

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenwood County
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2016-001004

RECEIVED
JUN 05 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA,

Appellant/Respondent,

vs.

EDWARD DEAN,

Respondent/Appellant.

**STATE'S REPLY TO THE RETURN
TO PETITION FOR REHEARING**

The State, in reply to Dean's Return to the State's Petition for Rehearing would point out to this Court that Dean makes no attempt to reply to the State's argument that Judge Addy never made a finding that a discovery violation occurred. Judge Addy advised, "And on the first question **about a deal for any of the testifying co-defendants**, Solicitor, I concur with you. I don't see where the Court has any reason to doubt the representations that have been made by the attorneys for the State." R. p. 667. The State's representations at that hearing was there was no deal prior to Dean's trial, so Judge Addy's comments constitutes, if anything, a finding there was no deal. Note that codefendant Gaston's attorney, Stephen Geoly, told Judge Russo there were no deals prior to Gaston testifying at

Dean's trial. (Gaston "went into this, Your Honor, with no deal. **He had no deal.**" R. p. 435, lines 20-21).

Further, the supposed "deal" does not constitute a discovery violation under Giglio v. United States, 405 U.S. 150 (1972). In Tarver v. Hooper, 169 F.3d 710 (11th Cir. 1999), the Eleventh Circuit noted a promise to "speak a word" on a witness's behalf does not need to be disclosed, while recognizing "[N]ot everything said to a witness or to his lawyer must be disclosed." The Eleventh Circuit cited its own authority, Depree v. Thomas, 946 F.2d 784, 797-98 (11th Cir. 1991), in which the Eleventh Circuit found a prosecutor's statement that he would "take care of" a witness was not the sort of promise that needed to be disclosed under Giglio. The Eleventh Circuit in Tarver concluded the prosecution's statement that the witness's testimony would be taken into consideration was too preliminary and ambiguous to demand disclosure. Tarver, at 717 ("Some promises, agreements, or understandings do not need to be disclosed, because they are too ambiguous, or too loose or are of too marginal a benefit to the witness to count.").

Finally, the State would point out that Dean's claim that Odem's representation of no agreement "proved false" because the charges were later reduced is simply not supported by the record. The agreement with Geoly to reduce the charges was not made by Odem, but by Solicitor Stumbo **after** Deans' trial. Odem did not reduce the charges and made no misrepresentations as Dean's counsel continues to insist. Note Dean's counsel also accused the resident judges in the Eighth Judicial Circuit of intentionally coercing guilty pleas in his pre-trial pleadings. See R. p. 28 ("Thus, in continued institutional deference to the Solicitor's Office, the Eighth Circuit resident judges see their role as coercing guilty pleas.").

CONCLUSION

For all of the foregoing reasons, this Court should grant the petition for rehearing and reverse the trial court's grant of a new trial.

Respectfully submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit

BY: 

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ATTORNEYS FOR RESPONDENT

June 5, 2019

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Greenwood County
The Honorable Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No: 2016-001004

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THE STATE,

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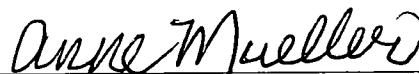
EDWARD LEE DEAN,

Respondent/Appellant.

PROOF OF SERVICE

I, Anne Mueller, certify that I have served the within State's Reply To The Return To The Petition For Rehearing on Appellant by delivering/depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, E. Charles Grose, Jr., Esquire, Grose Law Firm, 404 Main Street, Greenwood, SC 29646.

I further certify that all parties required by Rule to be served have been served.
This 5th day of June, 2019.



Anne A. Mueller
Legal Assistant

Office of Attorney General
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ALAN WILSON
ATTORNEY GENERAL

June 5, 2019

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SC Court of Appeals

E. Charles Grose, Jr., Esquire
Grose Law Firm
404 Main St.
Greenwood, SC 29646

RE: The State v. Edward Lee Dean
Appellate Case No: 2026-001004

Dear Mr. Grose:

Enclosed please find two copies of the State's Reply To The Return To Petition For Rehearing in the above-referenced case.

Sincerely,

David Spencer
Senior Assistant Attorney General
S.C. Bar No: 68571

DS/aam
Enclosures

cc: The Honorable Jenny A. Kitchings (with original and 6 copies)
Victim Advocacy Division