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APR 05 2018

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Lexington County
Honorable Lawton McIntosh, Circuit Court Judge

YANCEY THOMPSON, #330395, PETITIONER,

V.

STATE OF SOUTH CAROLINA, RESPONDENT.

Appellate Case No. 2014-006611

Opinion No. 27785

STATE'S PETITION FOR REHEARING

In Opinion No. 27785, this Court reversed the denial of post-conviction relief and granted a new trial on Petitioner's charges of first degree criminal sexual conduct with a minor, second degree criminal sexual conduct with a minor, and disseminating obscene material to a minor. Respondent respectfully petitions for rehearing to ask the Court to address the following points and arguments that may have been misapprehended or overlooked:

(1) The Court erred when it failed to address the testimony of "the medical doctor who examined Minor" that was contested in the Petition. This testimony is not addressed in the opinion as to admissibility, and is inadequately addressed in the harmless error analysis.

(2) The Court erred when it failed to apply settled precedent that "undisputed testimony is more conclusive than testimony which is in dispute, and it is less difficult for this

court to reason that guilt is conclusively proven when there is no denial than when an accused person disputes the truthfulness of the State's evidence." *State v. Key,* 256 S.C. 90, 180 S.E.2d 888 (1971) (recognizing at trial, there is no burden of proof, but unrefuted evidence is powerful in determining whether to affirm on appeal). The Court meshed the concept for appellate and collateral review with a trial concept that defendant has no burden to produce a defense.

(3) The Court erred when it in failed to consider the combined effect of the evidence.

(4) The Court erred when it failed to consider the separateness of the charges and consider the lack of prejudice to the conviction for disseminating obscene material to a minor.

Based on these points, as expanded upon in argument below, Respondent, State of South Carolina, petitions for rehearing.

DISCUSSION

Petitioner argued error in regard to testimony from four witnesses: forensic interviewer (Dr. Benedetto), the medical doctor who examined Minor (Dr. Luberoff), social worker (Ms. Elfering), and Detective Barr. The Court addressed only three of those witnesses (Detective Barr, Dr. Benedetto, and Ms. Elfering). Dr. Susan Luberoff testified that she performed an exam on victim to determine if there was physical evidence of abuse. (App. p. 263). She testified that she understood that it has been "some months" before the exam that she had last been abused. (App. p. 269). Upon examination, Dr. Luberoff found "very deep notching" in the hymen. (App. p. 267). The doctor testified, "... ordinarily, even a child that has had penetration of her vagina with sexual abuse, the most common thing we see is an absolutely normal exam on a child." (App. p. 268). She opined: "In my opinion and with a reasonable degree to medical certainty, these notches were so deep that it's my opinion that they are related to sexual abuse or penetrating vaginal trauma." (App. p. 270). The doctor testified the findings were "...

suggestive of sexual penetration. Yes. And – and I would say it was a higher level of concern than merely suggestive. They were quite concerning because of the depth." (App. p. 283).

The PCR Court found Petitioner failed to prove his attorneys were deficient in not objecting to Dr. Luberoff's testimony, as the testimony was admissible under the medical diagnosis exception. (App. p. 577). In the Petition, Petitioner contested the admission of testimony from "the medical doctor who examined Minor," along with the forensic interviewer, the social worker, and the officer. (Brief of Petitioner, p. 2). Petitioner noted Detective Barr testified Dr. Luberoff's findings corroborated the minor child's "account of what had happened." (BOP, p. 10, citing App. p. 186). The opinion does not address the admissibility as contested. Further, in granting post-conviction relief, this Court found the medical evidence was not a weighty consideration as it did not prove identity. This was error.

The Court did find defense counsel was deficient in regard to failure to object to Dr. Benedetto's testimony. But so did the PCR court. The ruling below did not hinge on deficient performance, but on lack of prejudice. The PCR Court found defense counsel was deficient in failing to object to some of Dr. Benedetto's testimony on the grounds of vouching and hearsay, but not on other times. (App. p. 578).[1] He noted counsel's testimony that "recent developments

