STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Greenville County

The Honorable Robin B. Stilwell, Circuit Court Judge

THE STATE,

Respondent,

v.

JAHRU HAROLD SMITH,

Appellant.

Appellate Case No. 2018-0000505

INITIAL BRIEF OF RESPONDENT

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2. Did the judge err in refusing to continue the trial in order for the visually impaired Appellant to obtain prescription eye glasses so that he could see in order to exercise his Sixth Amendment right to self-representation?

3. Did the judge err in sentencing Appellant to five years for possession of a weapon during the commission of a violent crime after sentencing him to life without parole for murder and armed robbery?

RESPONDENT'S COUNTERSTATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court abused its discretion in denying appellant's motion to continue the trial.

2. Whether the circuit court erred in sentencing appellant to five years for possession of a firearm during the commission of a violent crime in addition to life without parole sentences for murder and armed robbery.

STATEMENT OF THE CASE

In August 2016, a Greenville County Grand Jury indicted appellant for murder, armed robbery, and the possession of a weapon during the commission of a violent crime.[1] (2015 GS-23-002833 and 002834). The case proceeded to trial on March 12, 2018, before the Honorable Robin B. Stilwell. (Tr. 1). The State tried appellant jointly with his brother and co-defendant, Bobby Smith. (Tr. 9, l. 7-8). Attorney Alex Kornfeld represented appellant. (Tr. 1). Assistant Solicitors Brian J. Moroney and W. Jeffrey Weston represented the State. (Tr. 1).

The jury convicted appellant on all three charges. (Tr. 669, l. 12-22). Based on appellant's prior criminal history, Judge Stilwell sentenced appellant to life imprisonment for both murder and armed robbery pursuant to S.C. Code Ann. § 17-25-45. (Tr. 698, l. 7-12). Judge Stilwell also sentenced appellant to five years, concurrent, for possession of a weapon during the commission of a violent crime. (Tr. 698, l. 13-15). This appeal follows.

[1] As appellant notes in his brief, each indictment has a stamp on its face indicating the Clerk of Court received it on April 24, 2015. (App Brief 2). Appellant did not challenge the indictments at trial.

STATEMENT OF FACTS

Murder of Shamese Logan

Shamese Logan (victim) sold crack cocaine in Greenville. (Tr. 100, l. 20-23). Although she kept a firearm in her car, she was not known to carry the weapon or act violently. (Tr. 101, l. 23-25; 102, l. 9-19). One of her regular customers was Bobby Smith, appellant's brother and co-defendant. (Tr. 101, l. 9-13; 550, l. 10-11). Bobby Smith lived off of South Augusta Road in Greenville County, near the Donaldson Center. (Tr. 101, l. 5-13; 112, l. 1-15)

On February 3, 2015, the victim began her evening with a visit to her mother's house. (Tr. 106, l. 10-13). During the course of the visit, her mother noticed her counting approximately $700-800 in cash. (Tr. 106, l. 19-20). Later that evening, the victim met up with friends at a bar only minutes away from Bobby Smith's house. (Tr. 112, l. 13-15). At around 9:30 pm, the victim received a call from Bobby Smith. (Tr. 111, l. 2-20; 557, l. 16). After speaking for less than thirty seconds, the victim hung up the phone and left the bar. (Tr. 111, l. 9-18). She told her friends that she would be right back. (Tr. 111, l. 12-13).

Shortly after the victim left the bar, Bobby Smith's next door neighbor heard loud voices next door. (Tr. 118, l. 21). A few minutes later, she heard multiple gunshots. (Tr. 119, l. 4; 125, l. 20-24). The neighbor immediately got down and called 911, but could not connect to dispatch. (Tr. 119, l. 13-14; 123, l. 7-11). Because her children were out running errands, she called them in a panic to warn them about the gunshots. (Tr. 119, l. 14-16; 130, l. 25). After hanging up the phone, she quickly peered out her window and saw two men in Bobby Smith's driveway leaning into the driver's seat of a car. (Tr. 120, l. 11-13; 21, l. 22).

The neighbor's children were only a few minutes away when they received the call from their mother. (Tr. 130, l. 15-18). When they arrived home, they saw two men standing beside a Chrysler 300 in Bobby Smith's driveway. (Tr. 136, l. 11-17). The Chrysler 300 belonged to the

victim. (Tr. 378, l. 5-9). According to one of the children, the two men froze as if they had been caught "doing something that they had no business doing." (Tr. 136, l. 16-17).

Law enforcement arrived on scene at 9:49 pm, approximately five minutes after the neighbor dialed 911. (Tr. 159, l. 1-20). Because the neighbor did not connect with dispatch, the responding officers believed it was a routine "911 hang-up call." (Tr. 142, l. 10). While one officer was speaking to the neighbor, another saw a dead body in Bobby Smith's driveway near the Chrysler 300. (Tr. 143, l. 9-16). With weapons drawn, they immediately approached the car to investigate. (Tr. 143, l. 18-22).

In the center of the gravel driveway was a puddle of blood with drag marks leading to the dead body. (Tr. 246, l. 7; 247, l. 10-13). Law enforcement later identified the body as the victim, Shamese Logan. (Tr. 371, l. 5). She was lying beside the Chrysler 300, with her feet propped inside the rear passenger floorboard. (Tr. 144, l. 8-9; 204, l. 5-9). The driver's door window had also been shattered. (Tr. 147, l. 13-14).

When backup arrived, law enforcement approached Bobby Smith's front door. (Tr. 148, l. 9-11). As they were walking towards the house, Bobby Smith opened the front door and came outside. (Tr. 148, l. 14-15). According to one officer, "[h]e was really agitated, really animated." (Tr. 148, l. 19-20). When the officer advised there was a dead woman in his driveway, Bobby replied, "I ain't got shit to do with that. Chalk it up to the streets." (Tr. 148, l. 21-25; 149, l. 1).

Law enforcement detained Bobby Smith and sought search warrants for his house and the Chrysler 300. (Tr. 275, l. 2; 370, l. 16). Officers recovered four spent shell casings in the driveway near the car and one shell casing on the rear passenger floorboard. (Tr. 250, l. 22-25; 280, l. 5-8). There was blood inside the car, heavily concentrated on the driver's seat. (Tr. 276,

l. 14-15). Officers also recovered bullet fragments from the driver's seat, the front passenger floorboard, and the rear driver's side of the vehicle. (Tr. 288, l. 3-25). Although the glass at the top of the driver's window had been shattered, the glass inside the window track remained intact. (Tr. 298, l. 4). As such, investigating officers believed the window was partially rolled down when the top of the glass shattered. (Tr. 298, l. 1-20).

