STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BAMBERG COUNTY

Court of General Sessions

The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2016-002046

THE STATE,

Respondent,

v.

HOMER ARTHUR JAMES,

Appellant.

INITIAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

The trial judge properly admitted Appellant's incriminating statements regarding his flight and culpability because Appellant was not subjected to custodial interrogation.

STATEMENT OF THE CASE

Appellant was indicted during the October 2014 term of the Grand Jury for Bamberg County for armed robbery (2014-GS-05-00209). Appellant proceeded to a jury trial before the Honorable R. Lawton McIntosh from August 9-11, 2014, in Bamberg, South Carolina. At the conclusion of trial, the jury found Appellant guilty as indicted. He was sentenced by Judge McIntosh to life imprisonment without the possibility of parole. Appellant timely filed a notice of appeal and subsequently submitted a brief. This Brief of Respondent follows.

STATEMENT OF FACTS

Background Facts

On June 5, 2014, Betty Wilson was in Denmark, South Carolina where she observed a group of men exit a silver Pontiac Grand Am and run into a bank. Tr. p. 71. After a few minutes passed, Wilson saw the men hurriedly exit the bank and run around the back side of the building. Tr. p. 73. Wilson noticed a red dye pack explode in one of the bags the men were carrying. Tr. p. 79.

Chris Folk was employed as the branch manager of the Enterprise Bank in Denmark. Tr. pp. 80-81. On the day of the robbery, Folk was in his office when he observed someone run across the lobby of the bank and jump onto the teller counter. Tr. p. 83. Another individual subsequently ran into Folk's office, pointed what appeared to be a gun with a cloth over it at him, and told him to get on the floor. Tr. p. 83. Folk testified the individual in his office asked him, "where's the money?" Folk told the intruder he did not have any money. Tr. p. 84. The intruder then moved to the doorway and bellowed, "shoot him." Tr. p. 84-85. Folk remained face down on the floor of his office. Tr. p. 84.

Rebecca Templeton, a teller at Enterprise Bank, was also working on June 5, 2014. Tr. p. 117. Templeton stated two men came rushing into the bank. Tr. p. 119. One of the intruders jumped on the counter in front of her and the other individual went into Folks' office. Tr. p. 119-20. The intruder on top of the counter told Templeton, "Get me money, get me the money, no dye pack, no dye pack." Tr. p. 120. After directing Templeton to empty the cash drawers, the intruder ran out of the bank. All told, the robbers made off with around $6,000. Tr. p. 95. A dye pack made its way into one of the bags of money; the dye pack triggered the alarm once it crossed the threshold of the bank. Tr. p. 96.

Chief James Walley of the Olar Police Department was patrolling when he received a call about the robbery at Enterprise Bank. Tr. p. 126. The broadcast included a description of the suspect vehicle as a silver Pontiac Grand Am. Tr. p. 127. Chief Walley subsequently observed a vehicle matching the description of the suspect's vehicle. Tr. p. 127. He followed the vehicle and eventually activated his blue lights. Tr. p. 128. The Grand Am accelerated, ran a stop sign and turned onto a road that had a dead end. Tr. p. 128. The suspect's vehicle then ran through a cable fence and crashed into a tree at the end of the road. Tr. p. 130. Chief Walley observed a black male exit the vehicle's rear passenger's side door and run north through the woods. Tr. p. 130. Chief Walley secured the suspect's vehicle. Tr. p. 131. He believed the other occupants of the car bailed out while the vehicle was still moving. Tr. p. 143. When he walked up to the vehicle, Chief Walley observed a bag filled with red dye-stained currency. Tr. p. 132. Chief Walley then called for backup. Tr. pp. 132-33.

