STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Paul M. Burch, Circuit Court Judge

The State of South Carolina,

Respondent,

V.

Christopher Marquavious Moore,

Appellant

APPELLANT CASE No. 2016-001429

PRO-SE APPELLANT BRIEF

By. Christopher M. Moore
BRCI-Wateree Unit
4460 Broad River Rd.
Columbia, S.C. 29210

QUESTIONS PRESENTED FOR APPEAL.

1. Whether the State took an unfair advantage during the indictment stages of the proceeding by labeling the 'deceased' as a "victim", when in fact as well as form, the incident resulted from a "victimless crime"; (2) where the deceased knew or should have known 'not to take the law in his own hands'; (3) where the deceased "had the opportunity to chose engagement or not"; (4) and was aware by being prior law enforcement "you cannot shoot at people" for suspecting criminal activity not occurring on private property.

2. Whether the trial court erred when the court did not allow the testimony of two defense witnesses concerning evidence of prior episodes of threats by the 'deceased' to use his gun?

3. Whether the trial court erred when the court denied counsel's motion to exclude the conspiracy to commit armed robbery indictment; and whether the Solicitor gave false and misleading facts to support its position?

4. Whether the trial court erred by failing to give the requested manslaughter charge as "a lessor-included offense"?

Conclusion.

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STATEMENT OF THE CASE

On June 2, 2015, the Chester County prosecutor presented a "most highly questionable case before the Grand Jury", charging the Appellant with 'Murder' (2015-GS-12-086); and possession of a firearm during the commision of a violent crime (2015-GS-12-085).

Appellant maintained his innocence and exercised his constitutional right to trial by jury. Placing the burden on the State to "prove every essential element of the charged offenses", beyond a reasonable doubt.

The State, while represented by Julie Hall, Riley Maxwell and Randy Newman, called (the first of two trials) the case to trial on April 18, 2016, before the Honorable Paul M. Burch and a jury. Appellant was represented by William Frick and Devon Nielson. R. 50.

The trial was held in Fairfield County. During deliberations, the jury sent out multiple notes to the judge requesting to hear testimony again, and more importantly, seeking re-instruction on self-defense, and requesting to leave for the evening and reconvene the following day. R. 1020, l. 6-R. 1024, l. 12; R. 1024, l. 18-R. 1028, II. 23; R. 1029, II. 1-14; R. 1042, II. 1-8; R. 1900; R. 1902; R. 1903; R. 1904.

The jury however, was unable to reach a verdict. R. 1038, II. 1-11; R. 1903. Therefore, Judge Burch gave additional instructions,

imploring them to reach a unanimous decision. However, the jury returned to the courtroom, informing the judge that the jury was "hopelessly deadlocked". R. 1042, II 19-21; R. 1904. The judge then released the jurors. R. 1042, i-22; R. 1043, 1-19.

The state, again represented by Julie Hall and Riley Maxwell, called Appellant to trial a subsequent time before Judge Burch and a jury on June 27-30, 2016, R. 1052. Putting on the exact identical case. Mr. William Frick represented Appellant. (A single attorney in a muder case rather than two attorneys).

At the close of this trial, the jury found Appellant guilty of the charges and Judge Burch sentenced Appellant to life imprisonment without the possibility of parole for murder and a five year consecutive sentence for possession of a weapon. R. 1850, 1-24 -R. 1851, 1. 2; R. 1907; R. 1910.

On July 1, 2016, Appellant filed and served his notice of appeal. Appellate Counsel, Ms. Susan B. Hackett, of the Appellate Defence, filed an Anders brief. Appellant was notified of his initial 45 days to respond, and given "an additional 45 days", for which to construct his pro-se appellate brief pursuant to Anders v. California.

ARGUMENT 1.

Whether the State took an unfair advantage during the indictment stages of the proceeding by labeling the 'deceased as a victim', when in fact as well as form, the incident resulted from a "victimless crime"; (2) where the deceased knew or should have known 'not to take the law in his own hands; (3) where the deceased had the opportunity to chose engagement or not; (4) and was aware by being prior law enforcement "you cannot shoot at people" for suspecting criminal activity not occurring on private property.

At trial R. 1909 the State presented 'the facts' contained in the indictment as follows:

> That Christopher Marquavious Moore did in Chester County on or about November 4, 2014, felonious, willfully and with malice aforethought kill and murder Odell Willimas by means of shooting him and that the said 'victim' did die as a proximate result thereof, in violation of the common law of South Carolina and §16-3-10, Code of Laws of South Carolina, (1976), as amended.

