

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of General Sessions

The Honorable Donald Hocker, Circuit Court Judge
Appellate Case No.2015-002206

RECEIVED
OCT 24 2017
SC Court of Appeals

The State of South Carolina, Respondent,

VS

Timothy Artez Pulley, Appellant.

MOTION TO TRANSFER CASE PURSUANT TO RULE 204(b)

Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules, Timothy Pulley, the Appellant above-named, hereby moves the South Carolina Supreme Court to accept this appeal which involves an issue which the Appellant believes is significant public interest and involves a legal principal of major importance. In addition, the Appellant would be requesting the Court to overturn or at least limit the prior holding of this Court in *State vs. Adams*, 291 S.C. 132 352 S.E. 2d 483(1987). This Motion is based upon the following:

1. Timothy Pulley has fully briefed the issue of whether or not charging a jury that they may infer.
2. Timothy Pulley had dominion and control of the drugs found on the back floor board of the automobile he was driving when the automobile was the property of his girlfriend, and he was driving with her permission. This charge was given by the lower court under the

authority of *State vs. Adams*, 291 S.C. 132 352 S.E. 2d 483(1987). In the present case, Mr. Pulley has attacked the Constitutionality of the charge contending it violates both due process and is a charge on the facts in violation of Article V, Section 21 of the Constitution of the State of South Carolina. The *Adams* case did not address the question of whether or not such an inference charge violates the Constitution of the State of South Carolina. Such an inference was held to violate the Constitution in *Yarborough vs. Southern Ry*, 78 S.C.103 58 S.E. 936(1907).

3. To the extent that the *Adams* case may be held to be binding precedent on the issue of whether or not the charge violates the State Constitution, the South Carolina Supreme Court would be the proper Court to resolve the question.

For the forgoing reasons, this Court should grant the Motion of Timothy Pulley to transfer this matter to the Supreme Court of South Carolina.

October 20th, 2017



C. RAUCH WISE
Attorney at Law
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Greenwood, SC 29646
(864) 229-5010

Attorney for Appellant

THE STATE OF SOUTH CAROLINA

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State of South Carolina Respondent,

vs.

Timothy Artez Pulley Appellant.

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me, Sandy Traynham who, after being duly sworn, deposes and says that she is the Secretary for C. Rauch Wise, Attorney for the Appellant in the above entitled case. That on October 20, 2017, she did deposit in the United States Mail with proper postage affixed thereto, a copy of the Motion to Transfer Case Pursuant to Rule 204(b) in the above case addressed to William M. Blicht, Jr., Assistant Attorney General, P.O. Box 11549, Columbia, SC 29211 and Daniel E. Shearouse, Clerk, Supreme Court of South Carolina, P.O. Box 11330, Columbia, SC 29211.

Sworn to and Subscribed

Sandy Traynham

before me this 20th day

of October 2017

[Signature]

Notary Public for South Carolina

My Commission Expires: 12/7/2019

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October 20, 2017

Jenny Abbott Kitchings, Clerk
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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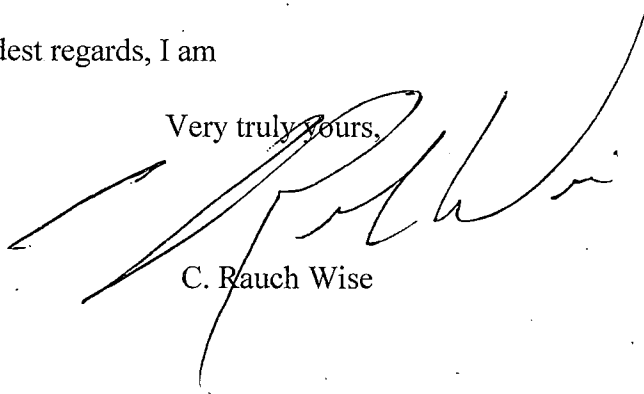
Re: The State vs. Timothy Artez Pulley, Appellant Case № 2015-002206

Dear Ms. Kitchings:

I am enclosing herewith the original and six (6) copies of the Motion to Transfer Case Pursuant to Rule 204(b) together with the original Affidavit of Service regarding the above matter. Your help is greatly appreciated.

With kindest regards, I am

Very truly yours,



C. Rauch Wise

CRW/slt
Enclosure

cc William M. Blich, Jr.
South Carolina Supreme Court

LAW OFFICE OF
C. RAUCH WISE
Attorney & Counselor at Law.
305 Main Street
Greenwood, SC 29646



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