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JUN 14 2018

S.C. SUPREME COURT

The Supreme Court of South Carolina
Daniel Shearouse, Clerk
P.O. Box 11330
Columbia, S.C. 29221

RE: The State v Lindell Davis

Case No. 2015-002448

Dear Mr. Shearouse:

Please find Petition for Writ of Certiorari that is
served upon you.

Sincerely,

Lindell Davis

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Marion County
Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

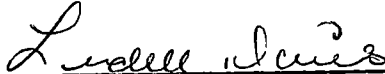
V.

LINDELL DAVIS,

APPELLANT

APPEAL CASE NO. 2015-002448

PETITION FOR WRIT OF CERTIORARI


LINDELL DAVIS
386 Redemption Way
McCormick, SC 29899

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CERTIFICATION OF APPELLANT

The Petitioner pro-se certifies that the Petition For Rehearing was made and finally ruled on by South Carolina Court of Appeals May 2, 2018

QUESTION PRESENTED

Whether Appellant conviction violates South Carolina Constitution and Statutes and especially § 17-50-10 which provides: No person shall be punished until legally convicted.

STATEMENT OF CASE

Appellant was indicted at the November 2014 term of the Marion County grand jury for the offense of criminal sexual conduct with a minor in the second degree, and criminal solicitation of a minor. his case was called to trial on November 16, 2015, before the Honorable William H. Seals Jr. and a jury. Hank Andrsom represented appellant. David Richardson and Lauren Hummel were the assistant solicitors. Tr. 1

At the conclusion of the trial on November 17, 2015, the jury found appellant guilty on both counts. Tr. 183, II, 17-24. Judge Seals sentenced appellant to fifteen years imprisonment for criminal sexual conduct with a minor in the second degree, and eight years, concurrent on the solicitation conviction. Tr. 185, II, 10-13. There was no colloquy between the Judge and defendant on his fundamental right to testify or not to testify.

ARGUMENT

THE RECENT EVOLUTION OF THE RIGHT TO TESTIFY

A full century after wide spread adoption of competency statutes in this county, the united States Supreme Court in Rock v. Arkansas 483 U.S. 44 (1987) established the constitutional right of criminal defendant to testify in their own behalf.

In establishing the criminal defendant's right to testify, the Rock Court drew upon four constitutional provisions. The Court cited the Sixth amendment compulsory process clause which grants defendants the right to call witnesses in their favor including themselves. "Every criminal defendant is privileged to testify in his own defense, or refuse to do so." The Court further noted the fourteenth amendment due process safeguards that are essential to a fair trial.

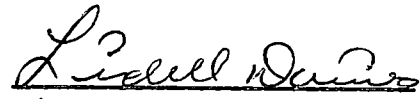
The right to testify is deemed a fundamental right required by the Fourteenth amendment due process clause to achieve fairness in state criminal proceeding.

The right to testify on one's own behalf at a criminal trial is guaranteed by the Fifth, Sixth and Fourteenth amendment. State v. Wright 418 S.C. 353, 372, 785 S.E.2d 479, 489 (S.C. Court of Appeals 2016) quoting Rock v. Arkansas 483 U.S. 44, 51-52 (1987).

CONCLUSION

By reasons of the foregoing arguments, appellant Writ of Certiorari should be granted.

May 25, 2018

A handwritten signature in cursive script, reading "Lindell Davis", written in dark ink.

Lindell Davis
386 Redemption Way
McCormick, SC 29899

CERTIFICATION OF APPELLANT

The Appellant pro-se certifies that the Petition For Rehearing
was made and finally ruled on by South Carolina Court of Appeals
May 2, 2018

May 25, 2018

A handwritten signature in cursive script, appearing to read "Lindell Davis", written over a horizontal line.

Lindell Davis
386 Redemption Way
McCormick, SC 29899

The South Carolina Court of Appeals

The State, Respondent,

v.

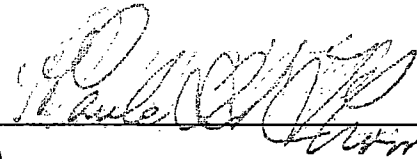
Lindell Davis, Appellant.

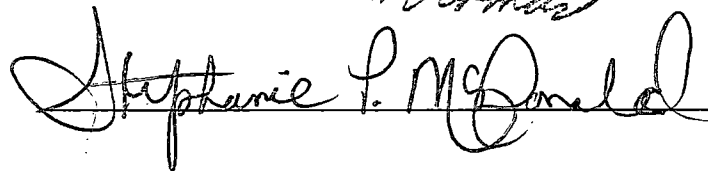
Appellate Case No. 2015-002448

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

 J.

 J.

Columbia, South Carolina

cc: Lindell Davis, 366106
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire

FILED

May 2, 2018

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Marion County

Honorable William H. Seals, Circuit Court Judge

Appeal Case No. 2015-002448

The State.....RESPONDENT,

v.

LINDELL DAVIS.....APPELLANT

PROOF OF SERVICE

The undersigned hereby certifies that he mail petition For Writ of Certiorari to South Carolina Supreme Court, P.O. Box 11330, Columbia, SC 29221 and to the Office of the Attorney General, Alan Wilson, Esquire, P.O. Box 11549, Columbia, SC 29221 this 29 day of May 2018 by depositing same in the U.S. mail.

SWORN TO AND SUBSCRIBED BEFORE ME

This 29 day of May 2018

[Signature]
NOTARY PUBLIC OF SOUTH CAROLINA

My Commission Expires 2.16.2019

Lindell Davis

Lindell Davis, # 366106
FlA-168
386 Redemption Way
McCormick, SC 29899

The Supreme Court of South Carolina
Daniel Shearouse, Clerk
P.O. Box 11330
Columbia, SC 29221

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AND THE DEPARTMENT OF CORRECTIONS
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MCCORMICK CORRECTIONAL INST.
S.C. DEPARTMENT OF CORRECTIONS

JUN 25 2018