STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Clifton Newman, Circuit Court Judge

Appellate Case No. 2017-001744

RECEIVED
OCT 08 2018
SC Court of Appeals

THE STATE, ...RESPONDENT

v.

DAVID ONEIL VINCENT, ...APPELLANT.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
S.C. Bar No. 8729

Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

HEATHER S. WEISS
Interim Solicitor, Fifth Judicial Circuit

Post Office Box 192
Columbia, South Carolina 29202
(803) 576-1718

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

Page

Table of Contents i

Table of Authorities ii

Respondent's Statement of Issue on Appeal 1

Statement of the Case 2

Statement of Facts 3

Standard of Review 5

Argument:

I. Appellant's claim that the trial court erred in failing to suppress his statement to police, that he was at the scene of the crime, is not preserved for review because Appellant failed to object to the testimony when it was introduced at trial. Even if preserved, the trial court properly determined the statement was admissible because Appellant was not in custody, and because it was voluntarily given and was not a result of interrogation or police coercion. Finally, any possible error in admitting the statement was entirely harmless where Appellant's acknowledgement he was at the scene of the crime was cumulative to properly admitted testimony from multiple eyewitnesses who independently placed him there. 6

Conclusion 14

TABLE OF AUTHORITIES

Federal Cases:

Jackson v. Denno, 378 U.S. 368 (1964) 11

Miller v. Fenton, 796 F.2d 598 (3rd Cir. 1986) 12

Miranda v. Arizona, 384 U.S. 436 (1966) 8, 10

State Cases:

Hendrix v. Eastern Distribution, Inc., 320 S.C. 218, 464 S.E.2d 112 (1995) 7

Humbert v. State, 345 S.C. 332, 548 S.E.2d 862 (2001) 7

State v. Baccus, 367 S.C. 41, 625 S.E.2d. 216 (2006) 5

State v. Breeze, 379 S.C. 538, 665 S.E.2d 247 (Ct. App. 2008) 9, 11

State v. Dunbar, 356 S.C. 138, 587 S.E.2d 691 (2003) 7

State v. Easler, 322 S.C. 333, 471 S.E.2d 745 (1996) 11, 12

State v. Evans, 354 S.C. 579, 582 S.E.2d 407 (2003) 5

State v. Lynch, 375 S.C. 628, 654 S.E.2d 292 (Ct. App. 2007) 9, 10

State v. Miller, 375 S.C. 370, 652 S.E.2d 444 (Ct. App. 2007) 9

State v. Mitchell, 286 S.C. 572, 336 S.E.2d 150 (1985) 13

State v. Navy, 386 S.C. 294, 688 S.E.2d 838 (2010) 9

State v. Pagan, 369 S.C. 201, 631 S.E.2d 262 (2006) 5

State v. Russell, 345 S.C. 128, 546 S.E.2d 202 (Ct. App. 2001) 7

State v. Saltz, 346 S.C. 114, 551 S.E.2d. 240 (2001) 9

State v. Van Dohlen, 322 S.C. 234, 471 S.E.2d 689 (1996) 12, 13

State v. Wiles, 383 S.C. 151, 679 S.E.2d 172 (2009) 7

State v. Williams, 405 S.C. 263, 747 S.E.2d 194 (Ct. App. 2013) 9

State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001) 5

RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

1. Whether Appellant's claim that the trial court erred in failing to suppress his statement to police, that he was at the scene of the crime, is preserved for review where Appellant failed to object to the testimony when it was introduced at trial. Also, even if preserved, whether the trial court properly determined the statement was admissible where he was not in custody and where it was voluntarily given and was not a result of interrogation or police coercion. Finally, whether any possible error in admitting the statement was harmless where Appellant's acknowledgement he was at the scene of the crime was cumulative to properly admitted testimony from multiple eyewitnesses who independently placed him there.