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[1] Dr. Benedetto testified as an expert in child sexual abuse assessment. (App. p. 291). She testified that disclosure is generally made over a period of time, and that "[c]hildren have a different sense of time" than adults. (App. pp. 292-293). She explained the concept of "delayed disclosure," and that some children will not disclose the abuse for years. (App. pp. 294-296). Dr. Benedetto testified the victim "disclosed chronic sexual abuse by" Petitioner. (App. p. 296). She testified that the victim reported "vaginal penetration, anal penetration, oral sex and... some physical abuse...," from age "5 or 6 ... to the age of 12." (App. p. 297). After a question to connect a residence and time, defense counsel objected. The judge restricted testimony to "locations, date and time." (App. p. 297). She testified due to the "emotional effort" and difficulty suffered by the victim in the interview, she diagnosed victim with post-traumatic stress disorder – a rare diagnosis for the doctor to make, but supported by the "genuine, just palpable grief with the interview." (App. p. 300). She testified her label of "compelling" related to a

in case" regarding forensic interviewing testimony was post-trial, but found deficiency. (App. p. 578).[2] The relevant portion is as follows:

> Second, this Court finds Applicant met his burden to prove his attorneys were deficient for not objecting to Dr. Benedetto, the forensic interviewer, impermissible testimony that constituted vouching and hearsay. "For an expert to comment on the veracity of a child's accusations of sexual abuse is improper." Jennings, 394 S.C. at 480, 71.6 S.E.2d at 94. Applicant's attorneys were deficient for not objecting at various times during Bennedto's testimony. Counsel testified he was not aware of any impropriety in the testimony until recent developments in case law post-Applicant's conviction. Counsel testified he did not believe the trial judge would have sustained his objections here at the time of trial. Although this Court finds counsel's testimony credible, the objections were necessitated in order to preserve the record for appellate review. See State v. Dawkins, 297 S.C. 386, 393, 377 S.E.2d 298, 302 (1989).

rating system for interviews. (App. pp. 301-302). She opined victim's disclosure was consistent with a child who had been sexual abused. (App. p. 302). She noted the "amount of detail" and "emotional intensity." (App. p. 302). On cross-examination, Dr. Benedetto explained that in order to make the post-traumatic stress disorder diagnosis, the reaction to trauma had to be intense with residual effects such as nightmares and other reactions. (App. pp. 316-318).

[2] Counsel's testimony on this point had support. As the State noted in the Brief of Respondent, this Court has recently reviewed cases involving "forensic interviewers," particularly in the context of bolstering and hearsay, with close scrutiny. *See, e.g., Kromah v. State*, 401 S.C. 340, 737 S.E.2d 490 (2013) (counsel deficient for failing to object to expert testimony of forensic interviewer to the effect that victim's testimony was "compelling" evidence of abuse, but error in admission harmless); *State v. Jennings*, 394 S.C. 473, 716 S.E.2d 91 (2011); *Smith v. State*, 386 S.C. 562, 689 S.E.2d 629 (2010). It should be noted that the trial was in **2008.** Clearly, there was a resurgence in use of that testimony that is fairly supported by the very fact that this Court has had to revisit (repeatedly) the parameters of admissibility. *Id.* This is much like the prison conditions testimony which resurged after *State v. Plath. See Bowman v. State,* 422 S.C. 19, 42, 809 S.E.2d 232, 244 (2018) ("While we acknowledge that a close question is presented, ***in light of the state of the law at the time of Petitioner's trial*** and the narrowly tailored scope of the prison conditions evidence elicited, we find there is evidence in the record to support the PCR court's finding."). Further complicating the issue here was the testimony at issue was not solely fact-finding for abuse, but was tied to diagnosis of PTSD. But, at any rate, the PCR court was correct that a prior case, *State v. Dawkins*, 297 S.C. 386, 393, 377 S.E.2d 298, 302 (1989), supported that an objection should have been made, and deficient performance is not at issue at this point. This does explain, however, the PCR court's decision finding counsel's testimony credible, though the credible testimony was not ultimately dispositive. (See App. p. 578).

(App. p. 578).