Special Agent Timothy Oliphant of the South Carolina Law Enforcement Division was contacted by the Denmark Police Department for assistance in processing the crime scene. Tr. p, 146-47. Agent Oliphant conducted a search of the suspect's vehicle. Tr. p. 154. Agent Oliphant recovered a black duffel bag filled with U.S. currency where the bills on the left side of the bag were heavily covered in red-colored stains. Tr. p. 160. The glove box also contained more currency with red stains on the bills. Tr. p. 201. Agent Oliphant found a Daisy Powerline pellet gun on the floorboard near the front passenger door. Tr. p. 157. He also observed flip-flop sandals and a hat that were of very similar style and brand to the clothing worn by the individual in the robbery surveillance footage. Tr. p. 162. Finally, Agent Oliphant discovered South Carolina identification cards bearing the names Lewis Garvin, Leon James, Homer James

(Appellant), and a North Carolina identification card bearing the name Darryl Lassiter.[1] Tr. pp. 157, 159, 176, 176-77. Various other items recovered from the vehicle later tested positive for Appellant's DNA. Tr. pp. 169-75, 295-304.

Officer Eddie Williams of the Bamberg Sheriff's Department received a phone call the day after the robbery about suspicious individuals in Govan, South Carolina. Tr. pp. 208-09. Williams approached firefighters with the Govan Fire Department and asked if they had seen anyone walking in the area. Tr. p. 235. The firefighters told them there was a vacant mobile home in the area they used for training and that he was welcome to check. Tr. p. 235. Officer Williams testified that when he pulled up to the mobile home a man exited and started walking towards him. Tr. p. 212. The man continued approaching Officer Williams, began flailing his arms and stated, "this is my house, I don't have anything." Tr. p. 213. After the man continued advancing despite instructions to stop, Officer Williams drew his firearm. Tr. p. 213. The man then ran away toward the fire station. Tr. p. 213. Officer Williams identified the man he encountered as Appellant. Tr. p. 213. Officer Williams was still on the scene when the SLED dog tracking team arrived. Tr. p. 230.

Agent Croft of the South Carolina Law Enforcement Division was also involved in the investigation of the Enterprise Bank robbery on June 5, 2017. Agent Croft and other agents set up a perimeter around the area where the suspect's vehicle was located. Tr. p. 406. Agent Croft testified the perimeter was set up in order to contain the suspects in a wooded area. Tr. p. 407. Agent Croft explained the Govan Fire Department is approximately three miles away from where the suspect's vehicle was abandoned. Tr. p. 408. The SLED tracking team was called and they attempted to start tracking the suspects. Tr. p. 407. The tracking team was unable to capture

[1] Lassiter testified for the State at trial, explaining he lost his driver's license in Myrtle Beach in 2014. Tr. p. 344. Lassiter does not know Appellant and was applying for a loan in Greensboro, North Carolina at the time of the robbery. Tr. pp. 344-46.

any suspects on the night of June 5th. Tr. p. 407. On June 6th, the SLED tracking team again made an effort to locate the suspects. Tr. p. 409. Leon James was taken into custody in a hedgerow between cornfields behind the Govan fire department training trailer after being located by the tracking team. Tr. p. 408. Officers next received a call informing them a suspicious individual was seen walking outside of Olar. Tr. p. 409. Officers responded to the call and were able to take Lewis Garvin into custody. Tr. p. 409. Appellant was subsequently located in a wooded area near the Govan fire department. Tr. p. 410. Agent Croft was physically present when the tracking team brought Appellant out of the woods and into an adjacent corn field. Tr. p. 419. Agent Croft described Appellant's condition as extremely wet, shirtless, and in need of water. Tr. p. 420. Agent Croft testified Appellant had a good attitude and was talking when he was brought out of the woods. Tr. p. 421. Officers un-handcuffed Appellant, gave him water, let him sit down, and had a casual conversation with him. Tr. p. 421. Agent Croft clarified the team was waiting on a transportation vehicle. Tr. p. 423. Agent Croft testified Appellant was in custody; however he was not read his Miranda rights because he was not being questioned. Tr. p. 422. Someone made a comment to Appellant about his physical condition because he was in good shape. Tr. p. 422. Agent Croft asked Appellant how old he was and Appellant replied he was fifty-three years old. Tr. p. 422. Agent Croft stated this surprised him because of Appellant's ability to run ahead of the tracking team. Tr. p. 422. Appellant then made mention he saw some of the biggest rattlesnakes he'd ever seen and then told the officers he boxed in the past and that was how he stayed in shape. Tr. p. 423. Agent Croft emphasized no one questioned Appellant about the robbery. Tr. p. 423. While Appellant was talking to the officers, he made the comment, "this is the stupidest thing I've ever done." Tr. p. 425. Appellant also made the comment, "it

wasn't even a real gun." Tr. p. 425. Agent Croft emphasized no one threatened Appellant or made any promises to him. Tr. p. 439.

