STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

Opinion No. 5574 (S.C. Ct. App. Filed July 18, 2018)

THE STATE,

RESPONDENT,

V.

JEFFREY DANA ANDREWS

RESPONDENT

APPELLATE CASE NO 2018-001765

RETURN TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR RESPONDENT

INDEX

CERTIFICATE OF COUNSEL

Counsel for respondent certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on September 20, 2018.

COUNTER QUESTION PRESENTED

Whether the Court of Appeals correctly held the trial court erred by allowing an EMS paramedic to testify the decedent was shot on the porch where the witness was not an expert in crime scene reconstruction, and this opinion was highly prejudicial given the disputed evidence of what the decedent was doing and exactly where he was when he was shot where the defense was self-defense?

STATEMENT OF THE CASE

Respondent was indicted by the Sumter County Grand Jury for the crimes of murder and possession of a weapon during a violent crime. R. 620 – 621; App. 637 – 638.[1] His case was called to trial on July 20, 2015 before the Honorable W. Jeffrey Young, and a jury. Elaine Cooke represented respondent. John Meadors and Scott Matthews were the assistant solicitors. R. 1; App. 10.

After a pre-trial immunity hearing, the judge ruled respondent was not entitled to immunity under the Castle Doctrine or the Stand Your Ground subsections of the statute. R. 203, l. 22 – 205, l. 1; App. 212, l. 22 – 214, l. 1.

The jury trial then began. Respondent then presented his self-defense case. On July 24, 2015 the jury found respondent not guilty of murder but guilty of voluntary manslaughter. Respondent was also found guilty on the weapons charge. R. 602, ll. 2-11; App. 619, ll. 2-11. Judge Young sentenced respondent to thirty-year concurrent prison terms. R. 617, l. 21 – 619, l. 4; App. 634, l. 21 – 636, l. 4.

The Court of Appeals affirmed in part and reversed and remanded for a new trial in State v. Andrews, 424 S.C. 304, 818 S.E.2d 227 (2018). App. 695 – 707. The state sought rehearing. App. 708-717. Respondent also sought rehearing. App. 718 – 723. Returns to the rehearing petitions were also filed by both parties. App. 724 – 732. Both petitions for rehearing were denied by order of the Court of Appeals dated September 20, 2018. App. 733.

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[1] The state's appendix has the Record on Appeal cites at the top of the page in bold, and the Appendix cites in bold at the bottom of the page. Hopefully, to assist the Court, counsel has included both the "R " cite to match the cite in bold at the top of the appendix page, and the "App" cite to match the cite in bold at the bottom of the appendix page.

The state filed a petition for writ of certiorari with this Court dated September 27, 2018. This return to that petition follows.

ARGUMENT

The Court of Appeals correctly held the trial court erred by allowing an EMS paramedic to testify the decedent was shot on the porch where the witness was not an expert in crime scene reconstruction, and this opinion was highly prejudicial given the disputed evidence of what the decedent was doing and exactly where he was when he was shot where the defense was self-defense.

Introduction

As stated, respondent sought immunity because he shot the decedent, who refused to leave his home after repeatedly being ordered to do so by respondent and his father. Respondent shot the aggressive decedent when he reentered respondent's house while respondent was looking for the telephone to call the police. Respondent was in fear of his life. The facts of the immunity hearing are contained in respondent's brief in the Court of Appeals at pp. 3-19. App. 647 – 662. A very brief look at the facts of the immunity sets the stage for understanding petitioner's self-defense case at trial after immunity was denied, and the testimony was repeated before the jury.

It was undisputed that the decedent, Shamar, and his girlfriend, Erica, were guests in respondent's home. Erica apparently always had access to the washer and dryer in the house. Respondent recalled that as they were all drinking respondent and his father started making lighthearted remarks about their bottle of brandy having disappeared earlier in the day. R. 69, l. 25 – 70, l. 18; App. 78, l. 25 – 79, l. 18. Respondent said Shamar at some point apparently thought they were being sarcastic, and Shamar said: "You all motherfuckers talking about me?" R. 70, ll. 19-23; App. 79, ll. 19-23. Respondent told Shamar "Don't talk like that in front of daddy. What's going on?" Respondent testified that Shamar responded that respondent was

calling him a liar, and "we're going to have to go outside. I'm going to take you outside. I said, slow down Shamar." R. 71, ll. 1-16; App. 80, ll. 1-16. Both respondent and his father told the decedent to leave. The decedent was angry, and he was not leaving.

