

Case No: 2016-002488

The South Carolina Court of Appeals

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County Of York State Of South Carolina

Vs

Triando Stroud

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To The Court Of Appeals And The City Of Rock Hill Municipal Court

NOTICE OF APPEAL Warrant No: 2015A4620306235; 2015A4620306236; 2015A4620306237

Charge: Criminal Domestic Violence 1<sup>st</sup>; Assault and Battery 3<sup>rd</sup> and Assault and Battery 3<sup>rd</sup>

PLEASE TAKE NOTICE that the Defendant herein appeals his conviction on the above captioned warrants that was rendered on March 11, 2015.

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The officer failed to follow the required procedure to determine the primary aggressor when the defendant testified that the victim attacked Triando Stroud first and the officer testified that the victim exhibited no physical signs of injury in either initial investigation or subsequent meetings. For the reasons stated above, the defendant requests that his conviction for criminal domestic violence first degree and assault and battery in the third degree be reversed.

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## **TABLE OF CONTENT**

- I. STATEMENT OF ISSUES
- II. STATEMENT OF THE CASE
- III. STANDARD OF REVIEW
- IV. ARGUMENT
- V. CONCLUSION

## I. STATEMENT OF THE ISSUES

Sunday March 8<sup>th</sup> Shaquita Frazier and Triando Stroud had a disagreement where we were going to meet up with the kids when she was off of work. Defendant had to work in the morning and his oldest daughter had to be in school the only reason he went to her house. Defendant intentions wasn't to cause any harm to the victims and he was not the aggressor in this situation.

## II. STATEMENT OF THE CASE

### A. Procedural Posture

The City of Rock Hill Police Department contacted Triando Stroud to turn himself on March 11<sup>th</sup> 2015 from the activities that happened on March 8<sup>th</sup> 2015. Appellant was charge with Criminal Domestic Violence 1<sup>st</sup> ; Assault and Battery 3<sup>rd</sup> and Assault and Battery 3<sup>rd</sup> . Appellant went to trial and plead not guilty and was found guilty on all charges. A timely notice of appeal was filed.

### B. Statement Of The Facts

Sunday March 8<sup>th</sup> 2015 Triando Stroud had custody of his children over the weekend. Sunday Shaquita Frazier the children mother gets off around 9pm and it's a meeting on Brookshire Blvd convenient store in Charlotte, Nc . Shaquita works off Tyvola Rd and Triando Stroud lived close to Concord, Nc. That evening Shaquita wanted to change plans and meet on Tyvola Rd at McDonalds. Triando disagrees and Shaquita told Mr. Stroud if we can't meet on Tyvola then figure it out. Appellant had to take the kids to Rock Hill, Sc to Ms. Frazier residence and that's about an hour drive from Concord, Nc. Stroud and Frazier daughter had to be at school Monday morning so that's the reason Mr. Stroud decided to take his daughter home that late. Arrival at Ms. Frazier residence take the kids to the door he hands over 2 year old Kamerin and 6 year old Kirstin walks through the door. I asked Shaquita why are you being so difficult and Shaquita and the mother Patricia came to the door as well in my face and I just slightly push her back from being on me and Shaquita hit me screaming "Don't touch my mom" Shaquita sister Alvania came out and my girlfriend and her son got out my car breaking everything up before it got out of hand. In the officer statements he said he didn't see any unusal marks in the house or damages on the walls or the victims that were involved. Also he looked for damages in the yard as well.

### **III.STANDARD OF REVIEW**

Please accept this letter as Triando Stroud appeal to the decision made March 11<sup>th</sup> 2015. It is my understanding based on this info, Triando Stroud is asking that you reconsider your previous decision and overturn his charges.

## IV. Arguments

### First Assignment Of Error

1. The court erred by denying the defendant's motion to dismiss the charge of criminal domestic violence pursuant to S.C. Code Ann 16-25-70 because the officer failed to follow the required procedure to determine the primary aggressor when the defendant testified that the victim attacked him first and the officer testified that the victim exhibited no physical signs of injury in either the initial investigation or subsequent meetings, the officer never spoke with the defendant about any of the factors stated in 16-25-70 (D) , the defendant turned himself in upon hearing the arrest warrant was issued, and the victim and defendant did not reside together during, after or recently before the incident.

### Second Assignment Of Error

2. The court erred by failing to disqualify a juror who, during qualification, stated that she and a close family member had been a victim of domestic violence.

### Third Assignment Of Error

3. The court erred by failing to narrowly tailor its response to a jury question by responding affirmatively to the question of whether assault and battery in third degree proscribed essentially the same conduct as assault and battery in the first degree other than the relationship between the defendant and victim See State v. Smith, 304 S.C. 129, 132, 403, S.E.2d 162, 164 (Ct. App.1991).

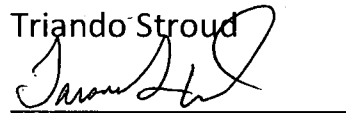
For the reasons stated above, the Defendant requests that his conviction for criminal domestic violence first degree and assault and battery in the third degree be reversed.

## V.CONCLUSION

The trial court erred in denying appellant's motions to suppress evidence and dismiss the charges. The state had no probable cause. The officer failed to follow the required procedure to determine the primary aggressor. For these reason, appellate respectfully requests the court to reverse the judgement of the court below and order a dismissal of the charges, or , in the alternative, the suppression of all evidence obtained after appellant was stopped.

Respectfully submitted,

Triando Stroud



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**CERTIFICATE OF SERVICE**

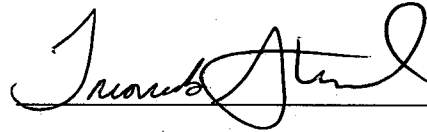
This is to certify that a true and accurate copy of the foregoing brief was served upon the following persons by regular U.S. Mail, postage prepaid, the 1<sup>st</sup> day of December 2018:

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