Jackson v. Denno Hearing Regarding Appellant's Statements.

Prior to trial, the trial judge held a Jackson v. Denno hearing on the admissibility of Appellant's statements to law enforcement. Pretrial Hearing Tr. pp. 13-99. At the hearing, Agent Croft again emphasized Appellant was not Mirandized because there was no questioning going on. Pretrial Hearing Tr. p. 17. Agent Croft testified there was no questioning regarding the circumstances of Appellant's arrest. Pretrial Hearing Tr. p. 17. Agent Croft specifically noted no one talked about the robbery and the officers had not told Appellant why he was in custody. Pretrial Hearing Tr. pp. 19-20. With respect to his conversation with Appellant, Agent Croft recalled:

> I think I asked him his age. He told me he was approximately 53 years old. I think is what he said. He began to talk to us about large rattlesnakes, some of the biggest rattlesnakes he'd ever seen. He said - - he said that it wasn't even a real gun. He also told us that - - we did ask, you know, you're 53, you're in good shape, how do you stay in shape? At that point he told us that he had boxed in the past. And it was just casual conversation.

Pretrial Hearing Tr. p. 18. Appellant also made the statement that, "it was the stupidest thing he'd ever done in his life." Pretrial Hearing Tr. p. 20.

Chip Steppe, a Lieutenant in the tactical operations group of the South Carolina Law Enforcement Division, also testified at the hearing. Tr. pp. 39-69. He was called in as part of the tracking team at the scene. Pretrial Hearing Tr. p. 40. Lieutenant Steppe was one of the officers who ultimately apprehended Appellant. Pretrial Hearing Tr. p. 48. He testified he did not know any details about the bank robbery, nor did he question Appellant in any way about the bank robbery or his involvement in it. Pretrial Hearing Tr. pp. 49-50. Lieutenant Steppe testified he made a comment to Appellant because he admired his endurance, stating:

> I was. You know, a guy his age, to be able to stay in front of us, because I know what we do and I know the people we catch over the years, I was impressed that he could stay in front of us that long. And, I mean, you know, I mentioned to him - - I said, dude, you're probably in the top five of the guys I've ever run like that before. And he mentioned to me that he was a boxer and he'd boxed a good portion of his life.

Pretrial Hearing Tr. p. 49. Lieutenant Steppe also recalled Appellant making an offhanded comment about how it wasn't a real gun and also commented how bad the snakes were. Pretrial Hearing Tr. p. 50. Lieutenant Steppe noted Appellant was not threatened or coerced in any way. Pretrial Hearing Tr. p. 52.

At the conclusion of the hearing, the trial judge ruled Appellant's statements concerning the gun and "the stupidest thing he's ever done" admissible, finding:

> I'm not going to disallow the testimony about the gun or the stupidest thing I've ever done. I think that clearly is not in response to any interrogation, even if it's - - some parts which very well may be invited to get a response. . . . I don't think Jackson Denno's implicated by him at all, I don't think that that's interrogation, although he was in custody, and, therefore, they are going to be admissible.

Pretrial Hearing Tr. p. 97. The trial judge reserved ruling on the admissibility of Appellant's comments regarding the snakes, the amount of time he had been running, and that he previously boxed. Pretrial Hearing Tr. pp. 97, 99.

At trial, outside the presence of the jury, the trial judge put his full ruling on the record, finding the other statements admissible, stating:

> Looking at the case law, I don't believe that constitutes interrogation. I'm going to find it's admissible. It certainly wasn't expressed questioning. The questioning that I heard in the testimony had to do with those normally attempted to arrest and custody as to age, whether you need medical treatment, whether he wanted water. It wasn't such that would be words or actions or conduct on the part of the police that they knew or should have known it was likely to elicit criminal response. I think it was just comments and they were voluntary statements by the defendant; albeit, he was in custody, clearly. So I'm not going through Jackson-Denno analysis because I'm going to find it's not interrogation, therefore, they're admissible.