Ultimately, respondent recalled, the decedent was reentering in an aggressive manner after repeatedly being ordered to leave: "He *snatched the door open. He wouldn't leave. He was combative. He wanted to argue. He wanted to fight.*" R. 82, l. 14 – 84, l. 1. App. 91, l. 14 – 93, l. 1. "When he was snatched the door open, I shot Shamar. I brandished that weapon. I picked that weapon up from by the TV, by the dresser drawer. By the TV right here." R. 71, l. 1 – 84, l. 23; App. 80, l. 1 – 93, l. 23. (emphasis added).

Relevant Facts

In the presence of the jury, respondent testified and told the jurors that he was an "apprentice mortician, I am also a businessman, I was in the military. I also earned an EMTB license several years ago. So I've been around." R. 460, ll. 19-25; App. 469, ll. 19-25.

On March 25, 2014, respondent was in his home with his father and his cousin Virlyn. They were celebrating because respondent had "enrolled back in school, and had gotten money. And my wife and I were going to buy 1.5 acres of land with that money and were just celebrating." Respondent did, however, notice that a bottle of his "Paul Masson brandy" was missing. R. 461, l. 21 – 463, l. 5; App. 470, l. 21 – 472, l. 5.

A short time later Erica came over, and "of course Erica's family, so she didn't knock. Just come on in, she's family." "Moments later, Shamar came in." R. 465, ll. 4-24. App. 474, ll. 4-24. Respondent called the mood "festive." "I can assure you of that. We were again, we were socializing, talking and no problems." R. 466, ll. 23; App. 475, ll. 23.

Respondent then walked to Young's Market, and he purchased an 18 pack of beer. Once respondent was back in his home, "Virlyn and I continued to talk and drink." Fifteen to twenty minutes later "Erica showed back up." R. 467, l. 14 – 468, l. 1; App. 476, l. 14 – 477, l. 1. "And then Shamar [the decedent] showed back up, and Shamar showed up with his own beer. He had what appeared to be a 40 ounce bottle of beer." R. 468, ll. 2-25; App. 477, ll. 2-25.

Respondent, his father, and Virlyn were joking about the missing bottle of brandy, and "Virlyn actually said, `I mean that bottle couldn't get up and walk away on its own." R. 468, l. 20 – 469, l. 3; App. 477, l. 20 – 478, l. 3. Respondent remembered that the decedent became angry about the talk of the missing Brandy bottle, and he began cursing. The situation became "very intense," and respondent told the decedent it was time to leave, and "[h]e kept cursing," and arguing. Both respondent and his father told the decedent and Erica to leave "multiple times." R. 470, l. 1 – 472, l. 16; App. 479, l. 1 – 481, l. 16.

Respondent was able to get the decedent out on the porch. The decedent told respondent, "That's some punk ass shit. You're a punk mother fucker. I'll kick your ass. I'll kill you mother fucker. [I said]: Shamar go ahead and go." Respondent went back into the house where Erica was still drinking. "But eventually I got Erica up, grabbed her by the arm, and was pushing her out the door. **Shamar comes back in the house, and that's when the confrontation took place.**" R. 472, l. 4 – 473, l. 6; App. 481, l. 4 – 482, l. 6.

Respondent then acted out the confrontation before the jury, and outside of the witness stand before the jury. R. 473, l. 5 – 477, l. 2; App. 482, l. 5 – 486, l. 2.

Respondent recalled "distinctly locking – putting the latch on the door." Respondent went looking for the telephone to call the police but could not find the phone in his father's room. Respondent heard "the big door being opened. I know that door opened." Respondent

heard "Erica and Shamar communicating." While respondent continued to look for the telephone, "Shamar snatched the screen door open coming back in the house." Respondent was scared at this point. R. 474, l. 4 – 476, l. 13; App. 483, l. 4 – 485, l. 13.

When asked how he felt at this moment, respondent said: "Well, I was wondering why Shamar wouldn't leave the house, why he wouldn't go. Because he had been outside two times. And I was thinking why is Shamar forcefully, unlawfully entering his house after [I] asked him to leave, you know." "I was afraid . . . as Shamar was entering the house, there's a dresser right there in my dad's room. I'm right at the doorway. I grabbed the pistol. It was sitting on the dresser drawer by the TV, right there. I grabbed the gun. I brandished the weapon and I shot Shamar." R. 476, ll. 5-20; App. 485, ll. 5-20.

