



The Supreme Court of South Carolina

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December 12, 2018

The Honorable Cheryl L. Graham
5200 E. Jim Bilton Blvd.
St. George, SC 29477-8020

REMITTITUR

Re: The State v. Michael Gentile
Lower Court Case No. 2015-GS-18-00598
Appellate Case No. 2017-001277

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 along with the earlier decision of the South Carolina Court of Appeals is enclosed.



Very truly yours,

Daniel E. Shearouse
DS

CLERK

cc: Kathrine Haggard Hudgins, Esquire
Alan McCrory Wilson, Esquire
William Frederick Schumacher, IV, Esquire
David Michael Pascoe, Jr., Esquire

**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 Supreme Court**

The State, Respondent,

v.

Michael Edward Gentile, Petitioner.

Appellate Case No. 2017-001277

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Dorchester County
Maité Murphy, Circuit Court Judge

Memorandum Opinion No. 2018-MO-042
Heard November 29, 2018 – Filed December 12, 2018

**CERTIORARI DISMISSED AS IMPROVIDENTLY
GRANTED**

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Assistant
Attorney General William Frederick Schumacher IV, both
of Columbia; and Solicitor David Michael Pascoe Jr., of
Orangeburg, all for Respondent.

PER CURIAM: We issued a writ of certiorari to review the court of appeals' decision in *State v. Gentile*, Op. No. 2017-UP-108 (S.C. Ct. App. filed Mar. 8, 2017). We now dismiss the writ as improvidently granted.

CERTIORARI DISMISSED AS IMPROVIDENTLY GRANTED.

KITTREDGE, Acting Chief Justice, FEW, JAMES, JJ., and Acting Justices Stephanie Pendarvis McDonald and Aphrodite K. Konduros, concur.

**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**

The State, Respondent,

v.

Michael Edward Gentile, Appellant.

Appellate Case No. 2015-001370

Appeal From Dorchester County
Maité Murphy, Circuit Court Judge

Unpublished Opinion No. 2017-UP-108
Submitted January 1, 2017 – Filed March 8, 2017

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General William Frederick Schumacher, IV, of
Columbia; and Solicitor David Michael Pascoe, Jr., of
Summerville, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Tumbleston*, 376 S.C. 90, 94, 654 S.E.2d 849, 851 (Ct. App.
2007) ("The trial court's factual conclusions as to the sufficiency of an indictment

will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion."); *id.* ("An abuse of discretion occurs when the trial court's ruling is based on an error of law or a factual conclusion without evidentiary support."); *id.* at 98-99, 654 S.E.2d at 853-54 (explaining the court uses a two-prong test to determine whether the period alleged in the indictment provides sufficient notice to a defendant: "(1) whether time is a material element of the offense; and (2) whether the time period covered by the indictment occurred prior to the return of the indictment by the grand jury."); *id.* at 101, 654 S.E.2d at 855 ("Time is not a material element of . . . committing a lewd act on a minor."); *id.* at 101-02, 654 S.E.2d at 855 ("[I]ndictments for a sex crime that allege offenses occurred during a specified time period are sufficient when the circumstances of the case warrant considering an extended time frame."); *id.* at 102, 654 S.E.2d at 855 ("The stealth and repetitive nature of the alleged conduct compels identification of the broader time period. The victim is a young child, whom one cannot reasonably expect to recall the exact dates of the sexual abuse."); *State v. Wade*, 306 S.C. 79, 82-83, 409 S.E.2d 780, 781-82 (1991) (refusing to adopt a *per se* rule that a two year time period in an indictment was unconstitutionally overbroad).

AFFIRMED.¹

WILLIAMS, THOMAS, and GEATHERS, JJ., concur.

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