

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LAURENS COUNTY
Court of General Sessions
W. Jeffery Young, Circuit Court Judge

Appellate Case No. 2015-000718
S.C. Supreme Court Opinion No. 27693

RECEIVED
JAN 27 2017
S.C. SUPREME COURT

The State, Respondent,

v.

Michael Vernon Beaty, Jr., Appellant.

**REPLY TO STATE'S RESPONSE TO
MR. BEATY'S PETITION FOR REHEARING**

The appellant, Michal Beaty, replies to the State's response to his petition for rehearing ("State's Response") as follows:

1) Mr. Beaty and the State agree that this Court should rehear the issues concerning the trial judge's opening remarks and the content of closing argument. Petition for Rehearing, Section I, pp. 1-6; State's Return, pp. 1, 3.

2) Although the State argues rehearing should be limited to these two issues, this Court should also rehear the issues set forth in Section II, pp. 6-15, of the Petition for Rehearing.

3) Although the State acknowledges that, when deciding whether an instruction on involuntary manslaughter is appropriate, the evidence should be viewed "in the light most favorable to the defense," State's Response, p. 2, the State does not apply

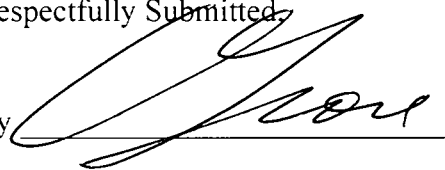
that standard in its response. The State relies on the testimony of “the State’s pathologist” without acknowledging Mr. Beaty’s statement to law enforcement or the testimony of Dr. “Dutch” Johnson and Dr. Jonathon Arden. Any reasonably sober person in Mr. Beaty’s position would have checked to determine if Ms. Asbill were injured, securely positioned her in a safe position in the automobile, determined if she were responsive, and secured her medical attention thus preventing her death. Instead, Mr. Beaty placed Ms. Asbill or permitted her to be placed in an awkward position, thereby causing her death by positional asphyxiation. As pointed out in Section II(A) of the Petition for Rehearing, once the Court considers the facts supporting Mr. Beaty’s request for the involuntary manslaughter instruction, the need to reverse becomes apparent.

4) Finally, as also discussed in Section II(A) of Mr. Beaty’s Petition, rehearing will allow this Court to address whether it adopted a new rule of law regarding when instructing the lesser included is required.

This Court should rehear this appeal, reverse Mr. Beaty’s convictions and sentences, and order a new trial.

Respectfully Submitted,

By

A handwritten signature in black ink, appearing to read "C. Rauch Wise", written over a horizontal line.

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January 24, 2017
Greenwood, South Carolina

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Amended Certificate of Service

I certify that I have served the Reply to the State's Response to Mr. Beaty's Petition for Rehearing, by placing a copy in the United States Mail, postage prepaid, on the date reflected below, addressed as follows:

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January 24, 2017
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