Respondent said he shot the decedent "because Shamar had me scared. I thought something was wrong with him. Because again, I asked multiple times to leave the house. I asked him to leave. I asked him to go home. He forcefully entered the house. I felt in fear of my life." R. 476, l. 21 – 477, l. 21; App. 485, l. 21 – 486, l. 21.

Respondent was 51 years old at the time, and he was only 5'5. R. 477, ll. 22-25; App. 486, ll. 22-25. The decedent was 6'0, 188 pounds according to the pathologist. In Erica's dramatically biased testimony in favor of the respondent she said the 25 year-old decedent walked with a limp because of a prior accident, she claimed the decedent was only 5'9, but admitted on cross-examination that she was not surprised the pathologist said he weighed 180 pounds, and she sought to explain she only meant the decedent was of "average" height. R. 279, l. 1-21; r. 295, l. 3 – 297, l. 23. 23; App. 288, 1-21; app. 304, l. 3 – 306, l. 23. What was undisputed, as seen infra, was the decedent had a blood/alcohol content of .123, and marijuana in his system. R. 315, ll. 9-13; App. 324. ll. 9-13.

Erica Andrews was the decedent's girlfriend. Respondent was her second cousin. Andrews and the decedent had lived with Robert Andrews, respondent's father when they returned to Sumter. R. 260, l. 1 – 268, l. 7; App. 269, l. 1 – 277, l. 7. Anders testified as a state's witness. While she said she only had one beer "before I went to go get Shamar" that night, she was asked why "Officer Dubose stated that you were too intoxicated to take your statement that evening." Anders then responded that she was not sure how many beers she drank that day. R. 330, l. 21 – 331, l. 20; App. 339, l. 21 – 340, l. 20.

If ever there was a hostile witness to the defense, it was Erica Anders [hereinafter Andrews]. Andrews went so far, with the prompting of the solicitor, as to claim respondent did not always live with his father, Robert Andrews. Respectfully, even her testimony on this claim was inconsistent. R. 272, l. 10 – 273, l. 12; r. 276, ll. 1-25; App. 281, l. 10 – 282, l. 12; app. 285, ll. 1-25. She said she and Shamar would go to the house to "socialize," and sometimes Jeff [respondent] was over there drinking." R. 268, l. 2 – 270, l. 11; App. 277. l. 2 – 279, l. 11.

Andrews testified that respondent and Virlyn came over to her house on March 25, 2014, and "Jeff accused me and Shamar of stealing a jug of liquor." Andrews said she denied taking the liquor. R. 269, l. 17 – 271, l. 19; App. 278, l. 17 – 280, l. 19. Andrews offered that respondent came back and hour and a half to two hours later, and invited her over. They walked to Young's to buy beer. Andrews went home and told the decedent that respondent wanted them to come over and "I was like, maybe he's trying to apologize for accusing us of stealing his liquor. Obviously that was not the case." R. 272, l. 9 – 276, l. 4; App. 281, l. 9 – 285, l. 4.

Andrews said while at respondent's house, "Jeffrey started talking to Shamar like everything was okay. And then all of sudden he brings up well, somebody stole my jug of liquor. Shamar was like, man, I didn't steal it." Anders claimed that respondent began yelling at

them, although neither Shamar nor she were upset. Andrews said respondent's father wanted everyone to leave, and she claimed the decedent left first, then respondent, "and then me." Andrews said she heard a gunshot, "*and ran out the door. And that's when I see Jeffrey holding up the gun and Shamar is laying on the floor.*" R. 280, l. 2 – 283, l. 6; App. 289, l. 2 – 292, l. 6. (emphasis added).

At another point Andrews claimed on direct examination by the lead solicitor that respondent came out on the porch, shot the decedent, and "he went back inside the house." Andrews maintained the decedent did not threaten respondent, that was "going home," and she claimed he was "outside of the house on the porch" when respondent shot him. R. 284, l. 3 – 288, l. 20; App. 293, l. 3 – 297, l. 20.

On cross-examination, Andrews admitted, she said at another time she was inside the house when the decedent got shot. Andrews acknowledged she was recorded on the dashcam after the shooting, stating, "he got shot *right here in your house, Uncle [Robert].* You're going to fucking lie, fucking lie, for your own son." R. 299, l. 16 – 300, l. 23; App. 308, l. 16 – 309, l. 23. (emphasis added).

