

THE STATE OF SOUTH CAROLINA

In The Court OF Appeals

The State, Respondent

v.

Lindell Davis, Appellant

Appellate Case No. 2015-003448

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DEC 20 2017

SC Court of Appeals

Appeal From Marion County

William H. Seals, Jr. Circuit Court Judge

MOTION FOR RECONSIDERATION

The right to testify is deemed so fundamental a constitutional right that the defendant only may waive it. Rock v. Arkansas, 483 U.S. 44, 51-55 (1987). Next, regarding the State's argument that appellant claim is not a trial court error therefore not reviewable on direct appeal, we acknowledge there is no absolute rule as to whether a denial of the right to testify is properly analyzed as a constitutional error on direct appeal or as an ineffective assistance of counsel claim in the context of PCR. In this case there was no warning by the Court. Passes-Patermine, v Unites States 12 F.Supp.2d 231, 240 (OPR)1998) recognizing that the that the right to testify, exist independently of the right

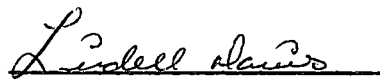
to counsel and stating regardless of whether the denial of the right to testify, can be ascribed to defense counsel's conduct, the deprivation complained of is not effective assistance but the right to testify. And the right to testify itself is constitutionally protected. Rossignol v State, 152 Idaho 700, 274 p,3d1, 7 (Ct app. 2012). See also 741 S.E.2d 694, 702 (S.C. 2013).

Whether I deserved a unpublished opinion is whether I deserved to be warn of the fundamental right to testify or not to testify.

CONCLUSION

For the foregoing reasons I pray this Court would reconsider its ruling.

December 18, 2017


Lindell Davis

CERTIFICATE OF SERVICE

The undersigned hereby certify that he mail motion for reconsideration to S.C. Court of Appeal this 18 day of December 2017 by depositing same in the U.S. mail.



Lindell davis

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SC Court of Appeals

Lindell Davis

FLA-168-366106

MCCI

386 Redemption way

McCormick SC 29899

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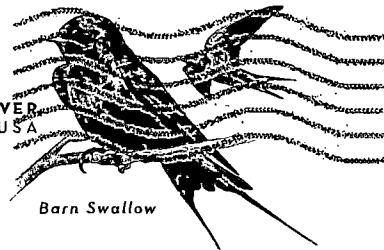
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