



# The Supreme Court of South Carolina

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May 23, 2018

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

## REMITTITUR

Re: The State v. Demetrice R. James  
Lower Court Case No. 2013GS4001432, 2013GS4001433,  
2013GS4001448, 2013GS4001480  
Appellate Case No. 2017-000700

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc: Kathrine Haggard Hudgins, Esquire  
Vann Henry Gunter, Jr., Esquire  
Daniel Edward Johnson, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

The State, Respondent,

v.

Demetrice Roosevelt James, Petitioner.

Appellate Case No. 2017-000700

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**ON WRIT OF CERTIORARI TO THE COURT OF  
APPEALS**

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Appeal from Richland County  
John C. Hayes, III, Circuit Court Judge

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Unpublished Opinion No. 2018-MO-020  
Heard May 3, 2018 – Filed May 23, 2018

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**DISMISSED AS IMPROVIDENTLY GRANTED**

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Appellate Defender Kathrine H. Hudgins, of Columbia,  
for Petitioner.

Attorney General Alan Wilson, Assistant Attorney  
General V. Henry Gunter, Jr., and Solicitor Daniel E.  
Johnson, all of Columbia, for Respondent.

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**PER CURIAM:** We issued a writ of certiorari to review the decision of the Court of Appeals in *State v. James*, Op. No. 2017-UP-028 (S.C. Ct. App. filed Jan. 11, 2017). We now dismiss the writ as improvidently granted.

**DISMISSED AS IMPROVIDENTLY GRANTED.**

**BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.**

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State, Respondent,

v.

Demetrice Roosevelt James, Appellant.

Appellate Case No. 2014-002125

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Appeal From Richland County  
John C. Hayes, III, Circuit Court Judge

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Unpublished Opinion No. 2017-UP-028  
Submitted November 1, 2016 – Filed January 11, 2017

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**AFFIRMED**

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Appellate Defender Kathrine Haggard Hudgins, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Assistant  
Attorney General Vann Henry Gunter, Jr., and Solicitor  
Daniel Edward Johnson, all of Columbia, for  
Respondent.

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**PER CURIAM:** Demetrice James appeals his convictions of attempted armed robbery, first-degree burglary, and two counts of attempted murder, arguing the trial court erred in (1) refusing to grant a mistrial after the jury engaged in

premise deliberations and (2) allowing the State to call a rebuttal witness to testify about James's previous statements to police. We affirm<sup>1</sup> pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in refusing to grant a mistrial after the jury engaged in premature deliberations: *State v. Harris*, 340 S.C. 59, 63, 530 S.E.2d 626, 627-28 (2000) ("The granting or refusing of a motion for a mistrial lies within the sound discretion of the trial court and its ruling will not be disturbed on appeal absent an abuse of discretion amounting to an error of law."); *State v. Aldret*, 333 S.C. 307, 313, 509 S.E.2d 811, 814 (1999) (finding in cases in which a jury prematurely deliberates without an invitation to do so by the trial court, the defendant must demonstrate he or she was prejudiced by the premature deliberations in order to be entitled to a new trial); *id.* at 315, 509 S.E.2d at 815 ("If such an allegation arises **during trial**, the trial court should conduct a hearing to ascertain if, in fact, such premature deliberations occurred, and if the deliberations were prejudicial. If requested by the moving party, the court may *voir dire* the jurors and, if practicable, 'tailor a cautionary instruction to correct the ascertained damage.'" (footnote omitted) (quoting *United States v. Resko*, 3 F.3d 684, 695 (3d Cir. 1993))).

2. As to whether the trial court erred in allowing the State to call a rebuttal witness to testify about James's previous statements to police: *State v. Huckabee*, 388 S.C. 232, 240, 694 S.E.2d 781, 785 (Ct. App. 2010) ("[T]he admission of reply testimony is within the sound discretion of the trial court and will only result in reversal if the admission of such testimony is found to be prejudicial."); *State v. Garris*, 394 S.C. 336, 350, 714 S.E.2d 888, 896 (Ct. App. 2011) ("Reply testimony should be limited to rebuttal of matters raised in defense; however, the improper admission of reply testimony will only result in reversal if the admission of such testimony is found to be prejudicial."); *State v. Stewart*, 283 S.C. 104, 106, 320 S.E.2d 447, 449 (1984) ("The admission of testimony which is arguably contradictory of and in reply to earlier testimony does not constitute an abuse of discretion.").

**AFFIRMED.**

**LOCKEMY, C.J., and KONDUROS and MCDONALD, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.