



The Supreme Court of South Carolina

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June 9, 2017

The Honorable Paul B. Wickensimer
Clerk of Court, Greenville County
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: The State v. James Allen Johnson
Lower Court Case No. 2011-GS-23-07262
Appellate Case No. 2016-000072

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc:

David Alexander, Esquire

Susannah Rawl Cole, Esquire

John Benjamin Aplin, Esquire

William Walter Wilkins, III, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Respondent,

v.

James Allen Johnson, Petitioner.

Appellate Case No. 2016-000072

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Greenville County
The Honorable G. Edward Welmaker, Circuit Court
Judge

Memorandum Opinion No. 2017-MO-009
Heard April 13, 2017 – Filed May 24, 2017

AFFIRMED

Appellate Defender David Alexander, of Columbia, for
Petitioner.

Attorney General Alan Wilson, Chief Deputy Attorney
General Robert Bolchoz, Senior Assistant Attorney
General J. Benjamin Aplin, and Assistant Attorney
General Susannah R. Cole, all of Columbia; and Solicitor

William W. Wilkins, III, of Greenville, all for
Respondent.

PER CURIAM: The court of appeals' opinion, *State v. Johnson*, Op. No. 2015-UP-378 (S.C. Ct. App. filed July 29, 2015), is affirmed pursuant to Rule 220(b)(1), SCACR, because Petitioner's argument that the trial court erred in admitting his incriminating statements is not preserved for our review. *See S.C. Dep't of Transp. v. First Carolina Corp. of S.C.*, 372 S.C. 295, 302, 641 S.E.2d 903, 907 (2007) (stating to preserve an issue at trial for appellate review, the issue must be: (1) raised to and ruled upon by the trial court; (2) raised by the appellant; (3) raised in a timely manner; and (4) raised to the trial court with sufficient specificity). Therefore, we do not address the merits of Petitioner's argument.

AFFIRMED.

BEATTY, C.J., KITTREDGE, FEW, JAMES, JJ., and Acting Justice Maite D. Murphy, concur.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

James Allen Johnson, Appellant.

Appellate Case No. 2013-001314

Appeal From Greenville County
G. Edward Welmaker, Circuit Court Judge

Unpublished Opinion No. 2015-UP-378
Heard June 9, 2015 – Filed July 29, 2015

AFFIRMED

Appellate Defender David Alexander, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson, Assistant
Attorney General Mary Williams Leddon, and Staff
Attorney Susannah Rawl Cole, all of Columbia, and
Solicitor William Walter Wilkins, III, of Greenville, for
Respondent.

PER CURIAM: James Johnson appeals his conviction for homicide by child
abuse, arguing the trial court erred in admitting his incriminating statement made

to officers at the law enforcement center because it was the result of a two-phase interrogation in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), and *Missouri v. Seibert*, 542 U.S. 600 (2004). We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) ("The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion."); *id.* ("An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law."); *State v. Freiburger*, 366 S.C. 125, 134, 620 S.E.2d 737, 741 (2005) (holding an issue is not preserved for appeal where one ground is raised below and another ground is raised on appeal).

AFFIRMED.

SHORT, LOCKEMY, and MCDONALD, JJ., concur.