient reason for the omission to file such an affidavit is shown, the affidavit of the accused must show that he did not know of the existence of such evidence at the time of the trial and that he used due diligence to discover such evidence, or that he could not have discovered it by the exercise of due diligence.").

Without the affidavit or other comparable evidence Appellant failed to demonstrate he could not, acting with due diligence, have discovered the evidence before the trial. Appellant and trial counsel were well aware of Delaplane's connection to the crime and his identification of Perez and Appellant to Investigator Seifert. In fact, trial counsel did his best to prove to the jury Delaplane was not a disinterested witness and was responsible in some capacity for the crime. Knowing this, Appellant failed to interview or even contact Ross, who was listed as a witness in the incident report. If Appellant had acted with due diligence, he would have contacted the listed employees to see if they had any information implicating Delaplane's guilt.

Additionally, there is some issue as to what Ross's testimony would be in a new trial. Neither Ross nor Investigator Seifert provided affidavits or testified at the motion hearing. Notably, Ross's claim that Delaplane made a comment about punching Snodgrass in the face is absent from her written statement to police and is only found in Investigator Seifert's typed notes

of the interview. Ross never claimed in her statement that she would not have revealed the information if questioned by Appellant or trial counsel. Similarly, while Investigator Seifert's notes state Ross did not initiate contact with law enforcement because of a fear of retaliation, he failed to give any indication that Ross would not have cooperated with Appellant or police if questioned about the crime. In fact, he noted Ross's reason for coming forward was that she felt very strongly that Delaplane should be punished for his involvement in the crime. If anything, the limited information available indicates Ross would have cooperated if questioned by trial counsel.

Accordingly, Appellant's motion for a new trial was improperly filed due to his failure to file his personal affidavit or any comparable evidence.

The New Evidence Would Not Change the Result of a New Trial and Was Immaterial to Appellant's Guilt

Assuming arguendo Appellant had complied with the affidavit requirement and adequately proven Ross would testify to hearing both of Appellant's statements in a new trial, such evidence would not change the result. The State notes Appellant's statements are inadmissible as those statements are not inconsistent with Appellant's guilt. Delaplane's two alleged statements to Ross were: (1) he knew "about the money," but was unaware the attack would be as violent as it was; and (2) he stated he would punch Snodgrass in the face if he ever screamed at him again. Admittedly, Delaplane's alleged statements do appear to indicate, especially considered in conjunction with Delaplane's trial testimony, that he may somehow have involved in planning the crime.

However, the statements do not exclude Appellant's participation in the crime and do not challenge the trial evidence identifying him as the perpetrator. In fact, the trial evidence is wholly inconsistent with Delaplane being the actual robber. Snodgrass, who worked with and

knew Delaplane testified the person who attacked him was a larger, African American male. Delaplane is a smaller, Caucasian male. Perez's testimony is consistent with Snodgrass's and she specifically identified Appellant as the man who committed robbery. Delaplane's statements to Ross do not, in any way, contradict Snodgrass's or Ross's testimonies. Thus, Appellant's statements to Ross were inadmissible evidence of third-party guilt and the trial judge properly found the new evidence would not have impacted Appellant's conviction. See Cope, 405 S.C. at 341, 748 S.E.2d at 206; Porter, 269 S.C. at 621, 239 S.E.2d at 643.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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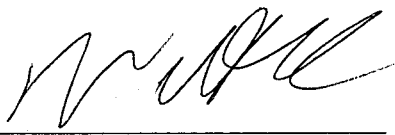
BY: 

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November 28, 2016

STATE OF SOUTH CAROLINA
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THE STATE, ...RESPONDENT,

v.

AUSTIN MCQUARTERS, ...APPELLANT.

PROOF OF SERVICE

I, Keely Carter, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
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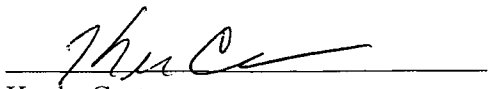
I further certify that all parties required by Rule to be served have been served.
This 28th day of November, 2016.



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RE: State v. Austin McQuarters
Appellate Case No. 2015-001814

Dear Ms. Hudgins:

I am enclosing two (2) copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

William F. Schumacher, IV
Assistant Attorney General
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Enclosures

cc: Honorable Jenny A. Kitchings (original and one enclosed)
Victim Services