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S.C. SUPREME COURT

ALAN WILSON  
ATTORNEY GENERAL

February 12, 2018

**HAND-DELIVERED**

The Honorable Daniel E. Shearouse  
Clerk of Court  
Supreme Court of South Carolina  
1231 Gervais Street  
Columbia, SC 29201

Re: State v. Stephanie Greene, 2014-000764

Dear Mr. Shearouse:

This concerns the above case, scheduled for oral argument on February 15, 2018 at 10:00 a.m. Pursuant to Rule 208(b)(7) SCACR, Appellant respectfully wishes to bring this Court's attention the following additional authority:

As to Issues I & II:

State v. Pearson, 415 S.C. 463, 783 S.E.2d 802 (2016) (quoting Jackson v. Virginia, 443 U.S. 3047 (1979) for the proposition that the test for directed verdict is whether, in the light most favorable to the government, **any rational** trier of fact could have found guilt beyond a reasonable doubt.).

Tidd v. Skinner, 122 N.E. 247, 249 (1919) ("The defendants wholly failed to obey the statutes quoted, knowing that heroin, except as a medicine used in very small quantities and under the direction of a physician, is a poison dangerous to human life.").

As to Issue II:

State v. Bailey, 298 S.C. 1, 377 S.E.2d 581 (1989) (A party cannot argue one ground for directed verdict at trial and in turn argue an alternative ground on appeal).



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McCray v. State, 271 S.C. 185, 246 S.E.2d 230 (1978) (a motion for directed verdict is a prerequisite for a subsequent motion for a JNOV).

State v. Follin, 352 S.C. 235, 258, 573 S.E.2d 812, 824 (Ct. App. 2002) (motion for new trial is only available post-trial remedy for insufficient evidence; JNOV is a civil trial motion).

Bank of New York v. Sumter County, 387 S.C. 147, 159, 691 S.E.2d 473, 479 (2010) (“It is axiomatic that an issue cannot be raised for the first time in a post-trial motion.”).

State v. King, 334 S.C. 504, 510, 514 S.E.2d 578, 581 (1999) (stating a defendant may not use a motion for a new trial to raise an issue for the first time).

Collins Cadillac, Inc. v. Bigelow-Sanford, Inc., 276 S.C. 465, 468, 279 S.E.2d 611, 612 (1981) (“Collins failed to raise this issue in its motion for a directed verdict. Therefore, it was not a proper ground upon which to base its motion for a new trial, and will not be heard on appeal.”).

State v. Phillips, 416 S.C. 184, 196, 785 S.E.2d 448, 454 (2016) (finding “[i]t is common knowledge that giving another person, particularly a toddler, drugs not prescribed to him is inherently dangerous”).

State v. Martucci, 380 S.C. 232, 252, 669 S.E.2d 598, 609 (Ct. App. 2008) (finding prior instances of child abuse admissible as proof that victim died under circumstances manifesting an extreme indifferent to human life).

Issue 4:

Stokes v. Denmark Emergency Med. Servs., 315 S.C. 263, 433 S.E.2d 850 (1993) (discussing S.C. Const. art. V, § 4A).

State v. Beaty, Op. No. 27693 (S.C. Sup. Ct. filed December 29, 2016) (pet. for reh’g granted).



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State v. Garlington, 90 S.C. 138, 72 S.E. 564 (1911) (discussing order of closing arguments).

By copy of this letter, I am notifying opposing counsel of the submission of this supplemental authority.

Sincerely,

David Spencer  
Senior Assistant Attorney General

cc: C. Rauch Wise, Esquire  
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