



The Supreme Court of South Carolina

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February 6, 2019

The Honorable Paul B. Wickensimer
Clerk of Court, Greenville County
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: In the Matter of the Care and Treatment of Calvin J. Miller
Lower Court Case No. 2013-CP-23-01543
Appellate Case No. 2017-001362

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,

CLERK

cc:

Deborah R.J. Shupe, Esquire

Wanda H. Carter, 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**

In the Matter of the Care and Treatment of Calvin Joe
Miller, Petitioner.

Appellate Case No. 2017-001362

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Greenville County
R. Lawton McIntosh, Circuit Court Judge

Memorandum Opinion No. 2019-MO-008
Heard January 30, 2019 – Filed February 6, 2019

**CERTIORARI DISMISSED AS IMPROVIDENTLY
GRANTED**

Deputy Chief Appellate Defender Wanda H. Carter, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Deborah R.J. Shupe,
both of Columbia, for Respondent.

PER CURIAM: We granted Calvin Joe Miller's petition for a writ of certiorari to review the Court of Appeals' decision to affirm Miller's commitment under the South Carolina Sexually Violent Predator Act. *In re Care & Treatment of Miller*, Op. No. 2017-UP-137 (S.C. Ct. App. filed Apr. 5, 2017). We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED.

BEATTY, C.J., HEARN, FEW, JAMES, JJ., and Acting Justice John D. Geathers, 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**

In the Matter of the Care and Treatment of Calvin Joe
Miller, Appellant.

Appellate Case No. 2014-001735

Appeal From Greenville County
R. Lawton McIntosh, Circuit Court Judge

Unpublished Opinion No. 2017-UP-137
Submitted January 1, 2017 – Filed April 5, 2017

AFFIRMED

Appellate Defender Laura Ruth Baer, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Deborah R.J. Shupe,
both of Columbia, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *In re Ettel*, 377 S.C. 558, 561, 660 S.E.2d 285, 287 (Ct. App. 2008) ("The admission of evidence is within the discretion of the [trial] court and will not be reversed absent an abuse of discretion."); *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012) ("An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." (quoting *State v. Jennings*, 394 S.C. 473, 477-78, 716 S.E.2d 91, 93 (2011))); *In re Corley*, 353 S.C. 202, 205-06, 577 S.E.2d 451, 453 (2003) ("In the context of a criminal case, we have noted that while evidence of other crimes is generally inadmissible to show criminal propensity or to demonstrate that the accused is a bad individual, evidence of other crimes is admissible if necessary to establish a material fact or element of the crime charged."); *Ettel*, 377 S.C. at 562-63, 660 S.E.2d at 288 (allowing introduction of prior murder conviction "because [the expert] relied on [it] in evaluating Ettel's need for and likelihood of success in treatment as well as his ability to control his behavior in the future").

AFFIRMED.¹

LOCKEMY, C.J., and KONDUROS and MCDONALD, JJ., concur.

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