

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County
Honorable R. Knox McMahon, Circuit Court Judge
Appellate Case Tracking No. 2016-001975

RECEIVED
JUN 14 2018
SC Court of Appeals

The State,

Respondent,

vs.

Michael Scott Simmons,

Appellant.

**MOTION TO CERTIFY APPEAL
TO SOUTH CAROLINA SUPREME COURT**

Pursuant to Rule 204(b), SCACR, the State asks this Court to certify the above entitled appeal¹ for consideration by the South Carolina Supreme Court. The State asserts the appeal contains a challenge on state or federal grounds to the constitutionality of a state law and should be considered by the South Carolina Supreme Court pursuant to Section 14-8-200(b)(3) of the South Carolina Code.

The underlying appeal arises out of an investigation into child pornography. Appellant has challenged the constitutionality of section 16-15-405 of the South Carolina Code alleging it is overbroad in violation of the First Amendment. This presents a significant constitutional issue for consideration by this Court as it would affect numerous current and ongoing investigations into the scourge of child pornography.

¹ Final Briefs of the parties are filed with the South Carolina Court of Appeals and are available through the South Carolina Appellate Case Management System (C-Track).

WHEREFORE, the State asks the Court to certify this appeal for its consideration pursuant to Rule 204(b) and the significant constitutional question involved; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Senior Assistant Attorney General



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ATTORNEYS FOR RESPONDENT

June 14, 2018

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PROOF OF SERVICE

I, Anne A. Mueller, certify that I have served the Motion to Certify Appeal to the South Carolina Supreme Court on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

Susan B. Hackett, Esquire
S.C. Commission on Indigent Defense,
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211

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

This 14th day of June, 2018.



ANNE A. MUELLER
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

June 14, 2018

HAND-DELIVERY

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

Re: The State v. Michael Scott Simmons
Appellate Case Tracking No. 2016-001975

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Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of a Motion to Certify Appeal to the South Carolina Supreme Court along with proof of service for filing in the above-referenced appeal.

Sincerely,

William M. Blich, Jr.
Assistant Attorney General

Enclosures

cc: Susan B. Hackett, Esquire
~~Jenny A. Kitchings, Clerk Court of Appeals~~
Victim Advocacy Division