On the driver's seat was a Kel-Tec 9 mm semi-automatic handgun. (Tr. 276, l. 21-22). Its magazine had six live rounds, but there was no round in the chamber. (Tr. 290, l. 5-6). Additionally, the ammunition inside the magazine was manufactured by a different company than the spent shell casings recovered on scene. (Tr. 290, l. 15-17; 289, l. 16; 450, l. 9; 453, l. 8-17; 454, l. 2).

Inside Bobby Smith's home, law enforcement quickly discovered a pair of sweat pants with blood stains. (Tr. 260, l. 7-8). In addition to testing the blood stains, officers swabbed the inside of the waist band for the presence of DNA. (Tr. 489, l. 20-21). Subsequent analysis revealed the victim's blood on the pants and Bobby Smith's DNA inside the waist band. (Tr. 489, l. 20-24; 491, l. 1-2). Officers also found the victim's identification and bank card in the toilet. (Tr. 253, l. 10-13). In the freezer, law enforcement located the victim's cell phone and swabbed it for the presence of DNA also. (Tr. 257, l. 19-20). Subsequent analysis revealed Bobby Smith's DNA on the victim's phone also. (Tr. 488, l. 9-25).

Law enforcement arrested Bobby Smith later that night. (Tr. 375, l. 1-3). Incident to arrest, officers recovered $107 in cash from his pocket. (Tr. 191, l. 21-24; 192, l. 10). The cash had the victim's blood on it. (Tr. 492, l. 4). Law enforcement also seized the shirt off of Bobby Smith's back. (Tr. 224, l. 3-6). It too was stained with the victim's blood. (Tr. 492, l. 23).

As law enforcement was processing the murder scene, a canine officer attempted to track the second suspect spotted by the neighbor and her children. (Tr. 171, l. 23). The canine led officers to a shed on the property behind Bobby Smith's house. (Tr. 173, l. 11-21). The canine identified a heavy scent pool, but could not establish a trail leaving the shed because all the odor was concentrated on the shed. (Tr. 173, l. 18-21).

Although the canine could not find a trail leading to the second suspect, law enforcement quickly identified appellant as a "person of interest." (Tr. 372, l. 1). Appellant's Jeep Cherokee was parked in his brother's front yard. (Tr. 211, l. 11-16). Additionally, law enforcement obtained cell phone records from both appellant and the victim. These records reveal their two phones converge upon the crime scene at the time of the murder. (Tr. 520, l. 2-12). After the murder, the victim's cell phone remained at the scene, while appellant's cell phone traveled down I-85 into Anderson County. (Tr. 520, l. 2-12).

According to the mother of appellant's children, appellant asked her to pick him up at a Waffle House in Anderson County on the night of the murder. (Tr. 412, l. 25; 413, l. 3-6). Although she could not give him a ride, another witness picked him up at the Waffle House between 10:00 and 11:00 pm. (Tr. 425, l. 6). The mother of appellant's children also told law enforcement that when referring to the murder, appellant said "it was an accident, I didn't mean to."[2] (Tr. 417, l. 14; 419, l. 1-25).

[2] At trial, the mother of appellant's children, Tiffany Petty, initially testified that appellant said "it was an accident and he *didn't do it*." (Tr. 413, l. 21-22)(emphasis added). The solicitor confronted Petty with a recording of her telling law enforcement that appellant said "it was an accident, I *didn't mean to*." (Tr. 417, l. 13-14)(emphasis added). After listening to the recording, Petty testified that "[i]f I said that on the tape, then, obviously, that's the way he said it. But I can't remember." (Tr. 419, l. 24-25).

For ten days, appellant was wanted for murder before surrendering on February 13, 2015. (Tr. 413, l. 18; 620, l. 23-25; St. Ex. 44). While on the lam, he called his aunt for help. (Tr. 427, l. 23). His aunt told law enforcement that appellant asked for money "to get out of town."[3] (Tr. 432, l. 16-18). Instead of giving money, the aunt suggested appellant surrender to law enforcement in the presence of a local television news team. (Tr. 427, l. 24; 428, l. 1). Appellant liked the idea, but first wanted to visit his mother. (Tr. 428, l. 3-4).

The local television news team ultimately captured appellant's surrender for its broadcast. Prior to his arrest, the following colloquy occurred between appellant and the on scene reporter:

Reporter:	Why are you just now turning yourself in, Jahru?
Appellant:	My brother is innocent, he shouldn't be in jail.
Reporter:	Are you taking the blame for this?
Appellant:	Yes sir, he didn't do it.
Reporter:	You did?
Appellant:	Yes sir.
Reporter:	You shot the young victim?
Appellant:	Yes sir.

(St. Ex. 44).

Appellant's arrest did not end the investigation. Five days later, appellant's attorney contacted law enforcement to report the location of a second gun.[4] (Tr. 359, l. 13-25; 360, l. 1-6). The weapon was underneath a lawn mower in the shed on the property behind Bobby

[3] Appellant's aunt initially denied that she told law enforcement that appellant asked for money to get out of town. (Tr. 430, l. 1-3). However, when confronted with a recording of her interview with law enforcement, she admitted to making the statement. (Tr. 432, l. 13-18).

[4] This weapon was also a Kel-Tec 9 mm handgun. (Tr. 295, l. 20-21).

Smith's house. (Tr. 292, l. 20-21). As noted above, the canine detected a heavy scent pool on the shed, but could not find a trail leaving it. (Tr. 173, l. 11-21). Appellant instructed his attorney to report the location of the weapon because he believed it was the victim's gun. (Tr. 360, l. 3-4). He also wanted his attorney to remain on scene to ensure law enforcement "properly preserved it" for evidentiary purposes. (Tr. 360, l. 13-15). A firearms expert later matched this weapon to the shell casings found on scene and the bullet fragments recovered from the Chrysler 300. (Tr. 459, l. 12-23).