STATEMENT OF THE CASE

David Oneil Vincent (Appellant) was indicted at the April 2016 term of the grand jury for Kershaw County for second-degree assault and battery (2016-GS-28-0380). He was represented by Assistant Public Defenders Jason D. Kirincich, Esquire, and James F. Lyon, V, Esquire. The State was represented by Assistant Solicitors Curtis A. Pauling, III, Esquire and Curtis R. Hutchinson, Esquire. On August 10-11, 2017, Appellant proceeded to trial by jury pursuant to which he was found guilty as indicted. He was sentenced by the Honorable Clifton B. Newman to three (3) years' imprisonment suspended upon the service of eight (8) months' imprisonment and two (2) years' probation. (Indictment & Sentencing Sheet). Appellant timely filed a notice of intent to appeal his conviction and sentence and subsequently submitted a Brief in support of his Appeal. This Brief of Respondent follows.

STATEMENT OF FACTS

During the afternoon of October 2, 2015, Appellant came into the Roxie Hart Salon in Camden where his ex-wife, Rosa Lee Vincent, worked. (Tr.p.89-p.90; p.100-p.101). The receptionist, Brandi Peake (Peake) asked Appellant if he had an appointment, and Appellant told her that he did, with Ms. Vincent. (Tr.p.161-p.165). Earlier that day, Ms. Vincent and Appellant had an argument about their daughter's babysitter for the weekend. Appellant did not have an appointment, and no one had invited him to the salon. (Tr.p.78-p.81; p.91). Appellant, after speaking to Peake, walked back towards Ms. Vincent's station. (Tr.p.101; p.166). Ms. Vincent was not at her station—she was in another room folding towels. (Tr.p.88-p.89).

Trisha Guy (Guy), who sold handmade products from inside the salon most afternoons and was there on the day of the incident, noticed Appellant looking at Ms. Vincent's station, and because she knew Appellant and was aware of the argument that he and Ms. Vincent had earlier that day, confronted him. (Tr.p.99-p.102). Guy told Appellant that he was not supposed to be at the salon and he needed to leave. Appellant then ran towards Guy, picked her up by the neck, and threw her to the ground. Guy suffered a broken tailbone, a neck injury, and a wrist injury from this attack. (Tr.p.102-p.109; p.128-p.129). Ms. Vincent, who was in the back of the salon when Appellant came in, heard someone screaming and walked up front, where she saw Appellant, and then saw Guy getting up from the floor. (Tr.p.89-p.91). Soon after, Appellant turned around and walked out of the salon without saying anything to Ms. Vincent, or anyone else. (Tr.p.92).

The police were called, and Officer Penny Lloyd, along with Lieutenant Herbie Frasier, responded to the call. (Tr.p.94; p.198; p.209). When they arrived on scene, Sergeant James Hemming was already there, and informed Officer Lloyd that an assault happened. Guy and

Appellant had both left the scene before Officer Lloyd's arrival. Officer Lloyd knew Appellant and Ms. Vincent through her work. Officer Lloyd sought a warrant for Appellant's arrest on charges of assault and battery second degree. (Tr.p.198-p.200).

While Officer Lloyd was getting the warrant, Appellant had contacted another officer who was with Lloyd at the time. Appellant expressed to that he knew Lloyd was getting warrants against him, and the officer asked if Appellant would meet Lloyd at the Detention Center later that night. After the judge signed the warrants, Officer Lloyd went to the Detention Center to meet Appellant. When Officer Lloyd arrived, she saw Appellant with some family members, including his young daughters. Officer Lloyd got out of her car and Appellant approached her. Appellant began talking to her because they were familiar with each other. At this time, an officer had not yet served Appellant with his warrants, in part because an officer cannot serve his or her own warrants, and in part because Officer Lloyd was merely engaging Appellant in familiar conversation. Officer Lloyd had contacted another officer to serve Appellant. (Tr.p.200-p. 201).