Andrews denied telling one of the officers after the shooting that the decedent was shot in the living room, and she refused to intially admit that there were several times she said the decedent was shot in the house. Later, on cross-examination, Andrews admitted that **four different times in different statements she said the decedent was shot inside the house**, and in three other statement "and today" she claimed the decedent was shot on the porch." R. 300, l. 7 – 303, l. 22; App. 309, l. 7 – 312, l. 22. (emphasis added).

Dr. Ross, the pathologist, testified that the decedent was shot in the forehead, and she said since there was no "stippling or soot . . . that means that the end of the barrel of the gun was at least 2 feet away from the skin." R. 317, l. 1 – 321, l. 19; App. 326, l. 1 – 330, l. 19.

The decedent had a blood/alcohol content of .123. Dr. Ross said that the decedent could have lived for a few minutes after being shot but that he would be unconscientious immediately. R. 322, ll. 7-23; App. 331, ll. 7-23. On cross-examination, Dr. Ross admitted that in addition to the .123 alcohol content, the decedent also had marijuana in his system. R. 324, ll. 14-17; App. 333, ll. 14-17.

Defense counsel then noted that Dr. Ross had been qualified as an expert, and she asked Dr. Ross a hypothetical about the decedent entering the home, seeing the decedent with a gun, backing up, and falling backwards onto the porch when he was shot. Dr. Ross admitted this could explain how the decedent fell, but she added, "[my] findings don't exactly tell me the positions of the shooter and the victim." R. 324, l. 19 – 325, l. 13; App. 333, l. 19 – 334, l. 13.

The solicitor called Kimberly Graham as a witness. Graham testified that a paramedic and an EMT both ride in the rescue squad car. The EMT is there to assist the paramedic. R. 247, l. 23 - 248, l. 23; App. 256, l. 23 – 257, l. 23. Graham testified she had responded to thousands of emergencies such as traffic accidents and gunshots since she began working in this area in 1992. R. 248, l. 6 – 249, l. 5; App. 257, l. 6 – 258, l. 5. The solicitor offered Graham as an expert in the field of "emergency medical services." Defense counsel did not object to her qualifications in that field, and the judge deemed her an expert in "emergency medical services." R. 249, l. 13 – 250, l. 8; App. 258, l. 13 – 259, l. 8.

Graham testified EMS arrived at respondent's house at 10:35 in the evening on the night of the shooting. R. 250, ll. 5-21; App. 259, ll. 5-21. When the ambulance arrived, Graham

remembered that she observed a police officer putting a man in his patrol car. She also remembered a woman "screaming and just yelling." Graham also noticed "a black male who was lying on his back on the porch." R. 251, ll. 8-18; App. 260, ll. 8-18.

Graham remembered the decedent had a gunshot wound above his right eye. He was unconscious and unresponsive. He had no pulse. They started CPR and put an IV in his leg to administer drugs. Graham called the emergency room doctor to get permission to stop resuscitation. R. 253, ll. 2-17; App. 262, ll. 2-17.

The solicitor asked Graham "excuse me if I am being ridiculous, but I mean could he have talked?" Graham responded that the decedent could not have talked, and that the amount of force from the bullet would have led him to drop to the ground wherever he was shot.

The solicitor asked if the "back of the head being mushy would be consistent with hitting the concrete." Graham answered that it could be from the concrete, but it also could be from the bullet going into the head. The solicitor asked Graham based on her observations *where she thought the decedent was when he got shot.* When the witness opined: "*He was standing on the porch,*" defense counsel objected, as the solicitor sought to enforce that this meant the decedent was "outside." Counsel argued that "even as an expert, as an EMT, *I don't think she's qualified with crime scene reconstruction." The judge overruled the objection.* Thus, Graham was allowed to testify over objection that in her opinion the decedent was standing on the porch when he was shot. R. 255, l. 7 - 256, l. 8; App. 264, l. 7 – 265, l. 8. (emphasis added).