As a forenote, in State v. Dawkins, 377 S.E.2d 298 (S.C. 1989), this Court carved out 'special instructions regarding the prosecutors duty during grand jury proceedings'. And thereby stated:

> "we caution prosecutors throughout this state to be mindful of the words of Mr. Justice Surtherland:"
>
> "The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignity whose obligation to govern impartiality is as compelled as its obligation to govern all; and whose interest, therefore, in a criminal prosecution is not that he shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the

> servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor indeed, he should do so. But, while he may strike hard blows, he is not at liberty to stike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one".

See Berger v. United States, 295 U.S. 78. 88, 55 S. Ct. 629 (1935)

With the above being posited in conjunction with State v. Capps, 276 S.C. 59, 275 S.E.2d 872(1981). Stating; "[t]he practice of using a solicitor or other officer of the State as the sole witness before the grand jury to provide only a summary of the evidence could be abused and we strongly suggest it be abandoned unless no alternative is available".

However, in the instant case at bar, the above concerns are vividly exposed as being intentionally improper "as well as abuse" by the prosecutor in this case. By "the mere mentioning to the grand jury and petit jurors". That this crime involved a victim, rather than being what it was; "a victimless crime". In which is legally explained as an example; "a offense of prosecution or gambling", where both partys concented to the acts.

Appellant's Testimony:

Appellant testified during pre-trial (with no introduction by the state which could materially refute the testimnoy). That on November 4, 2014, Appellant, De'Angelo Roseboro, Quintin McClinton, and Terrance Buchanan were hanging out and smoking marijuana. R. 98, II. 5-13. Timothy Franklin and his colleagues owed them money for 'a drug deal that went bad", but did not want to pay. R. 98, II. 15-23; R. 118, II. 11-13. They decided to go to Franklin's

home on Holmes road to get what they were owed. R. 98, II 1 II 15-23. Armed with firearms, they got back into a truck and drove to Feathersome Road, which was parallel to Holmes Road. R. 99, 1. 8-R. 100, 1. 24. They parked in a little parking spot, which was almost at the end of the road. R. 101, II. 2-5. The men got out of the truck and wlaked through a field towards Holmes Road. However, no one was home. After waiting for ten minutes or so, the men abandoned their plan and walked back towards the truck. R. 101, II 11-21. R. 102, II. 4-6; R. 121, II. 7-9.

Appellant saw a car parked on the side of Featherstone Road, which the men went around to get out of the neighborhood. R. 103, II. 1-6. Eventually, the men noticed a red car was following them. R. 103, I. 13; R. 104, 1.3. McClinton, the truck's driver, decided to stop to see what the pursuer wanted. R. 105, II 17-24. When the truck stopped, the red car stopped, as well. R. 106, II. 1-4. Buchanan recognized the car's occupant, announcing to the group, "that's that police, mother f-er, Odell Williams". R. 106, II. 6-8. McClinton sped away.

The truck took off down the road at a high rate of speed, but the car pursued. R. 107, I. 22-R. 108. I. 4. Appellant then heard three gunshots coming from behind. R. 108, II. 4-11. A short while later, Appellant heard three more shots. R. 109, II. 2-4. Roseboro leaned out the window and fired a shot towards the car. R. 109, II. 6-21. McClinton instructed Roseboro and others not to fire again. R. 110, II. 2-4.

After some distance was created (and such time and distance was speculated as Odell Williams time for reloading his firearm) between the truck and the car, Appellant asked McClinton to stop so that he could throw his gun into a dicth. R. 110, II. 7-22; R. 123, II. 14-20. Appellant opened the truck door and had one foot out when the truck started to move away. R. 110, I. 24-R. 111, I 1. 2. Appellant fell into the roadway. R. 111, II. 2-3. Appellant's gun fired. R. 111, II. 3-4. When Appellant was getting up, he saw the red car fast approaching. R. 113, II. 13-21. Appellant ran. R. 113, I. 23. There was nowhere for him to hide--no trees, no bushes. R. 115, II 7-10. He heard two shots, and began firing back. R. 113, I. 24. R. 114, I. 16.