Finally, the victim's autopsy revealed she had been shot five times. The fatal shot[5] entered the left side of her neck, passed through her jugular vein, and exited her right upper back. (Tr. 347, l. 2-18, 350, l. 7-9). The victim also sustained small pinpoint abrasions from ejected gun powder on her left cheek. (Tr. 351, l. 10-25). According to the pathologist, these abrasions[6] indicated the shooter was less than two to three feet away from the victim when he fired the weapon. (Tr. 353, l. 9-10). The pathologist also noted abrasions to the victim's buttocks indicative of a dragging injury. (Tr. 354, l. 14-15).

Appellant's Trial

Appellant and his brother, Bobby Smith, were tried jointly for murder, armed robbery, and possession of a weapon during the commission of a violent crime. (Tr. 9, l. 7-11). On the morning the case was called for trial, appellant moved for a continuance in order to obtain a new pair of glasses. (Tr. 10, l. 2-10). Appellant's trial counsel explained that his glasses broke

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[5] The victim was also shot twice in the abdomen. (Tr. 347, l. 19-25; 348, l. 1-14). The pathologist believed each gunshot to the abdomen could also have been fatal if the victim did not receive immediate medical care. (Tr. 349, l. 18-21).

[6] The abrasions on the skin from ejected gunpowder are called "stippling." (Tr. 351, l. 25; 352, l. 1).

during an intervening arrest in Anderson County. (Tr. 10, l. 2-3). Appellant's attorney claimed that without glasses, his client would be unable to actively assist in the jury selection process. (Tr. 10, l. 6-8). Appellant failed to provide his prescription, present a doctor's note, or explain his efforts to obtain new glasses while awaiting trial. (Tr. 10, l. 16-19). The court denied the motion, noting that counsel could read the jury list, confer with appellant, and convey information during the jury selection process. (Tr. 11, l. 15-16).

While the circuit court was explaining its rationale, appellant personally interjected and stated "[i]t seem [sic] like to me, sir, your impartiality is being questioned here." (Tr. 12, l. 2-3). The court politely noted appellant's objection and moved on to other pre-trial matters. (Tr. 12, l. 9-12). After the court resolved these other matters, appellant personally interjected a second time regarding his broken glasses. (Tr. 19, l. 15-23). Appellant estimated that it would take only two and a half weeks to get a new pair of glasses. (Tr. 20, l. 1-2). The court again noted appellant's objection for the record and explained that he could appeal the ruling if the jury were to convict him at trial. (Tr. 20, l. 7-11).

While the court was explaining his appellate rights, appellant interjected, "No sir...I don't want to have to go through that process...I want my right of benefit of the law right now." (Tr. 20, l. 13-17). The court repeated its assessment that appellant's vision created no prejudice in moving forward. (Tr. 21, l. 5-7).

Appellant did not accept the court's ruling and grew increasingly confrontational. After repeatedly interjecting before the court could finish a sentence, the court warned, "if you continue to talk over me, I can assure you it won't profit you in any way." (Tr. 22, l. 8-9). Appellant responded, "It's not profiting me now, sir. And as a matter of fact, what is your name,

Your Honor." (Tr. 22, l. 10-12). After the court responded, appellant stated, "Rob Stilwell, I thought so."[7] (Tr. 22, l. 14-15).

Because appellant had raised his Sixth Amendment right to defend himself (Tr. 21, l. 10-11), the court asked if he wanted to fire his appointed attorney. (Tr. 22, l. 16-17). Appellant responded that "I don't want to fire my counsel... I want to assert the right to defend myself with the assistance of counsel." (Tr. 22, l. 18-20). The court noted the inconsistency in appellant's statement and further explained that an inability to see does not necessarily compromise his ability to make peremptory challenges. (Tr. 23, l. 6-9). The court explained that race-based challenges are prohibited, and his attorney could convey information regarding body language or facial expressions. (Tr. 23, l. 10-19). Additionally, the court noted that the jury box was very close to appellant's seat, further minimizing any difficulty. (Tr. 23, l. 20-23).

Still unconvinced by the court's reasoning, appellant asserted that the court did not know his vision capabilities. (Tr. 23, l. 25). The court replied that "if you were sincere and you were making an honest motion before this Court, you would have brought the prescription, and you would have told me what your eyesight is with specificity...as opposed to just standing up here and saying I can't see. You would have armed Mr. Kornfeld [appellant's counsel]--" (Tr. 24, l. 6-14). Before the court could finish its point, appellant interjected that he had been unable to contact his attorney. (Tr. 24, l. 15-23). Counsel explained that he sent multiple letters and never received a phone call from appellant. (Tr. 25, l. 1-9). The court, again, repeated its denial of the motion to continue, noting the ruling was "respectfully and with no animus or ill will towards [appellant]." (Tr. 25, l. 18-21).

[7] The transcript reads as if appellant was making a subtle threat towards the court.

Unfortunately, that did not put the matter to rest. Appellant stated, "I want to ask you to recuse yourself from this case. Because I find your impartiality questionable...it's a vendetta that you're trying to exercise right here." (Tr. 25, l. 24-25; 26, l. 1). The court denied the motion to recuse himself, prompting appellant to announce his desire to file an appeal. (Tr. 26, l. 10-12).

Upon hearing this motion, appellant's counsel asked that all motions be made through him in order to preserve them for the record and avoid hybrid representation. (Tr. 26, l.15-25). The court explained that it was trying to be respectful to appellant, at which point appellant again interjected, "I can't tell it...I really can't tell, because you're being unfair right now." (Tr. 27, l. 9-12). The court politely acknowledged appellant's "opinion and perspective" and advised that it would hear motions from counsel. (Tr. 27, l. 17). The court further discouraged appellant's interjections and warned that should he become disruptive during the trial, he would be removed from the court room. (Tr. 27, l. 17-24).

At that point, appellant once again interjected, stating "you can go ahead and remove me from the courtroom now. And y'all go ahead and have y'all [sic] trial. Because that's what you want to do anyway. You want to railroad me. That's what you want to do. I know -- **I know who you are, believe me.**"[8] (Tr. 28, l. 9-13)(emphasis added). The court acknowledged that appellant had the right to leave the court room if he wanted, but stated its preference that appellant remain for jury selection. (Tr. 28, l. 18-19). Appellant once again cut the court off mid-sentence, stating "How the hell you going to want me to get a fair trial and you won't even postpone the matter for a couple of weeks for me to obtain some prescription eyeglasses -- mandated prescription eye glasses, at that. (Tr. 28, l. 21-23).