Court of Appeals

The Court of Appeals agreed this was error, citing this Court's opinion in State v. Ellis, 345 S.C. 175, 547 S.E.2d. 490 (2001), in holding that Graham's lay opinion on the location of the decedent at the time he was shot was erroneously allowed by the trial court:

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact." Rule 704, SCRE. However, an opinion may be offered on the ultimate issue of the case only when the witness is otherwise qualified. State v. Wilkins, 305 S.C. 272, 277, 407 S.E.2d 670, 672–73 (Ct. App. 1991). Likewise, an expert's testimony may not exceed the scope of his expertise. State v. Ellis, 345 S.C. 175, 177–78, 547 S.E.2d 490, 491 (2001).

In the instant case, the court qualified Graham as an expert in the field of EMS without objection. As such, Graham was qualified to testify, as she did, to prehospital emergency care administered to Victim and to the resulting medical observations of his body and injuries. see Gooding, 326 S.C. at 253, 487 S.E.2d at 598 ("Qualification depends on the particular witness' reference to the subject."); S.C. Code Ann. Regs. 61-7 § 200(N)(1), (4) (Supp. 2017) (defining "paramedic" as a person "intended to provide leadership and to deliver prehospital emergency care and provide rapid on-scene treatment" and defining "EMT basic" as a person "specially trained and certified to administer basic emergency services to victims of trauma or acute illness before and during transportation to a hospital or other healthcare facility").

However, we find the circuit court abused its discretion in allowing opinion testimony from EMT paramedic Graham regarding Victim's location at the time of the shooting. Despite Graham's previous, un-objected to testimony—"whenever he was shot, he dropped"—we find Graham's subsequently challenged testimony—that Victim "was standing on the porch" when he was shot—exceeded the scope of her expertise in emergency medical services and was, therefore, inadmissible. In effect, by admitting into evidence Graham's challenged testimony that Victim was on the porch when he was shot, the circuit court allowed Graham to give her opinion on the ultimate issue: whether Andrews acted in self-defense when he shot and killed Victim. See Wilkins, 305 S.C. at 276, 407 S.E.2d at 672–73 (stating an opinion may be offered on the ultimate issue only when the witness is otherwise *qualified*); see,also Ellis, at 178, 547 S.E.2d at 491 (stating that by admitting the officer's testimony regarding the location of the body at the time of the shooting, the circuit court, in effect, allowed the officer to give an unqualified opinion on the ultimate issue of whether the defendant had been acting in self-defense when he shot and killed the victim). We find the circuit court erred in admitting Graham's testimony regarding Victim's location at the time of the shooting.

App. 705-706.

The Court of Appeals also found the error was not harmless as:

> "Graham's testimony improperly undermined Andrews's self-defense claim as it was beyond the scope of her expertise and went to the heart of Andrews's defense. See Ellis, at 178, 547 S.E.2d at 491 ("While the State was free to argue that the evidence supported an inference that the victim was astride the bicycle when shot, and while the jury could certainly have concluded that he was, [the officer] was not qualified to give such an 'expert' opinion. An officer's improper opinion which goes to the heart of the case is not harmless."); State v. Huckabee, 419 S.C. 414, 430, 798 S.E.2d 584, 592–93 (Ct. App. 2017) (finding improper testimony was not harmless, in part, because it went to the heart of the appellant's defense), *cert. denied*, S.C. Sup. Ct. Order dated May 24, 2018. Further, Victim's location was not a well-established fact because eyewitness and expert testimony was either inconclusive or conflicting regarding Victim's location at the time of the shooting. See State v. Doctor, 306 S.C. 527, 530, 413 S.E.2d 36, 38 (1992) ("When a witness' testimony is disputed or his credibility called into question, other testimony verifying the facts or opinions given by the witness is not merely cumulative."); but see Douglas, 411 S.C. at 326, 768 S.E.2d at 243 (finding improperly-admitted testimony harmless when the subject of the challenged testimony is well-established by properly admitted evidence prior to the admission of the improper testimony).
>
> Graham's challenged testimony was not merely cumulative to Dr. Ross's testimony. Although Dr. Ross's testimony—that Victim would have "collapsed" after being shot—is comparable to Graham's testimony—that "whenever he was shot, he dropped"—Dr. Ross did not testify as to Victim's location at the time of the shooting. Rather, Dr. Ross conceded her findings were inconclusive as to the positions of Andrews and Victim at the time of the shooting, and that Victim could have been entering or exiting Andrews's residence when he was shot. Thus, Graham's testimony that Victim "was on the porch" was not merely cumulative to Dr. Ross's testimony that Victim collapsed.