Additional testimonies were introduced from co-defendants Terrance Buchanan (R. 1853--R-1899); Derrick Dixon with no material distinctions. Derrick Dixon testified and again, with no material

distinctions. DeAngelo Roseboro testified, with no material distinctions. Anna Louise Williams (relative of the deceased) testified and again, "with no material distinctions". R. 1853--R1899. Ms. Kira Bagley's statement; told the police that "she heard multiple gunshots while sitting in her car in front of her home. Seconds later, she saw a truck drive past her, and a red Cadillac was chasing the truck. She saw both vehicles run the stop sign. Shortly thereafter, she heard "machine gun type of shots". R. 1853-R. 1899.

The forensic finding were; "particles of gunshot residue were found on the palm and back of Williams right hand". Round particles associated with gunshot residue were found on the palm and back of Williams left hand.

The so-called "victim" [Odel Williams], was arrested in March of 2014, for two Counts of threatening the life of a public official. According to the arrests warrants, "Williams threatened the police chief and police major". Using racial slurs, expressed "he would take them out". That he possessed a weapon and knew how to use it, by placing his hands on his pocket. During the investigation of this incident. Williams essentially admitted to the warrants, but denied implying he had a gun and using racial slurs. For which under South CArolina Law, "a accused can be convicted by his actions which caused a person to reasonably believe he was armed in relation with the incident".

ARGUEMENT 1. CONTINUED.

After this Honorable Court has had a fair opportunity to review the facts of this case. It becomes quite clear the use of the word "victim" was improper conduct employed by the state to produce unjust results. Where the "deceased" was not law enforcement; the encounter between the deceased and Appellant occurred on public highways; and the Appellant had reason to believe the pursuit by a gun-shooting pursuer would result in him being injured or even killed.

Thus, from the onset of the case. By charging the Appellant within the indictment as a "murderer" and the deceased as a "victime". Unconstitutionally deprived Appellant of (1) a fair grand jury determination; (2) his cloak of innocence (deemed the Presumption of Innocence); and (3) of any possibility of a fair trial; for which can be deemed in this case as a 'structural error' and prosecutorial misconduct.

The Presumption of Innocence, while not grounded in the Constitution, has been regarded as a defendant's right since the inception of our judicial system. Coffin v. U.S., 156 U.S. 432 (1895); In re Winship, 397 U.S. 358 (1970). By referring to the deceased as the "victim", the presecution, and the court by its tacit approval, had told the jury that "a crime was committed or that this person has been cheated, lied or injured". Thus, the prosecution, through the use of the word "victim", is advising the

the jury that the prosecution has already proven an injury or death of some type, and concluded "that the person has been victimized", and directly by such inference, has eliminated an essential element or elements from a jury determination.

Second, the prosecution is commenting on the credibility of its witnesses whenever addressing the deceased as a "victim" in this case. The United States Supreme Court and the Oklahoma Court of Criminal Appeals have both held that the prosecution is prohibited from expressing "their personal opinions during trial about a witnesses's credibility, or whether a witness is telling the truth or not". United States v. Young, 470 U.S. 1 (1985); see Ray v. State, Okl. Cr. 510 P.2d 1395(1973); Garrett v. State, 1942 Ok. Cr. P.2d 283; and Robertson v. State, 1974 Okl. Cr. 87, 521 P.2d 1401.

When the prosecution addresses an individual as the "victim", "the prosecution is placing more weight on the individual's testimony and stating to the jury this individual is telling the truth because he or she is the "victim"". Or as in Appellant's case at bar; "the state's witness is telling the truth relating to the "victim", about how the "victim" met his demise. A minor distinction without a constitutional difference.

Additionally, the prosecution's conclusions, interpretation and opinion that a individual is a "victim" allows the prosecution to advise the jury that their belief is consistent with the charing

instrument or testifying witnesses for the state.

Moreover, the use of "victim" should be noted and rightfully excluded by the Federal Rules of Evidence and South Carolina Rule of Evidence. Where "relevant evidence" is excluded if the evidence probative value is outweighed by its prejudicial effect.

In State v. Saltz, 346 S.C. 114, 551 S.E.2d 240 (2001). Relevant evidence is defined as "evidence which may be excluded where its probative value is substantially outweighed by the danger of unfair prejudice". Rule 403, SCRE; State v. Alexander, 303 S.C. 377, 401 S.E.2d 146 (1991).

There is no question here, the word "victim" has significant prejudicial effect since that word alone means a wrong-doing, that has been committed (a person being victimized) and that the prosecution and the court believes that fact to be true. Additionally, allowing the word "victim" to be used also eliminates the "causation element of events" in this particular case. But moreover, the prosecution by its use ("victim"), takes away the very **"fact-finding job from the jury"** when it is allowed to refer to the deceased in this case as a "victim".