[8] This portion of the transcript also reads as a subtle threat to the court.

The court house deputy ultimately intervened and asked appellant to have a seat. (Tr. 29, l. 6-7). The court repeated that it was not removing appellant from the court room. (Tr. 29, l. 11). Nevertheless, appellant walked out of the court room. As appellant walked out, he stated "I hope that if you -- you allow him to remain as my attorney" that he file an appeal regarding the judge's recusal in the case. (Tr. 29, l. 16-19).

After appellant walked out of the room, the parties proceeded with jury selection. (Tr. 30, l. 16-17). Appellant's counsel continued his representation, and the court advised that appellant could return at any time. (Tr. 30, l. 10-11). After picking a jury, court was in recess for a lunch break. Prior to adjourning, the court asked counsel to confer with appellant to see if he wanted to return to the court room. (Tr. 67, l. 15-17).

When the parties returned after lunch, counsel advised that appellant wanted to proceed *pro se*, with his attorney acting as standby counsel. (Tr. 70, l. 23-25). Appellant returned to the court room, and the court began to warn him of the risks with proceeding *pro se* in accordance with Faretta v. California.[9] (Tr. 71, l. 19-20). After the court advised that he had a constitutional right to represent himself, appellant immediately moved for a continuance to obtain a new pair of glasses. (Tr. 73, l. 1-9). The court informed appellant it would allow him to proceed *pro se*, but it would not continue the case. (Tr. 73, l. 15).

The ruling prompted yet another claim by appellant that the court lacked impartiality and was depriving him of a fair trial. (Tr. 73, l. 23; 74, l. 2-5). Appellant then informed the court that, "you can proceed on and try me without my representation and without counsel's representation." (Tr. 74, l. 11-13). The court asked if he was ready proceed, and appellant

[9] 422 U.S. 806 (1975).

responded, "I'm ready to get up out of here." (Tr. 74, l. 17-18). The court, again, encouraged appellant to stay, but he refused. (Tr. 74, l. 20-25).

As appellant walked out of the court room, he stated, "my counsel and me, we're leaving. Y'all go ahead and try the case. That's what you're doing anyway. I ain't got no counsel." (Tr. 75, l. 3-5). The court directed appellant's counsel to remain in court and represent him. (Tr. 75, l. 6-7). Appellant further quipped, "[w]ell I'm directing him to not represent me. I'm representing myself." (Tr. 75, l. 8-9). With that final remark, appellant left the court room. (Tr. 75, l. 10-11).

After appellant left, the court repeated its rationale for denying his motion to continue. The court explained that appellant failed to provide any documentation, or other evidence, to show he could not see. (Tr. 76, l. 8-11). Instead, appellant simply made "a bald-faced representation" of impairment. (Tr. 77, l. 9). Furthermore, the court believed his attorney could compensate for any deficiency by reviewing documents and conferring with him. (Tr. 76, l. 20-23). In sum, the circuit court held that appellant might be visually impaired, but merely asserting an impairment was insufficient to justify a continuance. (Tr. 77, l. 10).

Although the trial continued, the court ordered appellant to be transported to the courthouse every day so that he could participate in his defense if he changed his mind. (Tr. 163, l. 12-15). During breaks in the proceedings, the court repeatedly asked whether appellant wanted to attend the proceedings. (Tr. 234, l. 5-19; 324, l. 24-25; 325, l. 3-19; 395, l. 3-11; 475, l. 19-25; 535, l. 20-25). Appellant refused every invitation to return to the court room. In fact, he laced one response with profanity because he did not appreciate being bothered while eating lunch. (Tr. 325, l. 12-13).

At the close of the State's case, the court addressed appellant's refusal to participate. It noted:

> Oftentimes, when you look at a transcript of a record, it's difficult to ascertain what, actually, happened. And I just want to state on the record that, from the Court's perspective, that motion of self-representation, that was entirely pretextual and an attempt from the Defendant to delay the trial. When that was unsuccessful, then he, for the second time, excused himself from the courtroom and elected not to participate in the trial.
>
> So I think it's clear that was a pretextual motion made by him. And I'll state as well, after colloquy, I granted his motion. And he elected, again, not to participate.

(Tr. 536, l. 6-18).

After the State rested, Bobby Smith testified in his own defense. He confirmed that the victim regularly sold him crack cocaine. (Tr. 550, l. 7-14). The victim also sold crack to his brother, but friction arose between the two because appellant would "short" the victim. (Tr. 570, l. 18-19). In other words, appellant would not pay the full price. (Tr. 570, l. 20-21).

On the day of the murder, appellant drove Bobby Smith to the hospital because Bobby was having a diabetic episode. (Tr. 554, l. 20). After a few hours in the hospital, the two returned to Bobby's house and decided to smoke crack cocaine. (Tr. 555, l. 10). Between 6:00 and 7:00 pm, Bobby called the victim to buy some crack. (Tr. 556, l. 13-25). The victim came to the house, delivered the crack, and the two brothers smoked it. (Tr. 557, l. 3-12). When they finished, appellant wanted to buy more crack cocaine. (Tr. 557, l. 13-14). Appellant called the victim for some more crack, but she would not respond to him. (Tr. 558, l. 4-7). As such, Bobby had to call her to get more. (Tr. 558, l. 8-12). The victim answered Bobby's call and returned with more crack. (Tr. 571, l. 4).

When the victim arrived for a second time, Bobby went outside and paid for the crack. (Tr. 558, l. 20-22). As he returned to the house, Bobby saw appellant come out of the back door

heading toward the victim's car. (Tr. 559, l. 6-7). Although he did not see appellant with a gun, he admitted that appellant regularly carried a firearm. (Tr. 577, l. 23-25). According to Bobby, as appellant approached the victim's car, the victim allegedly said, "I'm going to teach that mother fucker a lesson." (Tr. 559, l. 7-8). Bobby went back inside and did not see anything else.

