STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY

Court of General Sessions

The Honorable James R. Barber, III, Circuit Court Judge

Appellate Case No. 2014-001176

THE STATE,

Respondent,

v.

VINCENT MISSOURI,

Appellant.

BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

I.

Appellant's argument is not preserved for appellate review. Preservation concerns notwithstanding, Appellant was not denied his right to proceed *pro se* where he never clearly and unequivocally asserted his right to represent himself. Finally, Appellant waived his right to complain about any error on appeal where Appellant candidly admitted he was guilty of the crime.

STATEMENT OF THE CASE

Appellant was indicted at the May 2013 term of the grand jury for Pickens County for entering a bank with intent to steal (2012-GS-39-2203), armed robbery (2012-GS-39-2242), and failure to stop for a blue light (2012-GS-39-2204). Appellant proceeded to a jury trial before the Honorable James R. Barber, III, from December 19-20, 2013, in Pickens, South Carolina. At the conclusion of trial, Appellant was found guilty of entering a bank with intent to steal, strong-arm robbery, and failure to stop for a blue light. He was sentenced by Judge Barber to imprisonment for a term of twenty years for entering a bank with intent to steal, fifteen years for strong arm robbery, and three years for failure to stop for a blue light, with all sentences running concurrently. Appellant timely filed a notice of appeal.

Subsequently, Appellant's appellate counsel filed an Anders brief and a petition to be relieved as counsel. Thereafter, on June 13, 2016, the Court of Appeals denied the petition to be relieved as counsel and directed the parties to brief the following issue from trial along with any other issues counsel believed were present and of arguable merit: "Was Missouri denied the Sixth Amendment right to proceed *pro se*?" Appellant subsequently filed a Brief of Appellant. This Brief of Respondent follows.

STATEMENT OF FACTS

Factual History

On June 18, 2012, Rachel White was working at the Bank of America in Pickens, South Carolina. R. p. 79. White was employed as the head teller, meaning she supervised the other tellers as well as assisting customers. R. p. 80. At around 4:45 P.M., shortly before the bank closed, a customer walked into the bank and handed White a note. R. p. 81. The note the robber handed White stated, "Place all the money in the bag. Keep left hand on top of camera. Empty drawer with right hand. No die pack. I know who you are." R. p. 84. White subsequently placed about eighteen hundred dollars in the bag. R. p. 84. Once the robber was handed the bag with the money, he turned around and exited through the side door. R. p. 87. After the robber exited, White alerted her manager that the bank had been robbed. R. p. 87. White testified she described the robber to police as, "It was a baldhead, I think in that I said about five four to five eight, about a hundred and forty-five to a hundred and seventy pounds, and a black African." R. p. 94. White stated that the robber was wearing dark sunglasses and a black shirt with white on it. R. p. 85. A DVD of the bank's video surveillance was played for the jury at trial. R. p. 89. Following the playing of the video, White testified that Appellant was the man in the video who robbed the bank. R. p. 93.

On the morning of June 18, 2012, Appellant visited the home of Bobby Wright and invited him to ride with him to go pick up supplies. R. pp. 107-108. Wright lives in Greenville, South Carolina and grew up with Appellant. R. p. 107. Wright testified that he did not know what supplies Appellant needed to pick up, just that Appellant told him he needed to go to Pickens to "pick up some supplies for a job." R. p. 108. Once they arrived in Pickens, Appellant stopped at a Bank of America and told Wright he needed to have a check cashed. R. p. 109.

While Appellant entered the bank, Wright stayed in the car and smoked a cigarette. R. p. 109. Once Appellant emerged from the bank, the men drove to a Family Dollar where Appellant purchased some clothing. R. p. 110. When driving away from the Family Dollar, Appellant looked into his rearview mirror and stated, "okay, they on us." R. p. 111. Wright asked Appellant what he meant by that and Appellant replied, "the police." Wright asked Appellant why the police were "on them" and Appellant replied that he had robbed the bank. R. p. 111. Appellant then "took off" and a chase with police ensued. R. p. 111. During the chase, Wright observed Appellant pull a bag of money out of his pants. R. p. 112.