When Appellant approached Officer Lloyd, she said something like "What is going on? What are you doing?" (Tr.p.202). Appellant responded something along the lines of: "I know I shouldn't have gone there; I'm sorry, I didn't want anyone to get hurt, but I thought she had something in her hand." (Tr.p.202). Officer Lloyd asked what he meant by something in her hand and he responded he thought she had "some type of hair tool..." (Tr.p.203). Appellant also told Officer Lloyd that he was going to turn himself in peaceably. During this conversation, Appellant was not in handcuffs and it was not Officer Lloyd's intention to carry on an interrogation of Appellant. The shift sergeant then came out of the building to serve Appellant with the warrant and escort him into the Detention Center. (Tr.p.202-p.205).

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. *State v. Wilson,* 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). The appellate court is bound by the trial court's factual findings unless they are clearly erroneous. *State v. Baccus*, 367 S.C. 41,48, 625 S.E.2d. 216, 220 (2006). The appellate court does not re-evaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial judge's ruling is supported by any evidence. *Wilson,* 345 S.C. at 6, 545 S.E.2d at 829. Indeed, the admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *Id.* Thus, the appellate court's review of whether a person is in custody is confined to a determination of whether the ruling by the trial court is supported by the record. *State v. Evans*, 354 S.C. 579, 583, 582 S.E.2d 407, 409 (2003).

ARGUMENT

I.

Appellant's claim that the trial court erred in failing to suppress his statement to police, that he was at the scene of the crime, is not preserved for review because Appellant failed to object to the testimony when it was introduced at trial. Even if preserved, the trial court properly determined the statement was admissible because Appellant was not in custody, and because it was voluntarily given and was not a result of interrogation or police coercion. Finally, any possible error in admitting the statement was entirely harmless where Appellant's acknowledgement he was at the scene of the crime was cumulative to properly admitted testimony from multiple eyewitnesses who independently placed him there.

Appellant argues the trial court erred in admitting his statement to the police admitting he was at the scene of the alleged crime, claiming that the officer who testified to his statement asked him incriminating questions in an environment where he was not free to leave before informing him of his constitutional rights. However, this argument is without merit and should be denied and dismissed for several reasons. First, the argument is not preserved for appellate review because Appellate failed to object to the allegedly incriminating testimony when it was offered at trial. Second, even if the issue is preserved, there is ample evidence in the record to support the trial court's determination that the statement was admissible, both because Appellant was not in custody, and because it was voluntarily given rather than as a result of interrogation or police coercion. Finally, any error in the admission of the statement was entirely harmless because it was cumulative to properly admitted testimony from multiple eyewitnesses who independently placed Appellant at the scene of the crime. For all of these reasons, Appellant's challenge to the statements he made to Officer Lloyd that he was at the scene of the crime should be denied,and his conviction should be affirmed.

Issue Preservation

"In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal." *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003), *citing Humbert v. State*, 345 S.C. 332, 548 S.E.2d 862 (2001). "A party need not use the exact name of a legal doctrine in order to preserve it, but it must be clear that the argument has been presented on that ground." *Dunbar*, 356 S.C. at 142, 587 S.E.2d at 694 (2003), *citing State v. Russell*, 345 S.C. 128, 546 S.E.2d 202 (Ct. App. 2001). "An issue that was not preserved for review should not be addressed by the Court of Appeals . . ." *Dunbar*, 356 S.C. at 142, 587 S.E.2d at 694 (2003), *citing Hendrix v. Eastern Distribution, Inc.*, 320 S.C. 218, 464 S.E.2d 112 (1995). "Because a ruling on a motion *in limine* is preliminary and subject to change based on developments at trial, a contemporaneous objection must be made again when the evidence is presented at trial. *State v. Wiles*, 383 S.C. 151, 679 S.E.2d 172 (2009).

Before the jury was sworn, the trial court held a *Jackson v. Denno* hearing regarding the admissibility of Officer Lloyd's testimony as to Appellant's statement that he was at the scene of the alleged crime. (Tr.p.36-p.57). Appellant first argued his statement to officer Lloyd prior to his arrest should be excluded because it was in response to a custodial interrogation prior to be given his *Miranda* rights. However, he acknowledged he later made similar statements to the police which would be admissible. (Tr.p.52-p.54). Ultimately, the trial judge ruled that the statements were voluntarily made and were not in response to custodial interrogation. (Tr.p.57).

