

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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OCT 30 2017

SC Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, Circuit Court Judge

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Case No. 2015-CP-46-03747

Appellate Case No. 2016-000875

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The State..... Appellant,

v.

Sean Robert Kelley..... Respondent.

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PETITION FOR REHEARING

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Pursuant to Rule 221, SCACR, Respondent hereby respectfully petitions the Court for a rehearing of its opinion in this matter filed October 18, 2017. The Court reversed the decision of the lower court holding that the lower court erred by finding that the State failed to comply with the mandatory video requirements of S.C. Code Ann. § 56-5-2953 (Supp. 2016).

In the opinion, the Court failed to address or acknowledge Respondent's argument concerning double jeopardy and whether the decisions of the lower courts were appealable. (Respondent's Final Brief, pp. 3 – 6). While reasonable minds may disagree as to the application S.C. Code Ann. § 56-5-2953 (Supp. 2016), there is no dispute that Respondent's case was called for

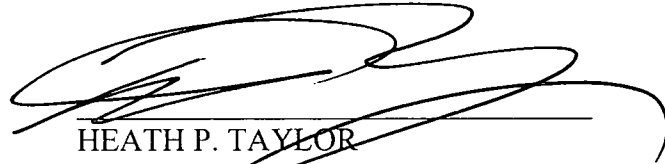
a bench trial, witnesses were sworn and a judgment of acquittal was rendered. Respondent respectfully requests that the Court address Argument I of his brief in light of well settled South Carolina jurisprudence holding that the State has no right of appeal from a directed verdict of not guilty. *State v. McWaters*, 246 S.C. 534, 144 S.E.2d 718 (1965); *State v. Ludlam*, 189 S.C. 69, 200 S.E. 361 (1938); *State v. Ivey*, 73, S.C. 282, 53 S.E. 428 (1906); *State v. Gathers*, 15 S.C. 370 (1881).

For the forgoing reasons, Respondent urges this Court to grant Respondent's Petition for Rehearing and reconsider the opinion issued in this case.

Respectfully Submitted,

TAYLOR LAW FIRM LLC

October 30, 2017



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John C. Hayes, III, Circuit Court Judge

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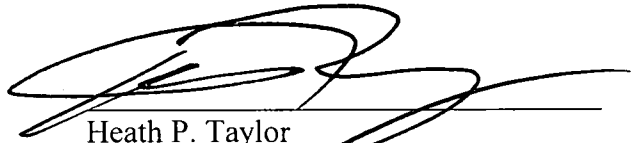
v.

Sean Robert Kelly..... Respondent.

**PROOF OF SERVICE**

I certify that I have served the Petition for Rehearing by causing it to be mailed to its attorneys of record, Alan M. Wilson, Esquire and Ranee Saunders, Esquire, at their office, P.O. Box 11549 Columbia, SC 29211-1549 and Kevin S. Brackett, Esquire, 16<sup>th</sup> Circuit Solicitor's Office, 1675-IA York Highway, York, South Carolina 29745 on October 30, 2017.

October 30, 2017



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