Therefore, the prejudicial effect substantially outweighs any probative value exception. If the jury's job is to determine the facts of the case based on the evidence produced at trial. Then it is equally understood; "the question of whether Mr. Odell Williams was and is a "victim" to the charged offense was a matter to be determined by jurors", without interference from the state. By

this allowance, Appellant could not receive a trial as guaranteed by the Sixth and Fourteenth Amendment to the Constitution. And is automatically grounds for reversal and a new trial. As such was not only an error at trial, but more importantly, the use occrred during the grand jury stages. And constructively dictated "how the trial would proceed". With an essentially finding excluded from a determination by jurors. Such is tantamount to a "structural error, as opposed to just an error at trial". See Arizona v. Fulminite, 499 U.S. 279, 111 S. Ct. 1246 (1991); and Edmonds v. State, 534 S.E. 2d 682 (S.C. Sup. 2000).

Finally, and most importantly. The state was well informed by pre-trial and prior to. This case retained the right to claim (1) self-defense and (2) Protection of Person and Property. As the so-called "victim" with years of experience in law enforcement. Knew not to take the law in his own hands by shooting at a moving vehicle when he had (1) a cellphone at his disposal and could have easily followed the truck until police arrived.

Although this is an unfortunate situation in which the Appellant never intended the results here. However, one cannot engage a person in the wild, wild west type shoot out. And afterwards, say he was unlawfully shot. Without "a jury" determining "the pursuer was the "victim".

For these reasons; "Appellant claims for appellate review, that he was prejudiced by the prosecutors use of the word "victim" at every stage in which the word was ushered forth".

ISSUE AND ARGUMENT II.

Whether the trial court erred when the court did not allow the testimony of two witnesses concerning evidence of prior episodes of threats to use his gun?

Here, all relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of South Carolina, its statutes, or rules. Or by other rules promulgated by the Supreme Court of South Carolina. Evidence which is not relevant is not admissible.

Evidence meets the test of "relevance" for admissibility, if it tends to establish or make more or less probable, some matter in issue upon which directly or indirectly beams. SCRE 402. Judy v. Judy, 384 S.C. 634, 682 S.E.2d 836 (S.C. 2009)

At trial, counsel moved to allow evidence of prior bad acts under S.C. Rule 404 (a)(2)'s "Evidence of a Pertinent Trait or Character of the deceased of the crime offered by an accused or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was not the aggressor". See State v. Day, 341 S.C. 410, 535 S.S.2d 431(2000).

The South Carolina Supreme Court ruled that "it's one of two things. Either it has to be the prior bad acts by the victim that needs to be directed at the defendant, or, it's something that is

so closely related in time that it can speak to the victim's state of mind at the time of the incident".

Mr. Odell Williams, at the time of the incident, had pending charges against him for threatening a public official (3 counts). Because that incident occurred on March 2014 and the instant happening in November 2014, for purposes of this case and the prior acts. They should be considered closely related. Showing Mr. Odell Williams respect for the law, or the safety of others around him, and the lack thereof. See also State v. Brown, 467 S.E.2d 922 (1996); and State v. Amburgey, 34 S.E.2d 779 (1945).

By the cumulative errors; (1) allowing the state to refer to Odell Williams as a "victim", coupled with; (2) and excluding the fact Mr. Odell Williams, only a short while ago threatened Public Officials with his weapon. Eliminated any possibility for the jury to have considered self-defense or whether the Appellant had the right to defend himself against his attacker. In which Appellant might add; "was breaking the law himself". By discharging the firearm either at Appellant or others in the vehicle he was pursuing.

Wherefore, the court abused its discretion which resulted in the Appellant being prejudiced, because the evidence attempted to be introduced by the defense "clearly demonsrated 'the alleged victim', had a predisposition to gun violence and Appellant witnesses would have shown Appellant acted 'only in self-defense'. Thus, the evidence was sufficiently connected in time and circumstances to be submitted as evidence of self-defense.

In retrospect, this case is not so far apart from Holmes v. South Carolina, 547 U.S. 319 (2006), where in Holmes, as a major part of his defense, petitioner attempted to undermine the State's forensic evidence by suggesting that it had been contaminated and that certain law enforcement officers had engaged in a plot to frame him. Id., at 339, 605 S.E.2d at 22. Petitioner sought to produce proof of another man, Jimmy McCaw White, had attacked Stewart. The trial court excluded petitioner's third party guilt evidence citing Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941). On appeal, the S.C. Supreme Court found no error in the exclusion of petitioner's third party guilt evidence, Citing both Gregory and State v. Gay, 343 S.C. 543, 541 S.E.2d 541 (2001).

