

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
APPEAL FROM DARLINGTON COUNTY
J. Michael Baxley, Circuit Court Judge

Appellate Case No. 2017-002402

RECEIVED

JUN 04 2019

S.C. SUPREME COURT

The State,Respondent,

v.

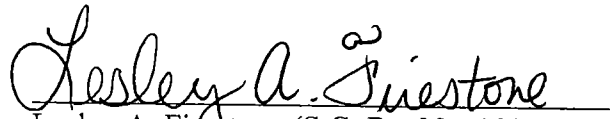
Damyon M. Cotton, Petitioner.

PETITIONER'S MOTION TO ARGUE AGAINST PRECEDENT

Pursuant to Rules 217 and 240, SCACR, Petitioner Damyon Cotton moves this Court for leave to argue against precedent in the upcoming oral argument, scheduled for June 13, 2019.¹ Specifically, Damyon Cotton now moves this Court for an Order allowing him to argue against precedent, including but not limited to this Court's opinion in *State v. Wallace*, 384 S.C. 428, 683 S.E.2d 275 (2009), and opinions following *Wallace*. Additionally, the Court of Appeals' opinion in *State v. Wallace*, 364 S.C. 130, 139-40, n.2, 611 S.E.2d 332, 337, n.2 (Ct. App. 2005) identifies opinions that are inconsistent with the traditional interpretation of Rule 404(b), SCRE and *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923). Accordingly, Petitioner Damyon Cotton requests this Court for leave to argue against precedent of *State v. Wallace*, 384 S.C. 428, 683 S.E.2d 275 (2009), and any other precedent which holds that other sexual crimes with a "close degree of

¹ Cotton noted in his Reply Brief (p. 4, n.1) that he would file this motion and is now doing so due to the Court scheduling oral argument.

similarity” to the accused crime may be admissible under Rule 404(b), SCRE, as evidence of a common scheme or plan.



Lesley A. Firestone (S.C. Bar No. 100080)
MOORE & VAN ALLEN, P.L.L.C.
78 Wentworth Street
Charleston, SC 29401
(843) 579-7000

June 3, 2019

Lara Mary Caudy, Esquire
Robert Michael Dudek, Esquire
Chief Appellate Defender
PO Box 11589
Columbia, SC 29211
Attorneys for Petitioner

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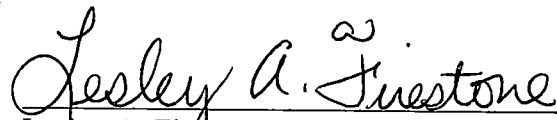
v.

Damyon M. Cotton, Petitioner.

PROOF OF SERVICE

This is to certify that I have this day served counsel for the Respondent in the foregoing matter with a copy of the foregoing *Petitioner's Motion to Argue Against Precedent* by depositing same in the United States Mail with adequate postage affixed thereon to ensure delivery, addressed as follows:

William M. Blicht, Jr., Esquire
Alan McCrory Wilson, Esquire
South Carolina Attorney General's Office
PO Box 11549
Columbia, SC 29211



Lesley A. Firestone (S.C. Bar No. 100080)
MOORE & VAN ALLEN, P.L.L.C.
78 Wentworth Street
Charleston, SC 29401
(843) 579-7000

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Lara Mary Caudy, Esquire
Robert Michael Dudek, Esquire
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PO Box 11589
Columbia, SC 29211

Attorneys for Petitioner