App. 706-707

Discussion

The Court of Appeals correctly decided this case, and respectfully, certiorari is not warranted in this case. In State v. Ellis, 345 S.C. 175, 547 S.E.2d. 490 (2001), this Court held that a police officer who was qualified as an expert in *crime scene processing* was not qualified to testify as an expert with respect to *crime scene reconstruction*. Essentially, the same error occurred in this case, as the Court of Appeals recognized.

In Ellis, the trial judge allowed the Sergeant to give his opinion on the position of the victim when he imparted his conclusion to the jury that the decedent was on the bicycle at the time he was shot. This Court held that this, in effect, allowed the Sergeant to give his opinion on the ultimate issue: Whether the defendant was acting in self-defense when he shot and killed the victim. This Court also found the error could not be deemed harmless where the defendant's defense was self-defense, and the witness essentially opined that the victim was not a threat to Ellis at the time of the shooting.

Here, similarly, Graham's opinion far her expertise on emergency responding. She was much less qualified than even the expert crime scene processor in State v. Ellis to testify on crime scene reconstruction expert. This testimony would be used by the state in closing to urge that the decedent was shot outside, he was not a threat to respondent because he was outside, and that he was not breaking in or entering when he was shot. The solicitor argued that the decedent "was gone," and respondent shot him anyway. R. 567, l. 7 – 572, l. 25; App. 584, l. 7 – 589, l. 25. The improper crime scene reconstruction testimony in this case, as in Ellis, was also not harmless. It improperly attacked the heart of respondent's self-defense case that he shot the decedent as the decedent was entering the house after being ejected.

As seen, Erica Andrews was too intoxicated to give a formal statement after the shooting. Although it was apparent she was an enthusiastic witness for the prosecution in this case she was forced to admit on cross-examination that she had, in four different statements said the decedent was shot "inside" the house. In other statements, and at trial, she claimed the decedent was shot on the porch.

As seen above, respondent testified that he, as well as his father, had ordered the decedent to leave the house. The decedent was cursing and defiant, but he finally went outside. Respondent put the latch on the door, and he went to call the police. While trying to find a telephone, the decedent forced his way back inside the house where respondent, afraid, shot him in fear of losing his life or being badly harmed.

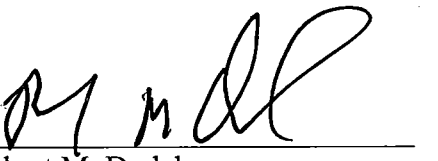
The testimony of Dr. Ross was not cumulative as the state claimed in its certiorari petition. Dr. Ross was qualified as an expert witness, and defense counsel cross-examined her in that capacity. Dr. Ross acknowledged that the decedent could have fallen backwards when she was shot as the defense logically suggested, but Dr. Ross added, "[my] findings don't exactly tell me the positions of the shooter and the victim." R. 324, l. 19 – 325, l. 13; App. 333, l. 19 – 334, l. 13.

The inadmissible opinion of paramedic Graham on the location of the decedent -- "he was standing on the porch" -- when the decedent was shot was not harmless in this self-defense case because it, again, went to the essence of respondent's self-defense case after he was denied immunity by the trial judge.

CONCLUSION

By reason of the foregoing argument, the petition for writ of certiorari should be denied.

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR RESPONDENT

This 19th day of November, 2018.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

Opinion No. 5574 (S.C. Ct. App. Filed July 18, 2018)

THE STATE,

RESPONDENT,

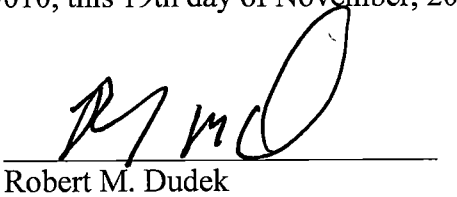
V.

JEFFREY DANA ANDREWS

RESPONDENT

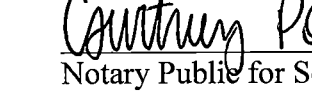
CERTIFICATE OF SERVICE

I certify that a copy of the Return to Petition for Writ of Certiorari in this case has been served on Scott Matthews, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Jeffrey Dana Andrews, #364829, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 19th day of November, 2018.



Robert M. Dudek
Chief Appellate Defender
ATTORNEY FOR RESPONDENT

SUBSCRIBED AND SWORN TO BEFORE
ME this 19th day of November, 2018.



(L.S)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.