During the ensuing jury trial, the State called Officer Lloyd to the stand to tell the jury about her role in the arrest of Appellant, which included testimony that Appellant had told her: "I know I shouldn't have gone there; I'm sorry, I didn't want anyone to get hurt, but I thought she

had something in her hand." (Tr.p.202). Appellant did not renew his pretrial objection or otherwise object to Lloyd's testimony about Appellant's statement during trial.

Prior to Officer Lloyd taking the stand to describe Appellant's statement, several fact witnesses had already placed Appellant at the scene of the crime, three of whom actually witnessed his assault on Guy. Ms. Vincent, Appellant's ex-wife, encountered Appellant in the salon immediately after the assault. (Tr.p.89-p.93). Guy, the victim of the assault, testified she knew Appellant before the incident and proceeded to describe the assault which left her with broken tailbone, a neck injury, and a wrist injury. (Tr.p.96-p.110). Peake, the receptionist, testified she did not recognize Appellant when he first entered the salon, but was now able to identify him as the person she saw come into the salon and assault Guy. (Tr.p.161-p.174). Ashley Frost also identified Appellant and witnessed the assault. (Tr.p.182-p.194).

Because Appellant did not make any objection to Officer Lloyd's testimony regarding Appellant's statement, which was made during trial in the jury's presence, he failed to preserve any issue related to this testimony on appeal. Therefore, this issue is not preserved for review. To the extent this Court finds this issue properly preserved, the State submits it is nevertheless without merit.

Discussion / Analysis

The State may not use statements stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). Custodial interrogation entails questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. *Id.* Interrogation can either be express questioning or its functional equivalent and includes words or actions on

the part of police (other than those normally attendant to arrest and custody) the police should know are reasonably likely to elicit an incriminating response. *State v. Williams*, 405 S.C. 263, 273, 747 S.E.2d 194, 199 (Ct. App. 2013). In sum, *Miranda* rights attach only if the suspect is subject to custodial interrogation. *State v. Lynch*, 375 S.C. 628, 633, 654 S.E.2d 292, 295 (Ct. App. 2007).

In order to determine if a suspect was in custody for the purposes of *Miranda*, this Court must think of what a reasonable person would have believed in the same circumstance. *State v. Navy*, 386 S.C. 294, 301, 688 S.E.2d 838, 841 (2010). To determine reasonableness, the court must examine the totality of the circumstances surrounding the police encounter. *Id.* This includes factors such as the place, purpose, and length of interrogation, as well as whether the suspect was free to leave the place of questioning. *Williams*, 405 S.C. at 273, 747 S.E.2d at 199. The Fifth Amendment does not provide a uniform protection against every statement made to law enforcement officials. *State v. Miller*, 375 S.C. 370, 380, 652 S.E.2d 444, 449 (Ct. App. 2007). "The trial court's factual conclusions as to the voluntariness of a statement will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion." *State v. Saltz*, 346 S.C. 114, 136, 551 S.E.2d. 240, 252 (2001). As noted above, this Court's standard of review for evaluating proof of voluntariness is "limited to determining whether the trial court's ruling is supported by any evidence." *State v. Breeze*, 379 S.C. 538, 543, 665 S.E.2d 247, 250 (Ct. App. 2008).

Custody

Appellate argues that because he was in custody, Officer Lloyd's questions constituted custodial interrogation. However, "Custodial interrogation is 'questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his

freedom of action in any significant way.'" *State v. Lynch*, 375 S.C. 628, 633, 654 S.E.2d 292, 295 (Ct. App. 2007). (citing *Miranda v. Arizona*, 384 U.S. 436, 444 (1966)). Appellant was not deprived of his freedom in any way. He came to the detention center at his own will after realizing that there were warrants out against him. In fact, he even called an officer to arrange the meeting with Officer Lloyd himself.