Tr. p. 49.

ARGUMENT

The trial judge properly admitted Appellant's incriminating statements regarding his flight and culpability because Appellant was not subjected to custodial interrogation.

Appellant asserts the trial judge erred in admitting his highly incriminating statements because Appellant was not informed of his Miranda rights before the statements were made. Specifically, Appellant maintains that his statement was the product of interrogation rather than casual conversation with law enforcement. To the contrary, Appellant was not "interrogated" within the meaning of Miranda, as police officers merely engaged Appellant in casual conversation about his physical condition and were not acting in an investigatory capacity and seeking information about the crime. Appellant's voluntary statements implicating himself in the crime were not responsive to the collateral statements by law enforcement about his age and physical condition. As there was no interrogation, the officers were not required to advise Appellant of his Miranda rights.

In criminal cases, appellate courts sit to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). The reviewing court is bound by the trial court's factual findings unless they are clearly erroneous. State v. Quattlebaum, 338 S.C. 441, 452, 527 S.E.2d 105, 111 (2000). The appellate court does not re-evaluate the facts based on its own view of the preponderance of the evidence, but instead, simply determines whether the trial judge's ruling is supported by any evidence. State v. Wilson, 345 S.C. 1, 6, 545 S.E.2d 827, 829 (2001).

The admission or exclusion of evidence rests on the sound discretion of the trial judge and will not be reversed absent an abuse of discretion. State v. Gaster, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002). "An abuse of discretion occurs when the conclusions of the trial court

either lack evidentiary support or are controlled by an error of law." State v. McDonald, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000). "A trial judge has considerable latitude in ruling on the admissibility of evidence and his rulings will not be disturbed absent a showing of probable prejudice." State v. Kelley, 319 S.C. 173, 176, 460 S.E.2d 368, 370 (1995); see also State v. Navy, 386 S.C. 294, 301, 688 S.E.2d 838, 841 (2010) (stating appellate courts must uphold the trial court's findings regarding whether a defendant was in custody when statements were made if the trial judge's ruling is supported by the record).

Under Miranda v. Arizona, 384 U.S. 436, 444 (1966), prior to custodial interrogation, a suspect must be warned he has a right to remain silent, any of his statements may be used against him, and he has a right to an attorney. However, these requirements only apply to situations involving custodial interrogation and were not intended to interfere with the traditional function of law enforcement officers in investigating crimes. Id. at 477. The United States Supreme Court instructed:

> Such investigations may include inquiry **of persons not under restraint**. General on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding. It is an act of responsible citizenship for individuals to give whatever information they may have to aid in law enforcement. In such situations the compelling atmosphere inherent in the process of in-custody interrogations is not necessarily present.

Id. at 477-78 (emphasis added).

"Miranda warnings are required for official interrogations only when a suspect 'has been taken into custody or otherwise deprived of his freedom of action in any significant way.' " State v. Easler, 327 S.C. 121, 127, 489 S.E.2d 617, 621 (1997) (quoting Miranda, 384 U.S. at 444). Thus, custodial interrogations are made up of two key components – custody and interrogation. State v. Whitner, 380 S.C. 513, 518, 670 S.E.2d 655, 658 (Ct. App. 2008).

"Interrogation can be either express questioning or its functional equivalent and includes words or actions on the part of the police (other than those normally attendant to arrest and custody) the police should know are reasonably likely to elicit an incriminating response." Id.; see Rhode Island v. Innis, 446 U.S. 291, 301 (1980) ("[T]he term 'interrogation' under Miranda refers not only to express questioning, but also to any words or actions on the part of the police . . . that the police should know are reasonably likely to elicit an incriminating response."). The requirement for Miranda warnings does not apply to voluntary statements which are not the product of interrogation. State v. Sprouse, 325 S.C. 275, 282, 478 S.E.2d 871, 875 (Ct. App. 1996). "Volunteered statements of any kind are not barred by the Fifth Amendment[.]" Miranda, 384 U.S. at 478.