Eventually, Appellant's vehicle came to a stop. R. p. 147. Appellant then exited the driver's side of the vehicle and ran through the woods. R. p. 140. Appellant carried a brown bag as he ran. R. p. 140. Officers eventually were able to tackle and arrest Appellant. R. p. 149. Officers recovered one thousand seven hundred and fifty dollars from the brown bag Appellant was carrying and the console of the truck Appellant was driving. R. pp. 158-59.

Following Appellant's apprehension, Detective Samuel Byers spoke with him at the Pickens County Detention Center. R. p. 164. Upon his arrival, Detective Byers advised Appellant of his Miranda rights. R. pp. 165-72. Appellant then provided investigators with a written statement. R. p. 172. Detective Byers read Appellant's written statement into the record:

> After a month-long crack cocaine binge, I found myself - - I apologize, I'm having a hard time making out that word. . . Yeah. - - plotting to obtain a vehicle to try and rob a bank. I first stopped at Fulbright Motors with the intent to steal a vehicle to rob SunTrust Bank on Anderson Road. But while looking, there was a red truck with the driver's side door open and empty of a driver. I took the truck and went by a friend's home - - excuse me - - house, and asked if he wanted to ride with me to cash some checks. Bobby didn't have a clue that I was going to rob the bank. I went in and presented the teller with a robbery note. She said she didn't have a bag and I supplied her with a bag. She proceeded to fill the bag with money. And when she was through I fled the scene. I went to Easley and got into a chase with police. The chase ended in a residential area where I got - - where I gave up without incident.

R. p. 174.

Appellant's Trial Testimony

Appellant testified at trial. R. pp. 189-202. Appellant testified he was released from federal prison on November 18, 2012, and immediately relapsed into an addiction to crack cocaine and was "just basically running around getting high, getting money from anywhere I could to get high." R. pp. 189-90. Appellant explained:

> And on the date that - - what was the date of the incident? June 18th? June 18th, the date that this robbery occurred, you know, it was not my defense to come into court and try to convince twelve people that I didn't do it. In fact, I did do it. So that, you know, that eliminates y'all having to consider that. Mr. Richardson[1], he did an excellent job. I mean, the evidence is there. There's no refuting the evidence. I mean, that's what happened on June 18th.

R. p. 190. Appellant continued, "I didn't come here to tell you I didn't take the money from the bank, because I did. It's called irresistible impulses. When you have long-term addiction, experts consider that a disease. It's not something we can handle ourselves." R. p. 192. Appellant then launched into a lengthy monologue describing his addiction to crack cocaine and his history of imprisonment. R. pp. 190-200. Appellant later noted, "Well, I mean, I mean, like I said, the evidence is overwhelming. Hats off to Mr. Richardson. You did an excellent job. I don't know no prosecutor that could have did better, you know. Everything was there. Except my defense. I didn't have a defense in this case." R. p. 200. Appellant later instructed the jury:

> You don't have to find me guilty based on his evidence. The jury did such a thing that's called jury nullification for any reason in the world that you might want to say not guilty, y'all have that right. And you cannot be intimidated by the judge, nor Mr. Richardson. Y'all have that right. Y'all have to know your powers in order to be able to exercise them. That is the power of the jury. You're not under state government. You're not under the courts. You're not under the judicial branch. The jury is created separately from the establishment of our jury trial rights. That's why we elect to have a jury to find us guilty as opposed to any other

[1] Doug Richardson represented the State in Appellant's prosecution.

> entity. This is your power. For whatever reason I may have given you, you can say I'm guilty.

R. p. 202. The trial judge then interjected, "Mr. Missouri, I will instruct the jury on the law of the state of South Carolina as it applies to this case."

During sentencing, Appellant stated:

> Like I said, this was brought on by just drug addiction, sir, you know. You say it's no defense and, you know, to some extent, you know, I'm remorseful for my actions. I mean, that's the point. You know, I went in the bank and took the money. You know, I'm remorseful for that part. You know, I'm remorseful for a lot of things, you know, that we haven't, as a society, addressed, you know, addictions in a better situation than we do. We're imprisoning more people and that's not, that's not an act - - it's not correcting the problem.