The Court here apparently misapprehended or overlooked that relief was properly denied for lack of prejudice in context of this case. The context of this case is key as the PCR judge's analysis takes the expanded view of the entirety of the record into account which is not evident in this Court's opinion:

> Accordingly, this Court finds Applicant met his burden to show his attorneys were deficient for not objecting to several instances of impermissible vouching and hearsay during Dr. Benedetto's testimony and one instance of improper vouching during Barr's testimony. However, this Court finds Applicant did not meet his burden to prove he was prejudiced as a result of the failure of his attorneys to object, make a motion to strike, or ask for a curative instruction regarding the impermissible testimony at issue. Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992) (stating error is harmless beyond a reasonable doubt if it did not contribute to the verdict obtained); see also State v. Kromah,401 S.C. 340, 360-61, 737 S.E.2d 490, 501 (2013). In examining the record as a whole, this Court finds ***the combination of the physical evidence, the victim's credible testimony that provided precise details of the offenses, Gleaton's testimony, and the lack of contradictory testimony the deficient performance in failing to object to the impermissible testimony could not reasonably have affected the outcome at trial.***
>
> This Court finds ***Dr. Luberoff's trial testimony compelling***. Dr. Luberoff examined the victim at age nine and testified the victim was in sound health with a normal shaped hyman. Dr. Luberoff testified the victim incurred trauma that, resulted in deep notching to her hyman. ***Dr. Luberoff testified to the rarity for a child sexual assault victim to have these injuries.*** Dr. Luberoff testified that typically after penetration, the child's body will completely heal itself in less than two weeks. The victim's injuries were permanent and were not the product of recent sexual abuse. Thus, Dr. Luberoff testified that to a reasonable degree of medical certainty, the victim's permanent injuries were related to penetration. ***The findings corroborated the victim's testimony.***
>
> This Court finds ***the victim's trial testimony credible. This Court takes into account the trial judge's comments*** that the

> sentencing phase of trial where the trial judge stated that the victim gave credible testimony. See Rogers v. Nation, 284 S.C. 330, 326 S.E.2d 182 (Ct.App. 1985). The victim testified to years of sexual abuse at the hands of Applicant. ***The victim precisely detailed the commission of the offenses from the Applicant's use of hair grease, pornography, and to Applicant's conduct in psychologically grooming the victim.*** Furthermore, ***Gleaton testified she obtained custody, of the victim in December of 2006. Gleaton testified the victim was shy around men and had issues sleeping. This Court also notes the absence, of contradictory testimony not presented at trial. The jury deliberated, for jess, than forty minutes prior to returning guilty verdicts on both indictments.*** Thus, ***this Court finds the Dr. Luberoff's testimony regarding the victim's permanent injuries related to penetration where the Applicant was the victim's caretaker for period in question combined with the victim's credible testimony rendered the impact of the impermissible hearsay and vouching testimony harmless***. Therefore, these allegations are denied and dismissed.

(App. pp. 578-580) (emphasis added).

In other words, the PCR judge correctly considered the strength of all the evidence:

> ... as observed in *Grippon*, the question is not whether circumstantial evidence carries the same probative weight as direct evidence, it clearly does. Instead, the pertinent inquiry is the proper means for evaluating circumstantial evidence and how the trial court may best instruct a jury as to its analytical responsibility. While direct and circumstantial evidence carry the same value, a jury cannot accurately analyze these two types of evidence using identical approaches.
>
> Unlike direct evidence, evaluation of circumstantial evidence requires jurors to find that the proponent of the evidence has connected collateral facts in order to prove the proposition propounded—a process not required when evaluating direct evidence. Analysis of circumstantial evidence is plainly a more intellectual process.

State v. Logan, 405 S.C. 83, 97–98, 747 S.E.2d 444, 451 (2013) (internal citations omitted).

The jury would have had to consider the combination strength of circumstantial evidence. (See App. p. 380, jury charge, "Circumstantial evidence is proof of a chain of facts or circumstances that ... create or indicate the existence of another fact."). This Court did not.

This Court erred by construing the PCR court's finding was there "was overwhelming evidence of Petitioner's guilt," and that the PCR court's reasons "standing alone or when considered together, constitute overwhelming evidence of Petitioner's guilt." The Court's opinion fails to show, in any critical measure, consideration of the powerful combination effect.