Several minutes later, he heard the gunshots. (Tr. 559, l. 12-13). Appellant knocked on the front door and told him that he shot the victim. (Tr. 559, l. 15-19). Bobby saw the victim slumped in the driver's seat with her body halfway out of the car. (Tr. 559, l. 21-24). The two men tried to move the victim's body to the rear passenger seat, but Bobby dropped her. (Tr. 561, l. 4-25). Bobby took the victim's phone, which had an attachment containing her identification, bank card, and cash.[10] (Tr. 585, l. 17-24). Bobby went inside, tried to flush her identification and bank card down the toilet, and put her phone in the freezer. Although he complained it took law enforcement a long time to come to his door, he never attempted to call 911. (Tr. 565, l. 2-3; 582, l. 3). Bobby explained that he does not "know how to use them touch phones." (Tr. 582, l. 6).

On cross-examination by appellant's counsel, Bobby testified that the victim pulled a gun out of the glove box and held it at appellant. (Tr. 592, l. 1-8). When asked why he did not mention that on direct exam, Bobby denied trying to protect his brother. (Tr. 598, l. 20). Instead, he explained, "that's the first time he asked me." (Tr. 598, l. 7). Based largely on this testimony, appellant argued self-defense. (Tr. 641, l. 8-10).

In response, the State noted that the victim's wounds indicated she was in a seated, defensive position when she was shot. (Tr. 623, l. 3-8). The State also pointed out that if the

[10] Bobby Smith also took marijuana off of the victim's dead body even though he does not smoke marijuana. He explained that "I just got it because I saw it." (Tr. 586, l. 8).

victim was holding a gun at the time she was shot, then there would be blood on it. (Tr. 623, l. 17-18). Additionally, the State noted that the second gun had not been fired because there were no shell casings on scene.[11] (Tr. 623, l. 24). Finally, the State argued that if appellant had acted in self-defense, then surely he would have told the news team when he surrendered. (Tr. 624, l. 12-14).

The jury found appellant guilty of murder, armed robbery, and possession of a weapon during the commission of a violent crime.[12] (Tr. 669, l. 12-22). After the jury announced its verdict, appellant's attorney informed the court that appellant did not wish to attend his sentencing. (Tr. 672, l. 18-19). The court ordered him to be appear. (Tr. 696, l. 21-23). Based on appellant's prior federal conviction for bank robbery, the court sentenced him to life without parole for murder and armed robbery under § 17-25-45. (Tr. 698, l. 7-12). The court also sentenced appellant to five years, concurrent, for possession of a weapon during the commission of a violent crime. (Tr. 698, l. 13-15). This appeal follows.

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[11] As noted above, the weapon did not have a round in the chamber. (Tr. 290, l. 5-6).

[12] With respect to Bobby Smith, the court charged accessory after the fact as a lesser included offense of murder. (Tr. 607, l. 8-14). The jury found Bobby Smith guilty of accessory after the fact of murder, armed robbery, and possession of a weapon during the commission of a violent crime. (Tr. 669, l. 23-25; 670, l. 1-9). Based on Bobby Smith's prior criminal history, the court sentenced him to life imprisonment for armed robbery under § 17-25-45. (Tr. 675, l. 6-13; 678, l. 16-23). The court also sentenced him to fifteen years for accessory after the fact and five years for possession of a weapon of a violent crime. (Tr. 679, l. 1-6).

STANDARD OF REVIEW

Motion to Continue

"The denial of a motion for a continuance is within the sound discretion of the trial court and will not be disturbed on appeal absent a showing of an abuse of discretion resulting in prejudice." State v. Barrett, 416 S.C. 124, 134, 785 S.E.2d 387, 392 (Ct. App. 2016)(quoting State v. Meggett, 398 S.C. 516, 523, 728 S.E.2d 492, 496 (Ct. App. 2012). "An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support. Id.

Sentencing

The circuit court "has broad discretion in sentencing within statutory limits." In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010). As such, a "sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support." Id.

ARGUMENT

I. The Circuit Court's Denial of Appellant's Motion to Continue Should be Affirmed Because Appellant Made No Effort to Obtain Glasses Before Trial, Offered No Proof of Impairment, and Sustained No Prejudice From the Court's Ruling.

Ruling upon a motion to continue "is a matter within the trial court's discretion." State v. Smith, 387 S.C. 619, 622, 693 S.E.2d 415, 417 (Ct. App. 2010). On appeal, the circuit court's decision will not be reversed "unless there was an abuse of discretion that resulted in prejudice." Id. Additionally, in evaluating the denial of a motion to continue, "a party cannot complain of an error which his own conduct has induced." State v. Meggett, 398 S.C. 516, 523, 728 S.E.2d 492, 496 (Ct. App. 2012)(quoting State v. Babb, 299 S.C. 451, 455, 385 S.E.2d 827, 829 (1989). As such, reversing a circuit court's denial of a motion to continue is "about as rare as the proverbial hens' teeth." State v. Williams, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996)(quoting State v. Lytchfield, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957).

A. The Circuit Court's Denial of Appellant's Motion to Continue Did Not Deprive Him of the Right to Assist Counsel.

The circuit court's initial denial of appellant's motion to continue should be affirmed because it had factual support and appellant sustained no prejudice. As noted above, appellant presented no evidence on the extent of his alleged vision impairment, much less any evidence that would render the court's proposed accommodation unreasonable. He offered no prescription, no doctor's opinion, and no lay testimony.[13] In contrast, the State was ready for

[13] As noted above, the mother of appellant's children, Tiffany Petty, testified during the State's case-in-chief. On cross-examination, she testified that appellant wears "real thick glasses" and cannot see without them. (Tr. 415, l. 14-15). She also testified that he receives a monthly disability check because he is legally blind. (Tr. 415, l. 16- 23). Her testimony occurred after the court denied appellant's second motion to continue. As such, the court could not consider it in ruling on appellant's two motions to continue.

trial and had twenty-nine witnesses under subpoena. (Tr. 2-4; 390-91). Simply put, the court acted reasonably in expecting appellant to provide *some* proof of his alleged vision impairment before continuing the case.

The record also contains no evidence that appellant made any effort prior to trial to obtain a new pair of glasses. Appellant's glasses allegedly broke during his arrest on unrelated charges in Anderson.[14] (Tr. 10, l. 2-3). He should have attempted to obtain a new pair of glasses after they broke, not the morning of his trial. At a minimum, he could have notified either the court or the solicitor of the potential issue. Therefore, appellant's inaction created his predicament, not any error by the court or the State. Appellant has no one to blame but himself.