However, the U.S. Supreme Court "reversed" South Carolina's decision in the above regard, finding; "although [S]tate and federal rulemakers have broad latitude under the Constitution to establish rules excluding evidence from criminal trials". United States v. Scheffer, 523 U.S. 303, 303 (1998); see also Crane v. Kentucky, 476 U.S. 683 (1986). This latitude, however, has limits. "Whether rooted directly in the Due Process Clause of the Fourteenthe Amendment, or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendant's 'a meaningful opportunity to present a complete defense'". Crane, supra, at 690 (quoting California v. Trombetta, 467 U.S. 479, 485 (1984).

But that; "this right is abridged by evidence rules that 'infringe upon a weighty interest of the accused', and are 'arbitrary' or 'disproportionate' to the purpose thay are designed to serve". Scheffer, supra, at 308 (quoting Rock v. Arkansas, 483 U.S. 44,58 (1987).

In short, "Odell Williams ('the deceased') was not on trial, and the exclusionary rule employed by the state with the tacit agreement of the trial court". As applied in Appellant's instant case was 'disproportionate as well as arbitrarily' instituted, to "deprive the defendant from putting forth a complete defense to the State's case".

Within the indictment and at many times during the course of both trials. The state continuously used the word "victim" when describing Odell Williams being shot. Yet, employed evidence rules that would prohibit the defense from showing; "Odell Williams, by his character and pending charges against public officials". Was not a victim, to support Appellant's self-defense claims.

In various circumstances, dealing with what evidence can and cannot be introduced before jurors. A court will many times instruct parties concerning; "once the door is opened". And here, the state "opened that door" when it alleged Odell Williams 'was the victim'. It therefore was Appellant's Constitutional Rights as pointed out in Holmes v. South Carolina, 547 U.S. 319 (2006), to have a meaningful opportunity to put up a defense against what the state was alleging within its charging instrument

Moreover, what is also an 'abuse of discretion' is where the court attempted to justify Odell Williams "criminal actions" by shooting at Appellant; "stating that was the old way of doing bad things", firing shot to get ya'll attention. Such a unsupportable conclusion sets a clear double standard, where Williams would be allowed to break the law, but others would be criminally charged for that same conduct.

Therefore, the trial court erred by disallowing two witnesses for the defense to testify that Williams had threatened them with a gun. And this denial prevented Appellant from putting forth a complete defense, and denied him of any opportunity to have received a fair trial. And on that basis, this case compels reversal.

WHETHER THE TRIAL COURT ERRED WHEN THE COURT DENIED COUNSEL'S MOTION TO EXCLUDE THE CONSPIRACY TO COMMIT ARMED ROBBERY INDICTMENT: AND WHETHER THE SOLICITOR GAVE FALSE AND MISLEADING FACTS TO SUPPORT ITS POSITION?

After the first trial ended in a mistrial. One week thereafter, Appellant and co-defendant Quinton McClinton were both charged with Conspiracy to commit Armed Robbery. Counsel for the defense moved to quash the indictment on "vindictive prosecution grounds". Where there were five (5) co-defendants, only two of which were charged with conspiracy.

Defense counsel Mr. Frick stated the following on record; "Your Honor, I have a motion to quash the indictment. The State after the last trial sought a superseding indictment for conspiracy to commit armed robbery, and I make a motion to dismiss based on "vindictive prosecution". The State counters by alleging it has new evidence. "False, "as all defendants to support the 'why were they near Odell Williams property'". Gave their statements prior to the initial trial. Coupled with the certainty; "only the co-defendants themselves could have testified to why they were there". In which was to either get there money back for a bad deal, or rob the occupants of the home because of a prior bad drug deal.

Absolutely nothing new concerning "the meeting of the minds", between the co-defendants were obtained by the state. And the prosecute stood in open court and conveyed a false and misleading statement to the court, in order to obtain a favorable ruling to

sustain the vindictively obtained superseding indictment for criminal conspiracy to commit armed robbery.

The essence of a conspiracy is the agreement. State v. Buckmon, 55 S.E.2d 402. Appellant's statement at trial was "he was going to collect a debt; McClinton gave no statement. The others recalled they wanted to rob the home. Thus, "there is not meeting of the minds to form a conspiracy". As the five people present was there for different reasons, eliminating any conspiracy theory between Appellant and the rest of the group. Neither was there an "overt act", proven by all present decision to abort the mission. See State v. Harris, 535 S.E.2d 652.