R. p. 232.

Appellant's Motion to Relieve Counsel

On December 19, 2013, prior to trial, Appellant made a motion to relieve counsel before the Honorable Letitia H. Verdin. R. p. 4. Appellant stated that he wanted Aaron Angell relieved as his counsel, "Just based on the time and the amount of cases Mr. Aaron has and the complexity of my defenses, I feel it'd be better that I have either someone that doesn't have as much of a case load as he has or either I be prepared to represent myself." R. p. 5. The Solicitor argued:

> Your Honor, we are opposed to Mr. Aaron coming down - - off as his defense attorney. He's already had one defense attorney who was relieved in June earlier. It's my understanding he also has made a motion in Greenville. He has Greenville charges, the same type of charges. This main charge here is a bank robbery where he's asked to basically fire Mr. Culbertson who represents him in Greenville. Your Honor, we plan on trying this case in the spring. At this point in time, I've had negotiations and dealings with his attorney. I would ask that you deny the motion.

R. pp. 6-7. Defense Counsel noted:

> Judge, from my vantage point, it seems as if Mr. Missouri is unhappy with me. I told him - - And I'm not going so speak for you.- - but I told him there was

> probably one of three things that would happen is you let him go on *pro se*, you'd keep me on board or he fires me and you hire one more. I don't know what you want to do.

R. p. 7. Defense Counsel informed Judge Verdin that Appellant was charged with entering a bank with intent to steal, armed robbery, and failure to stop. R. p. 7. Judge Verdin replied, "*Pro se* is not in the realm of possibility right now." R. p. 7. Defense Counsel replied, "Probably not, your Honor."

Judge Verdin later ruled:

> Here's what I'm going to do, Mr. Missouri. Here's what we're going to do. You've got an outstanding attorney. I'm going to leave you with him. This is your second attorney on this case. I can't relieve this second attorney but he's an outstanding attorney. If you have any hope of doing well in the spring at trial, we don't need to change horses in midstream. Please don't take offense to me calling you a horse. We don't need to change horses in midstream. We need to - - you need to - - from this point forward, you need to do everything you can to work with Mr. Angell and y'all get along. I have no doubt that you will do so. I wish you the best of luck with it.

R. pp. 9-10.

During a pre-trial hearing, Appellant informed Judge Barber that he previously made a motion before Judge Verdin to terminate Mr. Angell and represent himself. R. p. 24. Appellant then stated, "And there's been a subsequent one on appeal." R. p. 24. Judge Barber replied, "I don't know about an appeal. That motion has already been heard." Appellant replied, "But it wasn't based on the factual findings as I understood it." R. pp. 24-25. Judge Barber responded:

> Well, I can't go behind her on her - - I don't know anything about her ruling, but if she denied the motion, I don't have the ability to go back and say, hey, you were wrong, and I - - because I'm here now - - I just can't undo what some other judge has already done and ruled on. And if there's an error in that regard, then you will have to deal with that in the future.

R. p. 25.

Following a recess by the Court after a Jackson v. Denno hearing and other pre-trial motions related to venue and the indictments, Judge Barber asked Appellant, "You're terminating the services of your attorney. You indicated at some time in the past, I don't know, at the beginning of the year you indicated that you wanted to relieve him of counsel and represent yourself?" R. p. 45. Appellant replied, "In the past, yes, I did indicate that." R. p. 45. Judge Barber asked Appellant whether he was still interested in representing himself. Judge Barber stated, "I'm asking you, are you interested in doing that? Want to represent yourself? If you don't, you don't have to. You've got a lawyer and we're going to go forward with it. If you do, we're going to discuss this issue." R. p. 45. Judge Barber indicated he changed his mind on the natter because he read a case at lunch that indicated Appellant may be entitled to represent himself. R. p. 45. Judge Barber explained to Appellant, "If you are interested in representing yourself, I will have certain questions I want to ask you. If I find you're competent to do so, you will be able to represent yourself and we'll go forward - - ." R. p. 46. Judge Barber told Appellant, "If you're prepared to make the motion, I'm prepared to consider it." R. pp. 46-47. Judge Barber reiterated, "Mr. Angell - - I mean, Mr. Missouri, this is the first I've had this case. Do you want to represent yourself? If you're not going to make a motion, then I'm going to assume you don't want to represent yourself and this gentleman is going to represent you." R. p. 48. Appellant replied:

> Okay. If I want to represent - - the only think (sic) I'm saying, Your Honor, and don't take that the wrong way. If you grant me the right to represent myself, please grant me the right to go over my material as opposed to what Mr. Angell did a poor job of doing this morning. Please give me that right.

