

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM GEORGETOWN COUNTY  
The Honorable George C. James, Jr., Circuit Court Judge

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S.C. SUPREME COURT

Appellate Case No: 2017-000280

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VLADIMIR PANTOVICH,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

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SUPPLEMENTAL APPENDIX

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ROBERT M. DUDEK  
Appellate Defender

ALAN WILSON  
Attorney General

S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, SC 29201  
(803) 734-1330

JESSICA E. KINARD  
Assistant Attorney General

Office of the Attorney General  
Post Office Box 77889  
Columbia, SC 29211  
(803) 734-3737

ATTORNEY FOR RESPONDENT

ATTORNEYS FOR PETITIONER

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Georgetown County

Benjamin H. Culbertson, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

VLADIMIR WALT PANTOVICH,

APPELLANT

---

FINAL ANDERS BRIEF OF APPELLANT

---

JOSEPH L. SAVITZ, III  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge committed reversible error by allowing the State's pathologist to testify from drawings and notes that she had not prepared, as this evidence violated Rule 802, SCRE, the rule against hearsay, as well as the Confrontation Clause of the Sixth Amendment to the United States Constitution, as made applicable to the states by the Fourteenth Amendment.

STATEMENT OF THE CASE

On February 4 through 8, 2008, Vladimir Pantovich stood trial in Georgetown County, before Judge Benjamin H. Culbertson and a jury, on an indictment charging him with the murder of his live-in girlfriend, Shelia McPherson, by beating her to death with a baseball bat. Pantovich testified that he had acted in self-defense after McPherson attacked him with a fireplace poker. ROA p. 420 line 19- ROA p. 424 line 18. In addition to murder, the judge instructed the jury on voluntary manslaughter and self-defense. The jury found Pantovich guilty of voluntary manslaughter, and the judge sentenced him to imprisonment for eighteen years.

ARGUMENT


The trial judge committed reversible error by allowing the State's pathologist to testify from drawings and notes that she had not prepared, as this evidence violated Rule 802, SCRE, the rule against hearsay, as well as the Confrontation Clause of the Sixth Amendment to the United States Constitution, as made applicable to the states by the Fourteenth Amendment.

Over defense counsel's objection to hearsay, the State's pathologist was allowed to testify about the blunt force trauma inflicted on the victim using illustrations and handwritten notes prepared by her "trainee," a declarant who did not testify at Pantovich's trial. ROA p. 351 line 2- ROA p. 357 line 7. The Assistant Solicitor argued extensively in closing that the severity of these injuries was inconsistent with self-defense. ROA p. 555 line 4- ROA p. 556 line 9.

Rule 802, SCRE, states that "[h]earsay is not admissible" unless it falls within one of the 23 exceptions listed in Rule 803. Moreover, under the Confrontation Clause of the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment, the State may not rely on reports generated by non-testifying experts simply by designating them business records. See *Melendez-Diaz v. Massachusetts*, 129 S.C. 25, 27 (2009), applying *Crawford v. Washington*, 541 U.S. 36 (2004).

In the present case the State relied upon illustrations and notes prepared by a "trainee" of the testifying pathologist to establish that the victim's injuries were inconsistent with self-defense. For this reason, the Court should reverse Pantovich's conviction for voluntary manslaughter and remand for a new trial.

Respectfully submitted,



Joseph L. Savitz, III  
Chief Appellate Defender  
ATTORNEY FOR APPELLANT

This 7th day of October, 2009.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Georgetown County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

VLADIMIR WALT PANTOVICH,

APPELLANT

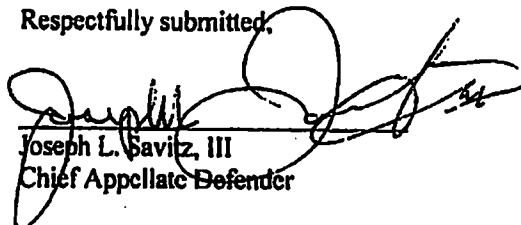
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Vladimir Walt Pantovich states:

1. He is Chief 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 Judge Benjamin H. Culbertson, which was held on February 8, 2008, 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 Vladimir Walt Pantovich.

Respectfully submitted,



Joseph L. Savitz, III  
Chief Appellate Defender

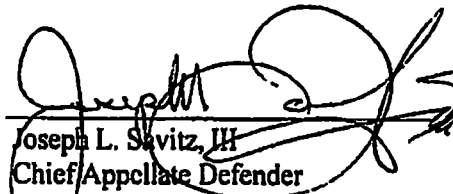
ATTORNEY FOR APPELLANT

This 7th day of October, 2009.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 7, 2009



Joseph L. Savitz, III  
Chief Appellate Defender

S.G. Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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THE STATE,

RESPONDENT,

v.

VLADIMIR WALT PANTOVICH,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and on Vladimir Walt Pantovich, #326633 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 7th day of October, 2009.

  
Joseph L. Savitz, III  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me . . .  
this 7th day of October, 2009.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: July 1, 2019.

**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.

Vladimir Walt Pantovich, Appellant.

---

Appeal From Georgetown County  
Benjamin H. Culbertson, Circuit Court Judge

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Unpublished Opinion No. 2011-UP-275  
Submitted May 1, 2011 – Filed June 8, 2011

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**APPEAL DISMISSED**

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Chief Appellate Defender Joseph L. Savitz, III, of  
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney  
General John W. McIntosh, and Assistant Deputy  
Attorney General Salley W. Elliott, all of Columbia; and  
Solicitor J. Gregory Hembree, of Conway, for  
Respondent.

**PER CURIAM:** Vladimir Walt Pantovich appeals his conviction for voluntary manslaughter, arguing the trial court erred in allowing an expert to testify from drawings and notes she had not prepared. After a thorough review of the record, counsel's brief, and the pro se brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.[1]

**APPEAL DISMISSED.**

**FEW, C.J., HUFF and THOMAS, JJ., concur.**

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[1] We decide this case without oral argument pursuant to Rule 215, SCACR.