If for no other reason, the court should have looked upon the indictment also, "as being too prejudicial to the defense", when the jurors would eventually have an opportunity to review the contents of the charging instrument. For that reason, based on this ground, Appellant respectfully request a new trial.

WHETHER THE TRIAL COURT ERRED BY FAILING TO GIVE THE REQUESTED MANSLAUGHTER CHARGE AS A LESSOR-INCLUDED OFFENSE?

Here, this case facts never supported the Solicitor's actions of going to grand jurors for a murder indictment. Moreover, even voluntary manslaughter, as opposed to Involuntary manslaughter, is likewise misused in this case.

Again, the indictment charges Appellant with a "premeditated killing of Odell Williams". With Malice aforethought. Appellant assumes "by the use of the assault rifle". For which under State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009), the court cannot instruct a jury they can infer malice by the use of a deadly weapon. Thus, what other evidence the state had to rely upon, is more indicative to Inviluntary manslaughter because Mr. Odell Williams himself shot at, "reloaded" (during the time space was between his car and the truck), and put the Appellant in a shoot back or be killed situation.

The law requires a court to charge a lessor-included offense "if there is any evidence to warrant a lessor-included charge. See State v. SMith, 706 S.E.2d 12 (2011) The law to be charged to the jury is determined by the evidence introduced at trial".

The evidence introduced at trial was that "the deceased was the aggressor, chasing after the Appellant and codefendants at high speeds, that had done nothing to incite him". The court charged only murder and self-defense, whereas, as a matter of law and right. The Appellant was entitled to a manslaughter charged as the

evidence is insufficient to have established murder. The case was in error being indicted as a murder case. And the Appellant, had it not been for the exclusion of defense evidence, would not have been convicted of murder.

A mistrial in the first contest speaks volumes towards whether the state proved its case. Given enough opportunities, the prosecution with its unlimited resources and influence, could convict a rock of committing a crime.

For the purpose of an involuntary manslaughter charge, "a person can be acting lawfully, even if he is in unlawful possession of a weapon", if he is entitled to arm himself in self-defense". See State v. Brayboy, 691 S.E.2d 482. And a self-defense charge and manslaughter charge are not mutually exclusive. State v. Light, 664 S.E.2d 465. A person can be acting lawfully, as required for a lessor included offense charge of involuntary manslaughter, even if he is unlawfully possessing a weapon, if he is entitled to self-defense.

The South Carolina Supreme Court has ruled in Wigington, 2015 WL 4746976 (2015) that a trial counsel's failure to argue that a petitioner was entitled to a involuntary manslaughter instruction was deficient performance.

However, the is irrefutable evidence in this case Appellant was entitled to have the lessor-included of "Involuntary Manslaughter" charged to jurors in this case, as well as self-defense and

the right to protect oneself from the attack "with a firearm", being perpetrated by the decease.

IN CONCLUSION

Wherefore, for the reasons stated herein. Appellant also argues in addition. The issues contained should have found their way onto a merits brief as opposed to a Anders v. California brief. That causes the court to overlook claims of merit, simply based on counsel's assessment of the appeal.

In addition, based on the issues contained herein, this Court has the discretion to order the issues be brought on a merits brief, as was done in State v. Missouri, (2014-00176), and appoint new counsel to perfect the appeal. For these reasons, Appellant respectfully request this Court to reverse the convition, and order a new trial as the issues herein may warrant. And for any other relief this Court deems just and proper.

Respectfully Submitted,

/s/Christopher Moore

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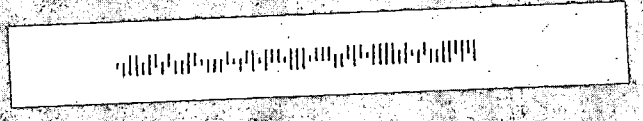

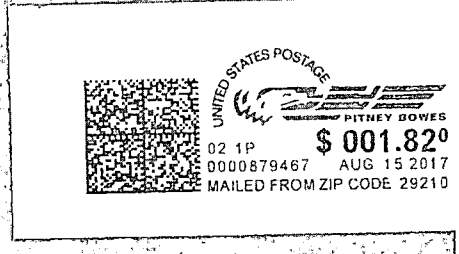

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