R. p. 48. Appellant stated, "I need to represent myself completely or not at all." Judge Barber responded, "We're not going to revisit the issues. There's nothing that you can tell me differently that was brought out - - you nor anyone else have nothing that will change my mind on the

Jackson v. Denno hearing." R. p. 48. Judge Barber also indicated he had made up his mind with respect to the pre-trial motions involving venue and the indictments. R. p. 49. Eventually, after Appellant would not make motion to represent himself, Judge Barber stated, "All right. It appears that Mr. Missouri is not prepared to make a motion in this matter, so we will go forward . . ." R. pp. 49-50.

After the jury returned a guilty verdict, Appellant made a motion for a new trial. R. p. 226. Defense Counsel clarified, "The motion is based on involuntary intoxication. He wants to represent himself *pro se*." R. p. 227. Judge Barber ruled:

> **Well, he had the opportunity to request that he be allowed to represent himself and he declined to do so.** I informed him the court was willing to consider it and if he met the criteria that I would allow him to do so and he just needed to make a motion. **If he wasn't going to make a motion, I can't do it for him.** He declined to do that. But he can address this in any way he wants in the future. In terms of voluntary intoxication, he's addicted to drugs and therefore can't control himself and should we give him some special treatment is not a defense in South Carolina. If we did, everybody who's ever used drugs would be claiming they used drugs before I did whatever I did. So your motion is denied.

R. p. 227. (emphasis added).

ARGUMENT

I.

Appellant's argument is not preserved for appellate review. Preservation concerns notwithstanding, Appellant was not denied his right to proceed *pro se* where he never clearly and unequivocally asserted his right to represent himself. Finally, Appellant waived his right to complain about any error on appeal where Appellant candidly admitted he was guilty of the crime.

Appellant contends he was denied his Sixth Amendment right to proceed *pro se*. Specifically, Appellant argues:

> Appellant moved the court to relieve defense counsel and proceed *pro se* on December 19, 2013 – five months before his trial date of May 19, 2014. Appellant explained to the court that he wanted to represent himself because he was not satisfied with defense counsel's performance. However, the judge did not advise Appellant of his right to have counsel or warn Appellant of the dangers of self-representation, as required by Faretta v. California[2].

Br. of App. p. 12. Appellant's argument in his brief is limited to the December 19, 2013, hearing before Judge Verdin and makes no mention of Appellant's discussion of self-representation with Judge Barber directly before he was tried. Appellant's argument lacks merit, as Appellant never clearly, explicitly, and unequivocally sought to represent himself. Further, Appellant failed to adequately preserve the argument for appellate review. Secondly, while Appellant argues the trial judge did not advise Appellant of his right to counsel or warn Appellant of the dangers of proceeding *pro se* pursuant to Faretta, the trial judge was not required to warn Appellant pursuant to Faretta because Appellant never made an unequivocal request. Finally, any alleged error in not allowing Appellant to represent himself is harmless where Appellant wholeheartedly admitted during trial and at sentencing that he committed the crime.

As a threshold matter, Appellant's argument is not preserved for appellate review where he is unable to complain of any error caused by his own conduct. Appellant's argument is

[2] 422 U.S. 806, 807 (1975)

predicated on the assertion that Judge Verdin failed to advise Appellant of his constitutional rights pursuant to Faretta at the pre-trial hearing on Appellant's motion to relieve counsel. However, at the outset of trial, Judge Barber advised Appellant he was willing to hear his request to proceed *pro se* and would ask him a few questions in order to determine whether that was a viable option for him. Instead of asserting his right to proceed without counsel at that time, Appellant made no motion to represent himself. Appellant's refusal to make a motion to represent himself, which eliminated the need for Judge Barber to conduct a Faretta hearing, precludes Appellant from complaining about a lack of a Faretta hearing at trial. Moreover, Appellant's failure to make a motion to represent himself and engage in a Faretta colloquy with Judge Barber negates his ability to complain of any alleged error on appeal, as his own decision in refusing to make the motion to proceed *pro se* is what led to the lack of a Faretta hearing at trial. Appellant cannot refuse to make a motion to represent himself and wait to see whether he prevails with counsel, then, after he is found guilty, make a motion for a new trial and later complain on appeal that he wanted to represent himself. See State v. Penland, 275 S.C. 537, 538, 273 S.E.2d 765, 766 (1981) ("One may not preserve a vice until he learns what the result will be and then, take advantage of the error on appeal."); State v. Burnett, 226 S.C. 421, 424, 85 S.E.2d 744, 746 (1954) ("A defendant may not reserve vices in his trial, of which he has notice as here, taking his chances of a favorable verdict, and in case of disappointment, use the error to obtain another trial."); see also State v. Logan, 279 S.C. 345, 348, 306 S.E.2d 622, 624 (1983) ("Appellant can neither take advantage of an error he contributed to at trial nor preserve a vice and, upon learning of the outcome of trial, raise it on appeal.").