To determine if someone is in custody, the court must conduct a totality of the circumstances analysis to determine whether a reasonable person would have believed he was in custody in the same situation. In the present case, the trial court and this Court could examine several factors. First, no officer served Appellant with arrest warrants before or during this encounter, indicating that he could not have reasonably believed he was in custody because he had not yet been served. Additionally, Appellant was neither handcuffed nor restrained in anyway. Moreover, Appellant told Officer Lloyd he was going to turn himself in peaceably and wanted to make sure there was no problem because his children were present. This further demonstrates Appellant did not believe he was in custody when he was talking to Officer Lloyd, even though he believed he would be in custody soon. Furthermore, Appellant contacted the police regarding the warrants that were out against him and he arranged the meeting with Officer Lloyd at the detention center *himself*, not at the request of law enforcement. He was in control of the situation and knew he was not in custody when he was speaking to Officer Lloyd. When looking at all of these factors, it becomes apparent Appellant was not in custody at the time he made incriminating statements to Officer Lloyd.

Appellant argues that because Officer Lloyd testified Appellant "probably would have been stopped" if he tried to leave the parking lot, he was in custody. (Tr.p.48-p.49; Brief of Appellant, p. 7). However, the South Carolina Supreme Court, in *State v. Easler*, has held that

even if a defendant is not free to leave, that alone is not enough to make the determination that he was in custody. 322 S.C. 333, 336, 471 S.E.2d 745, 748 (1996). In *Easler,* a truck driver who had been involved in a fatal accident appealed his conviction arguing the trial court improperly admitted statements he made to the police prior to his arrest because the statements were a result of police questioning, and the officers had not given him *Miranda* warnings. *Id.* at 336, 471 S.E.2d at 748. The officers testified appellant was not free to leave the encounter and if defendant had attempted to flee, he would have been placed under arrest. *Id.* at 337, 471 S.E.2d at 748. The court determined the defendant was not in custody, thus the officers did not need to Mirandize him and the statements made were admissible. Similarly, Appellant was not in custody at the time the statements were given, thus Officer Lloyd was not required to Mirandize him and his statements were properly admitted.

Voluntariness

Appellant made his statements voluntarily and without coercion from Officer Lloyd. The totality of the circumstances surrounding the interaction between Officer Lloyd and Appellant show Appellant made the statements voluntarily. This Court must only look at whether there was "any evidence" that supports the trial court's ruling of voluntariness. *State v. Breeze*, 379 S.C. 538, 543, 665 S.E.2d 247, 250 (Ct. App. 2008). During a *Jackson v. Denno* the trial judge must conduct an evidentiary hearing where the State must show the statement was voluntarily made by a preponderance of the evidence. *Jackson v. Denno*, 378 U.S. 368, 376 (1964). The evidence that the State presented to the trial court during the *Jackson v. Denno* hearing is sufficient to establish that Appellant's statement to Officer Lloyd was voluntary. When Officer Lloyd arrived to the Detention Center, Appellant approached her when she got out of her vehicle. Officer Lloyd did not initiate the conversation. This indicates that there was no confrontation by

Officer Lloyd. Officer Lloyd knew Appellant before this encounter, and her questions to him at the detention center were a result of friendly conversation because of this previous relationship. Officer Lloyd did not coerce Appellant into speaking with her, nor did she manipulate, trick, or otherwise deceive him into saying "[I] should not have gone there." (Tr.p.43-p.44). After this and other incriminating statements were made, Appellant continued to have a general conversation with Officer Lloyd, (Tr.p.44.), indicating that he did not feel threatened or uncomfortable speaking with her.

It is irrelevant that Officer Lloyd asked Appellant specifically: "What on earth is going on? What has happened here?," because to determine voluntariness the court does not look at whether the officer's questions were the cause of the statement, the court looks at whether the questions were "so manipulative and coercive that they deprived [Appellant] of his ability to make an unconstrained, autonomous decision to confess." *State v. Van Dohlen*, 322 S.C. 234, 244, 471 S.E.2d 689, 695 (1996); *Miller v. Fenton*, 796 F.2d 598, 605 (3rd Cir. 1986). Here, Officer Lloyd's statements were simply a common courtesy given to someone she knew previous to this encounter. The statements were not manipulative or coercive; Appellant did not have to answer the questions with an apology and an acknowledgement of being at the salon. The questions asked by Officer Lloyd were not interrogatory; it was small talk to pass the time with an acquaintance while waiting for another officer to serve Appellant with his warrants. Appellant was free to answer the questions however he chose, or not answer them at all.