First, like the physical evidence supporting inflicted injury in *Kromah*, there was medical evidence that supported the fact of penetration. Though this Court stressed the medical evidence did not prove identity, neither did the physical evidence in *Kromah*. Indeed, it is logically unlikely that physical evidence of the injury will prove helpful in identity unless some more specific testing is involved, such as DNA. In *Kromah*,, the medical evidence likewise reflected wounds, not identity: "Numerous medical experts testified that the Child's genital wound could not have been caused by an accidental injury." *State v. Kromah,* 401 S.C. 340, 361, 737 S.E.2d 490, 501 (2013). Here, Dr. Luberoff testified the victim had incurred "deep notching" to her hymen, and opined, "the victim's 'notches were so deep that it's my opinion that they are related to sexual abuse or penetrating vaginal trauma.'" (App. p. 270). In contrast, in *Vail v. State*, 402 S.C. 77, 90, 738 S.E.2d 503, 510 (Ct. App. 2013), in its *Strickland* analysis finding prejudice, the Court of Appeals found the victim's credibility was "extremely crucial" to the outcome in light of the fact that her "hymen was fully intact with either no evidence of trauma or the trauma had healed despite the alleged six to nine incidents of sexual intercourse." Respectfully, this Court was incorrect to discount the significant medical evidence. That the physical findings did not conclusively, or on its own, show identity does not diminish its worth. Moreover, the PCR court not only found the evidence compelling, but also especially so "where the Applicant was the victim's caretaker for [the] period in question...." (App. p. 580). That is not addressed in the Court's opinion at all.

Second, the victim testified at trial that Petitioner raped and molested her over the course of several years, (see App. p. 126, l. 13-15 ("[Petitioner touched me, did stuff to me that he wasn't supposed to"); p. 128, l. 25 - p. 129, l. 1 ("[Petitioner] took his clothes off and put his thing in my private part"). The medical evidence ***would likely not have existed*** if the incident was singular in nature. (See App. pp. 269-270). Again, this is compelling along with the other evidence of record. It is also independent of the offending testimony.

Third, the PCR judge specifically found, based upon the record, the victim's trial testimony was credible, taking into account the trial judge's comments during the sentencing phase of the trial, (see App. p. 413, l. 3-8),[3] as well as how "[t]he victim precisely detailed the commission of the offenses from [Petitioner's] use of hair grease, pornography, and to

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[3] "It is implicit in the trial court's ruling that the credibility of the witnesses was an important consideration in its decision. Such a consideration must be left to the trial judge who saw and heard the witnesses testify." *Rogers v. Nation By & Through Clayton,* 284 S.C. 330, 335, 326 S.E.2d 182, 184–85 (Ct. App. 1985). In this case, as the PCR court correctly cited to and considered, the trial judge made specific findings regarding the credible evidence as part of the sentencing proceeding:

> Now, I understand that you maintain your innocence in this matter; but there was certainly credible testimony from which the jury could find that the matters took place as described by [Minor], both at a point in time when she was younger than 11 years of age and a point in time after she had reached 11 years of age.
>
> The testimony by the medical professionals were consistent with such a finding, and also the search warrant revealed that a book which was there at the house occupied by yourself, which was a book that was described by the child with particularity and which contained material that the jury certainly could have found was harmful to a minor.
>
> These types of charges as recognized by the State are very serious. The State does not take lightly the conduct that in essence, in this matter, deprived a child of their childhood.

(App. p. 413).

[Petitioner's] conduct in psychologically grooming the victim. (App. p. 579-80).[4] As our approved charge language guides:

> Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence, however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt.

State v. Logan, 405 S.C. 83, 99, 747 S.E.2d 444, 452 (2013).

The PCR judge careful assessed the chain of circumstantial evidence in assessing prejudice.

Fourth, the PCR Court also found compelling the testimony of victim's mother, Monica Gleaton, who testified about the victim's nightmares, sleep disturbances, and that she would "fret" around men. (App. p. 237). This was within her first few months of being at home. (App. p. 237). This Court here simply found no need to address the PCR court's findings "because even if Mother were a credible trial witness, her testimony merely corroborated Victim's testimony that Victim and nightmares and sleep disturbances and that Victim would 'fret' around

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[4] Of note, the PCR court did not simply accept the credibility ruling, but also critically considered that ruling in light of the other evidence of record. That is not a general acceptance, but acceptance after careful and thoughtful consideration of the support for that finding. See generally *Cagle v. Branker,* 520 F.3d 320, 324 (4th Cir. 2008) (considering state court credibility rulings in federal habeas: "...for a federal habeas court to overturn a state court's credibility judgments, the state court's error must be stark and clear. See *id.* § 2254(e)(1) (protecting state courts' factual judgments unless disproved in federal court by 'clear and convincing evidence')."). This Court's one example challenging the credibility ruling regarding the one event during cross-examination where victim admitted she fabricated allegations of "schoolmates" assaulting her falls far more clearly into argument for the jury than into factual support for credibility findings. *Strickland* cautions against basing a finding of prejudice on "the possibility of arbitrariness, whimsy, caprice, 'nullification,' and the like." 466 U.S. at 695. The admission could just have likely convinced the jury that she was credible, owning up to or admitting a wrong. There is a difference, though, when a court is reviewing a previously made credibility finding while considering the whole of the evidence as to prejudicial impact of an error.

men." The Court concluded that evidence did not go to identify Petitioner. Respectfully, that shows the error. It is the combination of evidence that does show guilt and does support the PCR court's finding that Petitioner did not prove prejudice.