Furthermore, appellant cannot establish any prejudice arising from the circuit court's ruling. As noted above, appellant refused to participate in jury selection after the court ruled against him. (Tr. 29, l. 22-23). Thus, he cannot establish that the court's proposed accommodation was unworkable because he did not even attempt to abide by that ruling. Had appellant remained in court, he might have been able to point to a specific juror whose body language he could not see, a specific portion of the jury list he could not read, or a particular moment where he did not have enough time to confer with his attorney. Because he refused to follow the court's ruling, he can do none of these things.

[14] The record is unclear when the intervening arrest in Anderson County occurred. Although no precise date is given, the record is clear that appellant broke his glasses before the case was set for trial. Appellant informed the circuit court that his attorney would have known about the broken glasses "if he would have came to see me when -- once he found out that a trial date had been set. He knew I was in Anderson County." (Tr. 24, l. 19-21). Thus, according to appellant, his attorney knew he was in the Anderson County jail on the intervening charge before the trial date was set. Additionally, trial counsel sent appellant "two or three" letters after the intervening arrest, further indicating that appellant had sufficient time to obtain new glasses. (Tr. 25, l. 1).

Appellant's inaction prior to trial and inability to establish prejudice makes this case analogous to State v. Meggett, 398 S.C. 516, 728 S.E.2d 492 (Ct. App. 2012). In Meggett, the defendant faced burglary and criminal sexual conduct charges after an alleged sexual assault. On the morning his trial started, he moved for a continuance in order to have a relative's bed comforter tested for the victim's DNA. The defendant believed the presence of the victim's DNA on the comforter would corroborate his claim that he had an ongoing, consensual relationship with the victim. The circuit court denied the motion, and the jury convicted him at trial. On appeal, he argued the circuit court abused its discretion in denying his motion to continue.

This Court disagreed, noting that "a party cannot complain of an error which his conduct has induced." Id. at 523, 728 S.E.2d at 496. Because the defendant could have sent the comforter for testing prior to trial, this Court held that "his failure to do so was a result of his own inaction and not a lack of preparation time."[15] Id. Additionally, the defendant offered nothing to suggest that probative evidence would still be on the comforter. As such, this Court held that the circuit court did not abuse its discretion in denying the motion to continue. Id. at 524, 728 S.E.2d at 496.

Like the defendant in Meggett, appellant's own inaction, not a lack of preparation time, created the problem he faced on the morning of trial. Appellant should have obtained new glasses while awaiting trial, not the minute he walked into the court room. Also like the

[15] Like the case at bar, the defense attorney in Meggett asserted his client raised the issue to him on the morning of trial. Id. at 520, 728 S.E. 2d at 494 ("Defense counsel asserted Meggett, on the morning of trial, raised the issue of having a comforter from his nephew's bed in his sister's home tested for DNA evidence based on Meggett's claim he had consensual sex with Victim in the bed in the months leading up to the incident.").

defendant in Meggett, he cannot establish prejudice arising from the court's ruling. Because he voluntarily left the court room after the ruling, he cannot show the court's accommodation was prejudicial towards him.

In addition to Meggett, a series of three cases illustrate the type of prejudice appellant must show in order to overturn the circuit court. First, in State v. Asbury, 328 S.C. 187, 493 S.E.2d 349 (1997), the defendant went to trial for murder, resulting in a mistrial. Prior to the second trial, he moved for a continuance in order to obtain the transcript from the first trial. After the circuit court denied the motion, the jury found him guilty as charged. On appeal, the Supreme Court upheld the ruling because the defendant failed to establish prejudice. Specifically, the court noted that the defendant could have used the court reporter's tapes, if necessary, to impeach witnesses. Id.

This Court relied on Asbury in analyzing the second case a few years later, State v. Mansfield, 343 S.C. 66, 538 S.E.2d 257 (Ct. App. 2000). Mansfield also involved a motion to continue in order to obtain a transcript following a mistrial. However, the defendant in Mansfield could point to specific differences in the testimony of a key witness between the first trial and the second. Nevertheless, this Court found no prejudice from the denial of the motion to continue, noting the differences in the witness's testimony were minor and actually enhanced his credibility.[16] Id. at 77, 538 S.E.2d at 262.

Finally, the Supreme Court addressed the issue again in State v. McMillan, 349 S.C. 17 561 S.E.2d 602 (2002). Like the previous two cases, McMillan involved a motion to continue in

[16] In Mansfield, the defense attorney sent a letter requesting the court reporter's tapes one week before trial. This Court noted that the attorney could have sent a subpoena to produce the tapes for trial. As such, he "did not need a continuance to achieve his stated objective." Id. at 77, 538 S.E.2d at 262. The case at bar is similar. Because appellant could have obtained a new pair of glasses prior to trial, he "did not need a continuance to achieve his stated objective." See Id.

order to obtain a transcript following a mistrial. But unlike Asbury and Mansfield, the court reporter did not maintain any backup tapes to use in lieu of the transcript. McMillan, 349 S.C. at 23, 561 S.E. 2d at 605. Furthermore, the defendant in McMillan could point to a specific piece of testimony in which the only "neutral" witness actually lied on the stand. Id. at 604. Although the witness lied about a fact irrelevant to the defendant's guilt, the lie affected her overall credibility. Id. at 22, 561 S.E.2d at 604. As the court noted, "the verdict hinged upon her credibility." Id. at 23, 561 S.E.2d at 605. The court held the defendant sustained prejudice based on: (1) the lack of any alternative to the transcript, and (2) the defendant's ability to articulate a specific portion of testimony where a transcript or tape would have affected the trial. As such, the circuit court committed reversible error in denying the motion to continue.

McMillan illustrates the type of prejudice that appellant simply cannot establish. In McMillan, there was no alternative to the trial transcript because the court reporter did not produce a backup tape. Not so here. Counsel's eyes were a reasonable alternative to appellant's glasses. As the circuit court noted, counsel could read the jury list to appellant, confer with him, and convey information during the jury selection process. (Tr. 11, l. 15-16). The court even reassured appellant later, advising, "we'll take our time." (Tr. 73, l. 17).

More importantly, unlike McMillan appellant cannot articulate how the trial would have changed if had glasses. As soon as appellant walked out of the court room, his alleged vision impairment had no impact on the trial. Appellant can point to no witness he could not see, no piece of evidence he could not see, and no document he could not see. As such, appellant sustained no prejudice from the court's ruling.