Even if Appellant's argument was preserved, it lacks merit. A defendant has a constitutional right to self-representation under the Sixth and Fourteenth Amendments. Faretta v.

California, 422 U.S. 806, 807 (1975). "However, the right of self-representation is not absolute." State v. Samuel, 414 S.C. 206, 211, 777 S.E.2d 398, 401 (Ct. App. 2015) (citing United States v. Frazier–El, 204 F.3d 553, 559 (4th Cir. 2000)). "A defendant's assertion of his right to self-representation must be: '(1) clear and unequivocal; (2) knowing, intelligent and voluntary; and (3) timely.'" Id. at 212, 777 S.E.2d at 401 (quoting Frazier–El, 204 F.3d at 558). So important is the right to counsel that the Supreme Court has instructed courts to "indulge in every reasonable presumption against [its] waiver." Brewer v. Williams, 430 U.S. 387, 404 (1977).

Significantly, a request to proceed *pro se* must be clearly articulated and unequivocal. See State v. Winkler, 388 S.C. 574, 586, 698 S.E.2d 596, 602 (2010) (stating "[t]he request to proceed pro se must be clearly asserted"); see also Raulerson v. Wainwright, 469 U.S. 966, 970–71 (1984) (Marshall, J., dissenting from denial of cert.) ("If a request [for self-representation] is ambiguous, the trial judge need not respond, because there has been no clear indication of a desire to waive a right to counsel."). Because of the importance of the right to counsel, "[a]n assertion of the right of self-representation therefore must be (1) clear and unequivocal." United States v. Frazier-El, 204 F.3d 553, 558 (4th Cir. 2000) (citing Faretta, 422 U.S. at 835, 95 S.Ct. 2525; United States v. Lorick, 753 F.2d 1295, 1298 (4th Cir.1985)). The Tenth Circuit Court of Appeals explained the reasoning for requiring a clear and unequivocal request from a defendant before allowing the defendant to waive his right to counsel:

> A defendant's waiver of his right to representation and his concomitant election to represent himself must be "clearly and unequivocally" asserted. United States v. Bennett, 539 F.2d 45, 50 (10th Cir.), *cert. denied*, 429 U.S. 925, 97 S.Ct. 327, 50 L.Ed.2d 293 (1976). The reason that a defendant must make an "unequivocal" demand for self-representation is that otherwise "convicted criminals would be given a ready tool with which to upset adverse verdicts after trials at which they had been represented by counsel." Meeks v. Craven, 482 F.2d 465, 467 (9th Cir.1973), cited with approval by this court in United States v. Bennett, at 51.
> It follows that if a defendant in a criminal proceeding makes an equivocal demand on the question of self-representation, he has a potential ground for appellate

> reversal no matter how the district court rules. If the district court denies defendant's equivocal demand to represent himself, the defendant, on appeal, will argue that his constitutional right to self-representation has been denied. And if the district court grants defendant's demand for self-representation, the defendant, on appeal, will argue that his waiver of his right to counsel was not intelligent, knowing and unequivocal. All of which is a form of the "cat and mouse" game mentioned in United States v. Padilla, 819 F.2d 952, 959 (10th Cir.1987) and in United States v. Gipson, 693 F.2d 109, 112 (10th Cir.1982), *cert. denied*, 459 U.S. 1216, 103 S.Ct. 1218, 75 L.Ed.2d 455 (1983).