The PCR judge also emphasized the absence of any contradictory testimony at trial. This Court rejected the PCR judge's reasoning finding because the defense *at trial* is not obligated to present a defense. However, it is a long standing rule *on appeal* that unrefuted evidence is stronger than contested evidence:

> As indicated hereinabove, the matter of identity was the only real issue involved in the trial of the case. The jury had before it positive identifications of each of the defendants. Such identifications were not denied. It is academic that failure of the defendants to testify created no inference of guilt against them. They did not have the burden of proving anything. However, undisputed testimony is more conclusive than testimony which is in dispute, and it is less difficult for this court to reason that guilt is conclusively proven when there is no denial, than when an accused person disputes the truthfulness of the State's evidence.

State v. Key, 256 S.C. 90, 97, 180 S.E.2d 888, 891 (1971).

"Whether an error is harmless depends on the circumstances of the particular case." *State v. Mitchell,* 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985). "No definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case. Error is harmless when it 'could not reasonably have affected the result of the trial.' " *Id.* (quoting *State v. Key*, 256 S.C. 90, 93, 180 S.E.2d 888, 890 (1971)). The Supreme Court has considered, in the absence of the offending testimony, whether a reviewing court could "conclude that the 'minds of an average jury" would not have found the State's case ***significantly less persuasive*** had the testimony ... been excluded." *Schneble v. Fla.,* 405 U.S. 427, 432 (1972) (emphasis added).

While no particular formula rules, it is consistently acknowledged that assessing the harm of error requires looking at the particular case before the jury. Where no defense evidence is presented at all, the average juror would have no defense evidence to consider in regard to the State's case. This Court has set out: "[O]ur jurisprudence requires us not to question whether the State proved its case beyond a reasonable doubt, but whether beyond a reasonable doubt the trial error did not contribute to the guilty verdict." *State v. Tapp,* 398 S.C. 376, 389–90, 728 S.E.2d 468, 475 (2012). This Court's instant opinion improperly blurs trial burdens and appellate review.

Whether the State's case was made with credible evidence is a separate inquiry, one the PCR court here considered in detail. No one has disputed there is ample factual basis for the PCR court's factual findings supporting his analysis. Thus, it was not incorrect – in fact it was supported by established case law in our jurisdiction, *Key, supra* – to consider first the set of evidence before the jury, and next the impact of the error in the setting of the trial evidence. See, e.g., *Strickland v. Washington,* 466 U.S. 668, 695 (1984) ("a court hearing an ineffectiveness claim must consider the totality of the evidence before the judge or jury"). Further, the instant Opinion either stands in conflict with both *State v. Key* and *State v. Tapp*, or, without proper announcement, overrules these cases expressing settled concepts on how appellate courts may review the impact of error.

Additionally, Respondent would also point out that the victim's testimony was corroborated by other evidence introduced at trial. That additional evidence – going to a separate charge – was not considered by the Court in the Opinion. The victim testified at trial the Petitioner showed her a book from his closet that had "people in there that didn't have any clothes on, sitting on top of each other and stuff." (App. p. 137). This book, titled "Super Sex,"

was seized by Detective James Hickman during the execution of a search warrant at Petitioner's residence. (App. p. 218). It was found as victim described in Petitioner's closet. (App. 218). This supports the victim's credibility. Again, this evidence was not considered in this Court's consideration of the prejudice analysis, though the PCR court noted Petitioner's use of pornography as a detail that actually corroborated victim's trial testimony, independent of the bolstering on the sex crimes, (App. P. 579), and the trial judge referenced same in explaining his finding of credible evidence to Petitioner, "...the search warrant revealed that a book which was there at the house occupied by yourself, which was a book that was described by the child with particularity and which contained material that the jury certainly could have found was harmful to a minor." (App. p. 413). Again, the combined effect of this evidence is extraordinary. The PCR court did not err in finding Petitioner failed to carry his burden of proof of showing sufficient prejudice.

