

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

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AUG 06 2018

SC Court of Appeals

The State, Respondent,

v.

Courtney Ray Mitchell, Appellant.

Appellate Case No. 2015-000517

Appeal From Greenville County
R. Keith Kelly, Circuit Court Judge

Unpublished Opinion No. 2018-UP-147
Submitted February 1, 2018 – Filed April 11, 2018

AFFIRMED

Donald Loren Smith, of Attorney Office of Donald
Smith, of Anderson, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Jennifer Ellis Roberts, both of
Columbia; and Solicitor William Walter Wilkins, III, of
Greenville, all for Respondent.

PER CURIAM: Courtney Ray Mitchell appeals his conviction for intimidation of a witness, arguing the circuit court erred in (1) declining to find the State failed to prove the elements of witness intimidation beyond a reasonable doubt, (2) failing

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to declare unconstitutional his arrest on the underlying charge from which his indictment for witness intimidation arose, (3) failing to hold the charge of witness intimidation was the fruit of the poisonous tree, (4) depriving him of his right to due process, and (5) denying him a speedy trial. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

As to Issue 1: *State v. Butler*, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014) ("On appeal from the denial of a directed verdict, [the appellate court] views the evidence and all reasonable inferences in the light most favorable to the State."); *State v. Pinckney*, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000) ("If the State presents any evidence which reasonably tends to prove the defendant's guilt, or from which the defendant's guilt could be fairly and logically deduced, the case must go to the jury.").

As to Issues 2, 3, and 5: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial [court].").

As to Issue 4: *Dunbar*, 356 S.C. at 142, 587 S.E.2d at 693 ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial [court]."); Rule 5(a)(1)(C), SCRCrimP (allowing a defendant access only to materials in the State's possession, custody, or control); *State v. Kennerly*, 331 S.C. 442, 452, 503 S.E.2d 214, 220 (Ct. App. 1998) (stating the prosecution is constitutionally required to disclose evidence "in its possession" that is favorable to the defendant and "material to guilt or punishment").

AFFIRMED.¹

SHORT, THOMAS, and HILL, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

The South Carolina Court of Appeals

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The State, Respondent,

v.

Courtney Ray Mitchell, Appellant.

Appellate Case No. 2015-000517

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SC Court of Appeals

The Honorable R. Keith Kelly
Greenville County
Trial Court Case No. 2013GS2308607

ORDER

This Court's remittitur was sent to the Clerk of Greenville County on July 6, 2018. It is now necessary for this Court to recall the remittitur. The Clerk of Greenville County is, therefore, directed to return the remittitur to the Clerk of the South Carolina Court of Appeals within ten (10) days from the date of this order.

FOR THE COURT

BY *V. Christine Allen, Deputy*
CLERK

Columbia, South Carolina

- cc:
- Donald Loren Smith, Esquire
- Alan McCrory Wilson, Esquire
- William Walter Wilkins, III, Esquire
- William M. Blich, Jr., Esquire
- The Honorable Paul B. Wickensimer

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The South Carolina Court of Appeals SC Court of Appeals

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July 06, 2018

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

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REMITTITUR

Re: The State v. Courtney Ray Mitchell
Lower Court Case No. 2013GS2308607
Appellate Case No. 2015-000517

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 is enclosed.

Very truly yours,

CLERK

Enclosure

cc: Donald Loren Smith, Esquire
Jennifer Ellis Roberts, Esquire
Alan McCrory Wilson, Esquire
William Walter Wilkins, III, Esquire

AP: ✓
EXD: ✓

AFTER FIVE DAYS RETURN TO

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GREENVILLE COUNTY CLERK OF COURT
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