United States v. Treff, 924 F.2d 975, 978-79 (10th Cir. 1991). The Fourth Circuit Court of Appeals has also explained:

> This requirement that a defendant invoke his self-representation right clearly and unequivocally also serves an additional purpose. A trial court evaluating a defendant's request to represent himself must "traverse ... a thin line" between improperly allowing the defendant to proceed pro se, thereby violating his right to counsel, and improperly having the defendant proceed with counsel, thereby violating his right to self-representation. A skillful defendant could manipulate this dilemma to create reversible error. The requirement that a defendant invoke his self-representation right clearly and unequivocally greatly aids the trial court in resolving this dilemma by allowing the court safely to presume that the defendant should proceed with counsel absent an unmistakable expression by the defendant that so to proceed is contrary to his wishes.

Fields v. Murray, 49 F.3d 1024, 1029 (4th Cir. 1995) (internal citation omitted); see also, United States v. Ductan, 800 F.3d 642, 650 (4th Cir. 2015) (Since our *en banc* decision in Fields, we have consistently held that as between counsel and self-representation, counsel is the "default position" unless and until a defendant explicitly asserts his desire to proceed *pro se*.").

In the present case, Appellant never clearly, explicitly, or unequivocally asked to proceed *pro se*. At the hearing before Judge Verdin on December 19, 2013, Appellant framed the issue as one where he was disappointed that he had a lawyer with a large case load and that he would, "feel it'd be better that I have either someone that doesn't have as much of a case load as he has or either I be prepared to represent myself." R. p. 5. After the request, the Solicitor noted Appellant had already had one attorney relieved during June of the previous year. R. p. 6.

Defense Counsel also noted that he had already obtained a positive result for Appellant in the form of a bond reduction. R. p. 8. Appellant's motion before Judge Verdin was not an unequivocal request to represent himself. Rather, it was a request to relieve his second attorney where that counsel had achieved a positive result from him prior to trial simply because he didn't like that he had a lawyer with a full case load. Appellant's inclusion of the statement that if the court would not relieve counsel that he "be prepared to represent himself" does not constitute a clear and unequivocal invocation of his right to represent himself. Similarly, Appellant's statements to Judge Barber about representing himself cannot be considered an unequivocal request to proceed *pro se* because Judge Barber gave Appellant an opportunity to formally assert his right to represent himself and Appellant chose to do nothing.

Finally, Appellant has waived any right to complain about any alleged errors at trial due to his exhaustive admissions of guilt during trial and at sentencing. As a rule, appellate courts are not in the business of reversing convictions where the defendant has admitted guilt. See Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981) ("[R]eview of a trial error is unnecessary where a defendant admits in open court after his conviction that he is guilty."); State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of this conclusion is eliminated by the admission of appellant in open court, after conviction and during the pre-sentence inquiry by the trial judge, that he participated in the robbery with a sawed-off shotgun. Further review of the record, therefore, is rendered unnecessary."). Sroka and Whetsell set a bar on appellate review where the appellant admitted he was guilty. Whetsell and Sroka firmly establish that an appellate court need not review a trial error where the defendant admitted his guilt during sentencing. However, Appellant's admission of guilt is even more compelling than the admissions of guilt in Whetsell and Sroka, as he admitted at **trial** as well as during

sentencing that he committed the crime. Any hypothetical relief the court gave him would simply result in Appellant's case being remanded for a new trial where Appellant would either wholeheartedly tell the jury that he was guilty a second time or the State would present evidence of Appellant's admissions of guilt during the first proceeding. Accordingly, this Court should find Appellant's argument waived due to Appellant's admission that he was the individual who robbed the Bank of America in Pickens.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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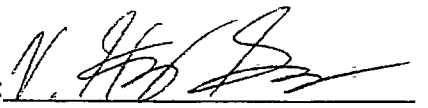
BY: 

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September 2, 2016

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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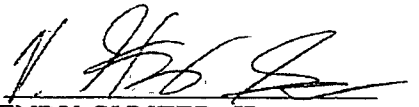
BY: 
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PROOF OF SERVICE

I, Angela Bennett, Administrative Assistant, hereby certify that I have served the within *Brief of Respondent* dated September 2, 2016, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Tiffany L. Butler, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
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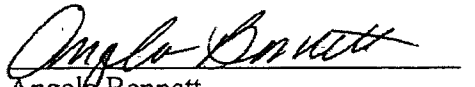
I further certified that all parties required by Rule to be served have been served. This 2nd, day of September, 2016.



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