Incorrect Reversal of Conviction Not Affected by Error on Appeal

Even so, should the CSC convictions be reversed based upon the testimony from Dr. Benedetto and Detective Barr for bolstering the victim's testimony of her years of sexual abuse, the conviction for disseminating obscene material to a minor should be affirmed as evidence of sexual assault is not required for that charge and conviction. See S.C. Code § 16-15-385 (elements of the offense)[5]; see also *State v. Cooper,* 312 S.C. 90, 91, 439 S.E.2d 276, 276 (1994), *overruled on other grounds by Franklin v. Catoe*, 346 S.C. 563, 552 S.E.2d 718 (2001) ("We reverse the murder conviction and remand for new trial; the remaining convictions and sentences

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[5] The statute was held unconstitutional "as applied to 'digital electronic files' under S.C. Code Ann. § 16-15-37(2) that are sent or received via the Internet." *Booksellers Ass'n v. McMaster,* 371 F. Supp. 2d 773, 788 (D.S.C. 2005). This instant charge did not involve electronic files or the internet.

are affirmed" finding the convictions of conspiracy and armed robbery unaffected by error on appeal."); *State v. Westmoreland,* 421 S.C. 410, 425, 807 S.E.2d 701, 709 (Ct. App. 2017), *reh'g denied* (Dec. 14, 2017) (affirming hit and run conviction "because the trial court's error was harmless as to that conviction" but reversing the "murder conviction because the error was not harmless and could have contributed to the verdict."). The Court firmly placed the prejudice analysis it employed in context of "sexual assault cases in which a witness provides inadmissible hearsay testimony." There is no impact, and no impact analysis, on the separate charge. Additionally, the proof of the disseminating obscene material to a minor charge had corroborating evidence independent of the offending testimony. That conviction should be affirmed.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests this Court reconsider its ruling and address the errors as to the prejudice analysis – in particular to address whether the Court overrules or would distinguish *State v. Key,* 256 S.C. 90, 180 S.E.2d 888 (1971), and *State v. Tapp,* 398 S.C. 376, 728 S.E.2d 468 (2012); and to consider the combination effect of *all* the evidence of record pursuant to the *Strickland v. Washington* prejudice analysis – and also to amend its judgment to affirm the conviction for disseminating obscene material to a minor which did not depend on the proof of sexual assault and had corroborating evidence independent of the offending testimony.

Respectfully submitted,

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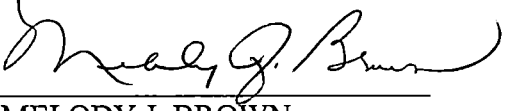
By: 

MELODY J. BROWN
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ATTORNEYS FOR RESPONDENT

April 5, 2018.
Columbia, South Carolina.

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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
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Appeal from Lexington County
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YANCEY THOMPSON, #330395, PETITIONER,

V.

STATE OF SOUTH CAROLINA, RESPONDENT.

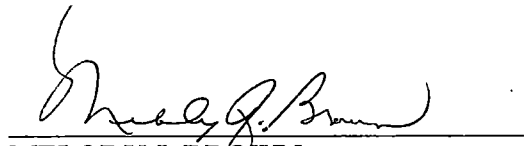
Appellate Case No. 2014-006611

CERTIFICATE OF SERVICE

I, Melody J. Brown, hereby certify that I have served the State's Petition for Rehearing in the foregoing by depositing copies in the United States mail addressed to:

Robert M. Pachak
Appellate Defender
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, SC 29201

This 5th day of April, 2018.



MELODY J. BROWN
Senior Assistant Deputy Attorney General

ALAN WILSON
ATTORNEY GENERAL

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S.C. SUPREME COURT

April 5, 2018

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: *Yancey Thompson vs. State of South Carolina*
Appeal from Lexington County
Appellate Case No. 2014-001611

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of the State's Petition for Rehearing in the above-referenced matter. By copy of this letter, I am serving opposing counsel with same.

Thank you for your consideration in this matter.

Sincerely,

Melody J. Brown
Senior Assistant Deputy Attorney General

MJB/lbb
Enclosures

cc: Robert M. Pachak, Esquire
The Honorable S. Rick Hubbard, III, Solicitor, Eleventh Judicial Circuit
Trisha Allen, Victim Advocacy Division