In Innis, the United States Supreme Court clarified the meaning of "interrogation" under the standards promulgated in Miranda, holding:

> We conclude that the Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term "interrogation" under Miranda refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect.... A practice that the police should know is reasonably likely to evoke an incriminating response from a suspect thus amounts to interrogation. But, since the police surely cannot be held accountable for the unforeseeable results of their words or actions, the definition of interrogation can extend only to words or actions on the part of police officers that they should have known were reasonably likely to elicit an incriminating response.

Innis, 446 U.S. at 300-302. Examining the facts of the case before them, the Innis Court found:

> The case thus boils down to whether, in the context of a brief conversation, the officers should have known that the respondent would suddenly be moved to make a self-incriminating response. Given the fact that the entire conversation appears to have consisted of no more than a few off hand remarks, we cannot say that the officers should have known that it was reasonably likely that Innis would so respond. This is not a case where the police carried on a lengthy harangue in the presence of the suspect. Nor does the record support the respondent's contention that, under the circumstances, the officers' comments were particularly

> "evocative." It is our view, therefore, that the respondent was not subjected by the police to words or actions that the police should have known were reasonably likely to elicit an incriminating response from him.

Id. at 303.

Similarly to Innis, the few off-hand remarks made by law enforcement officers did not constitute interrogation, as the comments were not of a nature likely to induce an incriminating response. After Appellant was able to evade law enforcement for three days, Agent Croft and Lieutenant Steppe were impressed with his endurance, and simply let him know as much. Law enforcement's conversation with Appellant amounted to casual conversation, and the officers expressly noted they were not acting in an investigatory capacity and were not seeking details about the crime. While Agent Croft asked Appellant his age, that question was tied to his commentary on Appellant's physical conditioning. Even if Agent Croft's question was asked in an investigatory capacity, rather than casual conversation, a question about a suspect's age constitutes a part of the routine investigatory process and would not require Miranda warnings. See Miranda, 384 U.S. at 477-478 ("General on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding."). While Appellant avers law enforcement was asking about his flight, which was directly relevant to his guilt, this is simply too strained of a causal link between the casual statements by law enforcement and Appellant's subsequent confession. It strains credulity to suggest Lieutenant Steppe and Agent Croft should have known Appellant would render incriminating statements about his role in the crime after they offered a simple compliment of his physical conditioning after pursuing him for several days.

Appellant's comparisons of the current case to State v. Medley, 417 S.C. 18, 787 S.E.2d 847 (Ct. App. 2016), and State v. Easler, 327 S.C. 121, 489 S.E.2d 617 (1997), are inapposite. In

Medley, the defendant engaged in a high-speed chase with police officers after he ran a stop sign and sped away from a traffic checkpoint. 417 S.C. at 22, 787 S.E.2d at 849. The chase ended in the defendant's parents' yard when the defendant was apprehended and "put on the ground." Id. A police officer asked the defendant whether he had a driver's license and how much he had been drinking, to which the defendant responded he did not have a license and "too much." Id. The Court of Appeals concluded the question asked by law enforcement regarding how much the defendant had to drink was reasonably likely to elicit an incriminating response, thus he was subject to custodial interrogation and Miranda warnings were required. In Easler, law enforcement officers were traveling the scene of an automobile accident and were advised an individual had left the scene of the accident. 327 S.C. at 125-26, 489 S.E.2d 620. While en route, officers saw an individual matching the description at a convenience store. Id. Officers asked Easler, the individual they spotted, whether he had been in an accident, to which he replied he had and pointed towards where the accident occurred. Id. Officers also asked Easler for his identification and why he had left the scene of the accident. Id. After police officers observed a package in Easler's possession containing beer and cigarettes, an officer asked him when he had his last drink. Id. Easler replied he had a beer just prior to the accident and showed officers a wet spot on his pants where beer spilled onto his pants during the crash. Id. The South Carolina Supreme Court found, "Here, once police determined Easler had in fact been involved in the accident, they continued to question him as to why he had left the accident and when he last had a beer. Certainly, police knew these questions were likely to elicit incriminating responses. This was clearly interrogation." Id. at 127, 621.