Appellant cites United States v. Scheur[17] in arguing that the circuit court should have continued the case. (App. Brief 7). In Scheur, a federal district court in Louisiana ruled that a blind defendant was entitled to reasonable accommodations during trial, including the use of his braille computer. Appellant's reliance on Scheur is misplaced.

One critical fact in Scheur distinguishes it from this case: timing. The Scheur court learned of the defendant's blindness over a month before the scheduled trial date. Scheur, 547 F. Supp. 2d at 583. The notice allowed the court to convene a hearing on the issue eleven days before trial and issue an order four days before trial. Id. at 580, 588. In other words, the court was not faced with a motion to continue at the last minute because of one party's inaction. In fact, the defendant never even moved for a continuance because the problem was addressed in advance of trial. Furthermore, the defendant in Scheur actually presented evidence to prove his impairment. Id. at 589.

Unlike Scheur, the issue in this case is not whether wearing glasses is a reasonable accommodation for vision impairment. The circuit court did not order appellant to check his glasses at the door. Instead, the issue is whether a continuance on the morning of a murder trial is reasonable without any proof of impairment, without making the slightest effort to solve the problem before walking into court, and without demonstrating any resulting prejudice. The circuit court was in the best position to answer this question. Its ruling should not be disturbed because it did not abuse its discretion.

[17] 547 F. Supp. 2d 580 (E.D. La. 2008).

B. The Circuit Court's Denial of Appellant's Motion to Continue Did Not Deprive Him of the Right to Self-Representation.

As noted above, after jury selection appellant briefly returned to the court room and asked to represent himself. (Tr. 71, l. 12-20). As the court was proceeding with Faretta warnings, appellant made a second motion to continue in order to obtain glasses. (Tr. 73, l. 4-21). The court allowed defendant to proceed *pro se* with counsel acting in a standby capacity, but denied the motion to continue. (Tr. 73, l. 14-15). Once the motion to continue was denied, appellant refused to participate further. (Tr. 74, l. 11-18). Appellant walked out of the court room, and counsel continued to represent him in his absence. (Tr. 75, l. 10-25). On appeal, appellant argues the denial of the second motion to continue deprived him of the right to self-representation. (App. Brief 9-16).

The circuit court's ruling on the second motion to continue should be affirmed for the same reasons as the first. Nothing changed between appellant's first and second motions to continue. Appellant still offered no proof of impairment. Appellant still failed to show any due diligence in obtaining new glasses prior to trial. And appellant still suffered no prejudice from the court's ruling. Although the court permitted appellant to represent himself, he walked out of the court room. Had he attempted to represent himself, then perhaps he could point to a witness that he was unable to cross-examine, or a piece of evidence he could not see. Because he cannot articulate how the trial would have been different, appellant has failed to establish prejudice. See e.g. McMillan, 349 S.C. 17, 561 S.E.2d 602 (2002); Cf. Rule 7(b), SCRCrimP (in motions to continue based on the absence of a witness, the moving party not only must establish that the motion is not intended for delay, but also must demonstrate due diligence in securing the witness).

Nor can appellant rely on his voluntary absence from the court room during the trial to establish prejudice. As our supreme court has noted:

> An accused has the right to be present at every stage of his trial. **This right, however, may be waived**. A defendant may properly be excluded when his conduct is disruptive or is interfering with the progress of the trial. **Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion**.

State v. Bell, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987)(emphasis added)(internal citations omitted). In other words, appellant cannot claim prejudice arising from his voluntary decision to leave the court room.

Nevertheless, appellant argues that the record does not support the circuit court's finding that his alleged impairment was "simply a bald-faced assertion." (App. Brief 12). In support of this argument, appellant notes that trial counsel informed the court that appellant receives a disability check for his impairment. (App. Brief 12). But the circuit court is not required to rely on the word of counsel alone. By appellant's logic, the circuit court would be required to accept every representation by counsel as gospel. Appellant offered no disability paperwork, no prescription, no doctor's note, and no lay testimony in support of counsel's argument.[18] The absence of any evidence supporting counsel's assertion justifies the circuit court's finding.

Appellant also argues that the circuit court erred in finding that appellant's motion to represent himself was a pretext to delay the trial. Appellant notes that a defendant's "improper motive or unethical conduct is not enough to preclude him from exercising his right to self-representation." (App. Brief 16)(quoting State v. Samuel, 422 S.C. 596, 606, 813 S.E.2d 487,

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[18] As noted in footnote 13 above, the mother of appellant's children, Tiffany Petty, testified during the State's case-in-chief. On cross-examination, she provided some details regarding appellant's alleged vision impairment. (Tr. 415, l. 14- 23). However, as noted above, the testimony occurred after the circuit court denied both of appellant's motions to continue.

493 (2018)). Appellant's argument is misplaced. It confuses two separate issues: the motion to continue and the motion to proceed *pro se*.

Appellant attempts to cloak the denial of his motion to continue into a constitutional issue of self-representation, but the circuit court never precluded appellant from proceeding *pro se*. As noted above, the circuit court explicitly allowed it, stating "All right. Mr. Smith, I'll allow you to represent yourself." (Tr. 73, l. 14-15). The court subsequently made its ruling even more explicit, stating that "I granted his motion." (Tr. 536, l. 16-17). Simply put, nothing prevented appellant from proceeding *pro se*.