Furthermore, the South Carolina Supreme Court in *Easler* determined that even though the officers asked the defendant questions, the questions were simply general questions and were not enough to amount to interrogation, thus all the statements made were voluntary. *Easler*, 332 S.C. 333, 342, 471 S.E.2d 745, 750 (1996). The defendant had left the scene of a fatal car

accident and the officer approached him and asked if he had been in the accident. *Id.* at 337, 471 S.E.2d at 478. Defendant responded that he had and told the officer he left the scene because he did not have a license. *Id.* The court held these were just general questions and there was no interrogation. *Id.* Similarly, Officer Lloyd also asked questions pertaining to what had happened that day, but her questions were also general and the responses were voluntarily given.

The trial court had the opportunity to listen to the testimony by Officer Lloyd, assess her demeanor and credibility, and weigh the evidence of the incident in the parking lot of the detention facility. After looking at the totality of the circumstances, the trial judge determined Appellant's statements were not the result of custodial interrogation. (Tr.p.56). Thus, the statements were admitted into evidence at trial. The trial court properly admitted the evidence of Appellant's statements to Officer Lloyd at trial. Furthermore, given the eyewitness identification testimony at trial, there was overwhelming evidence of Appellant's presence at the crime scene which rendered any error in admission of his statement to that effect harmless beyond a reasonable doubt. *See State v. Mitchell*, 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985) (holding whether an error is harmless depends on the circumstances of the case, but it is harmless where it could not reasonably have changed the outcome of the trial). For all of these reasons, Appellant's convictions should be affirmed.

CONCLUSION

For all of the foregoing reasons, the State respectfully requests that the judgment, conviction, and sentence of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General

HEATHER S. WEISS
Interim Solicitor, Fifth Judicial Circuit

BY:

J. Benjamin Aplin
S.C. Bar No. 8729

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
October 8, 2018

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Clifton Newman, Circuit Court Judge

Appellate Case No. 2017-001744

RECEIVED
OCT 08 2018
SC Court of Appeals

THE STATE, ...RESPONDENT

v.

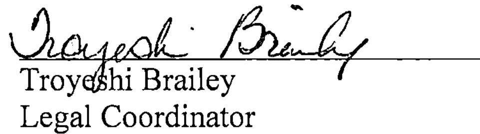
DAVID ONEIL JOHNSON, ...APPELLANT.

PROOF OF SERVICE

I, Troyeshi Brailey, Legal Coordinator, hereby certify that I have served the within *Initial Brief of Respondent* and *Designation of Matter*, both dated October 8, 2018, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

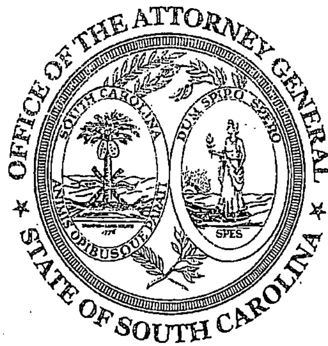
Taylor D. Gilliam, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

I further certified that all parties required by Rule to be served have been served. This 8th day of October, 2018.



Troyeshi Brailey
Legal Coordinator

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

October 8, 2018

Taylor D. Gilliam, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

RECEIVED
OCT 08 2018
SC Court of Appeals

Re: <u>The State v. David Oneil Vincent</u>
Appellate Case No. 2017-001744

Dear Mr. Gilliam:

I am enclosing two (2) copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
S.C. Bar No. 8729

JBA/trb
Enclosures

cc: Honorable Jenny A. Kitchings (original enclosed)
Victim Advocacy Division