The interaction between Appellant and law enforcement is vastly different than the situations in Medley and Easler. The officers in both Medley and Easler asked specific questions

in an investigatory capacity about the underlying crime. Distinguishably, Agent Croft and Lieutenant Steppe asked Appellant no such questions, instead simply making off-handed remarks about Appellant's physical condition and his age. The conversation between Appellant and law enforcement did not pertain whatsoever to the crime and was not likely to elicit any incriminating response. If Lieutenant Steppe and Agent Croft had asked Appellant why he was running or "whether he thought he could get away with it," certainly that would implicate Miranda. However the innocuous conversation between Appellant and law enforcement while they waited for transportation did not necessitate the giving of Miranda warnings. Appellant's statements regarding the gun not being real and the "stupidest thing he'd ever done" were not responsive to anything mentioned by law enforcement; therefore the officers could not have foreseen such comments being made.

Finally, any error in the admission of Appellant's inculpatory statements is harmless in light of the overwhelming evidence of his guilt presented at trial. Error is harmless when it could not reasonably have affected the result of the trial. State v. Reeves, 301 S.C. 191, 194, 391 S.E.2d 241, 243 (1990). "The key factor for determining whether a trial error constitutes reversible error is whether it appears beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained." State v. Tapp, 398 S.C. 376, 389, 728 S.E.2d 468, 475 (2012) (citations and internal quotations are omitted). In addition to Appellant's statements admitting he was involved in the robbery, the State presented significant evidence of his guilt, thus rendering any error insubstantial. The suspect vehicle in the robbery was located almost immediately after the robbery and a chase ensued. After the vehicle crashed at the end of the chase, investigators found dye-stained cash from the robbery, a gun matching the description of the gun used in the robbery, various items on which Appellant's DNA was found, and South

Carolina identification cards bearing the names of Appellant, Leon James, and Lewis Garvin. Over the next three days, Appellant, Leon James, and Garvin led law enforcement on a chase around the surrounding area in an attempt to evade capture. Appellant's flight is significant because evidence of flight and other guilty conduct is admissible in South Carolina because a defendant's act of making false or conflicting statements or attempting to flee after committing a crime supports an inference of guilty knowledge and intent on the part of the defendant.[2] State v. Thompson, 278 S.C. 1, 10, 292 S.E.2d 581, 587 (1982), overruled on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991). Such an inference is appropriate because "it is not to be supposed that one who is innocent and conscious of that fact would flee." State v. Crawford, 362 S.C. 627, 635, 608 S.E.2d 886, 890 (Ct. App. 2005); see also State v. Freely, 105 S.C. 243, 250, 89 S.E. 643, 645 (1916) ("The flight of one charged with crime has always been held to be some evidence tending to prove guilt. Solomon wrote as a proverb the 'wicked flee when no man pursueth;' and Shakespeare made guilty Hamlet to soliloquize that 'conscience does make cowards of us all.' "). All of this evidence leads to the obvious conclusion that Appellant, along with Leon James and Garvin, robbed the Enterprise Bank in Denmark before leading law enforcement on a wild chase through that part of Bamberg County. Appellant's conviction and sentence should be affirmed.

[2] Interestingly, the record also indicates the Nike Air Max shoes Appellant was wearing when he was arrested looked identical to the shoes worn by one of the men in the robbery. See Tr. pp. 216, 369-70, 391, 547-48, 588-89.

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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February 2, 2018

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BAMBURG COUNTY
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The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2016-002046

THE STATE, ...Respondent,

v.

HOMER ARTHUR JAMES, ...Appellant.

PROOF OF SERVICE

I, Destiny Blue, certify that I have served the Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to: David Alexander, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 2nd day of February, 2018.

DESTINY BLUE
Legal Assistant

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ALAN WILSON
ATTORNEY GENERAL

February 2, 2018

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: The State v. Homer Arthur James
Appellate Case No: 2016-002046

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Initial Brief of Respondent and Designation of Matter along with proof of service in the above-referenced case.

Sincerely,

V. Henry Gunter
Assistant Attorney General
S.C. Bar No: 102259

VHR/db
Enclosures

cc: David Alexander, Esquire
Victim Advocacy Division