Furthermore, although appellant's "improper motives" might not preclude him from invoking his right to self-representation under Samuel, those motives are relevant in assessing a motion to continue. As discussed above, the record reveals appellant acting in bad faith throughout the trial.[19] First, his court room demeanor suggests bad faith. Appellant repeatedly interjects over his attorney, interrupts the court, and walks out in protest. Second, and more concerning, appellant twice makes subtle threats to the court. (Tr. 22, l. 14-15; 28, l. 9-13). Third, after the motion to continue is denied, appellant challenges the court's impartiality and demands the judge's recusal. (Tr. 25, l. 23-24). Because he has no evidence to support recusal,

[19] Arguably, appellant's attempts to manipulate the system began before trial. For example, appellant did not immediately turn himself into law enforcement. Instead, he waited ten days to do so. After he decided to surrender, appellant first visited his mother and then arranged for a local television news station to capture his arrest. In front of the television camera, he stated that his brother "shouldn't be in jail" because appellant "shot the young victim." (St. Ex. 44). But in opening statements appellant's attorney told the jury that "people say things that they didn't do all the time to try to protect other people." (Tr. 96, l. 3-5). In other words, appellant's trial counsel told the jury that his client confessed to manipulate the system and protect his brother. Furthermore, appellant asked his attorney to report "the victim's" weapon to law enforcement and ensure law enforcement properly collected it. (Tr. 360, l. 3-15). At trial, he objected to the introduction of the very evidence he asked his attorney to report to the police. (Tr. 324, l. 7-11).

appellant's demand was another indirect attempt at delay. Fourth, appellant's inconsistent positions reveal his desire to represent himself was also a pretext for delay. As the court noted, at first appellant explicitly states he does not want to fire his attorney. (Tr. 22, l. 18-20). Once he realizes the trial will continue without him, he returns to announce his desire to proceed *pro se*. (Tr. 71, l. 13-15). Appellant's first act as counsel was a motion to continue. (Tr. 73, l.4-9). When that motion is denied, he refuses to continue. (Tr. 75, l. 10-11).

Appellant likely thought his demeanor would throw a curveball that would derail the trial. His bad faith was center stage during the trial. The circuit court rightfully did not reward that bad faith by granting a continuance. Because the court acted within its discretion, its ruling should be affirmed.

II. Given Appellant's Life Without Parole Sentence for Murder and Armed Robbery, the State Agrees That He Should Not Have Received a Five-Year Sentence for Possession of a Firearm During the Commission of a Violent Crime.

Section 16-23-490(A) provides that a person in possession of a firearm during the commission of a violent crime must be sentenced to five years in addition to the punishment he receives for the violent crime. However, "this five-year sentence does not apply in cases where the death penalty or a life without parole is imposed for the violent crime." S.C. Code Ann. § 16-23-490(A). At sentencing, appellant argued that the statute prohibited a five-year term in addition to a life without parole sentence for the underlying violent crime, thus preserving the issue for appeal. (Tr. 696, l. 1-8).

The circuit court held that in cases where a defendant receives a life without parole sentence for the underlying violent crime, the five-year sentence was not compulsory. (Tr. 680, l. 1-3; 696, l. 1-14). Although not compulsory, the circuit court believed the statute did not preclude a five year sentence in addition to the life without parole sentence for the underlying

crime. (Tr. 680, l. 1-3; 696, l. 1-14). Instead, the court read the provision as "a common sense conclusion by the legislature that it was entirely academic to sentence someone to five years if you had already sentenced them to either life or death." (Tr. 679, l. 21-24).

Although the circuit court's interpretation is a reasonable one, South Carolina appellate courts have already resolved any ambiguity in the statute. In State v. Owens, 346 S.C. 637, 552 S.E.2d 745 (2001), the defendant received a death sentence in addition to a five-year sentence for possession of a firearm during the commission of a violent crime. The South Carolina Supreme Court interpreted § 16-23-490 as prohibiting the five-year sentence where the death penalty is imposed. As such, the court vacated the five year sentence for possession of a firearm during the commission of a violent crime. Id. 666-67, 552 S.E.2d at 760.

Similarly, in State v. Palmer, 415 S.C. 502, 783 S.E.2d 823 (Ct. App. 2016), this Court considered the issue in the context of a life without parole sentence. In Palmer, the circuit court sentenced an individual to life without parole for murder and five years for possession of a firearm during the commission of a violent crime. The State conceded the circuit court erred in sentencing the defendant to the additional five years. Id. at 525, 783 S.E.2d at 835. This Court vacated the sentence. Id. See also State v. Sledge, Op. No. 5672 (S.C.Ct.App. filed Aug. 7, 2019)(Shearhouse Adv.Sh. No. 32 at 78-79).

Likewise, the State concedes the circuit court erred in this case.[20] In light of Owens and Palmer, the circuit court lacked the authority to sentence appellant to five years in addition to the life without parole sentence for murder and armed robbery. Accordingly, the five year sentence for possession of a firearm during the commission of a violent crime should be vacated.

[20] The State has also conceded this point in the appeal of Bobby Smith, appellant's brother and co-defendant. Final Brief of Respondent at 5-7, State v. Smith, No. 2018-00541 (Ct. App. filed Apr. 16, 2019).

CONCLUSION

This is a simple, straight-forward case. Appellant failed to provide any proof of impairment, failed to take any action to fix his own problem before trial, and failed to articulate any prejudice in moving forward. Appellant's subsequent refusal to attend his own trial revealed he never wanted his day in court. Instead, he wanted to prevent that day in court. The circuit court rightfully expected more prior to delaying a murder trial with twenty-nine witnesses. As such, the circuit court's denial of appellant's motion to continue should be affirmed.

Respectfully submitted,

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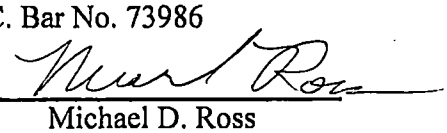
By: 
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ATTORNEYS FOR RESPONDENT

August 14, 2019

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Greenville County
Robin B. Stilwell, Circuit Court Judge

THE STATE,

Respondent,

v.

JAHRU HAROLD SMITH,

Appellant.

Appellate Case No. 2018-000505

CERTIFICATE OF SERVICE

I, Michael D. Ross, counsel for the Respondent, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two (2) copies of the same in the United States mail, addressed to her attorney of record: Kathrine H. Hudgins, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 14th day of August, 2019.

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August 14, 2019

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: *The State v. Jahru Harold Smith*
Appeal from Greenville County
Appellate Case No. 2018-000505

Dear Ms. Kitchings:

Enclosed for filing please find the original Initial Brief of Respondent and Designation of Matter, together with Proof of Service in the above-referenced case. If you should have any questions, please feel free to contact me.

Sincerely,

Michael D. Ross
Assistant Attorney General

SRC/bbr
Enclosures
cc: Kathrine H. Hudgins, Esquire (w/two copies of encls.)
The Honorable William W. Wilkins, III, Solicitor 13th Judicial Circuit (w/copy of encls.)
Trisha Allen, Victim Advocacy Division (w/copy of encls.)