STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY M. ENRIQUEZ,

PETITIONER.

APPENDIX

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Anthony M. Enriquez, Appellant.

Appellate Case No. 2016-002237

Appeal From Charleston County
Carmen T. Mullen, Circuit Court Judge

Unpublished Opinion No. 2019-UP-295
Heard April 2, 2019 – Filed August 21, 2019

AFFIRMED

Appellate Defender Lara Mary Caudy, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy Attorney General Donald J. Zelenka, Senior Assistant Deputy Attorney General Melody Jane Brown, and Assistant Attorney General Sherrie Butterbaugh, all of Columbia; and Solicitor Scarlett Anne Wilson, of Charleston, all for Respondent.

PER CURIAM: In this criminal matter, Anthony M. Enriquez appeals the circuit court's denial of his pro se motion to reconsider his sentence pursuant to *Aiken v. Byars*.[1] On appeal, Enriquez argues his mandatory sentence of life imprisonment *with* the possibility of parole violates the Eighth Amendment's prohibition of cruel and unusual punishments because he was a juvenile offender. Specifically, Enriquez contends he is entitled to resentencing pursuant to *Byars* because the mandatory sentencing scheme for murder and the South Carolina parole system do not require the consideration of mitigating factors of youth. We affirm.

When considering whether a sentence violates the Eighth Amendment's prohibition on cruel and unusual punishments, the appellate court's standard of review extends only to the correction of errors of law. *See State v. Perez*, 423 S.C. 491, 496, 816 S.E.2d 550, 553 (2018). Therefore, this court will not disturb the circuit court's findings absent a manifest abuse of discretion. *Id.* An abuse of discretion occurs when the circuit court's finding is based on an error of law or grounded in factual conclusions without evidentiary support. *Id.* at 496–97, 816 S.E.2d at 553; *State v. Johnson*, 413 S.C. 458, 466, 776 S.E.2d 367, 371 (2015).

The Eighth Amendment to the United States Constitution mandates: "Excessive bail shall not be required, nor excessive fines imposed, *nor cruel and unusual punishments inflicted.*" U.S. Const. amend. VIII (emphasis added). In this vein, sentences that are grossly out of proportion to the severity of the crime are unconstitutional. *Graham v. Florida*, 560 U.S. 48, 59–60 (2010). Applying this principle to juvenile offenders, the United States Supreme Court has incrementally established parameters to ensure proportional juvenile sentences. *See Roper v. Simmons*, 543 U.S. 551, 568–75 (2005) (holding the death penalty was a disproportionate punishment for an offender who was under the age of eighteen at the time of the crime because developmental differences between juveniles and adults resulted in diminished culpability); *Graham*, 560 U.S. at 59, 74 (holding the Eighth Amendment prohibited the imposition of an LWOP sentence on a juvenile offender for a nonhomicide crime); *Miller v. Alabama*, 567 U.S. 460, 479–80 (2012) (holding mandatory LWOP sentences for juvenile offenders violate the Eighth Amendment and requiring a sentencing court issuing an LWOP sentence for homicide to a juvenile offender to conduct an individualized hearing in which it

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[1] 410 S.C. 534, 545, 765 S.E.2d 572, 578 (2014) (holding a juvenile offender serving a life sentence without the possibility for parole (LWOP) could file a motion for resentencing when the sentencing court issued the sentence without considering various mitigating factors of the offender's youth).

considers various factors, such as the offender's age and maturity and the circumstances surrounding the homicide offense).

We find the circuit court did not err in denying Enriquez's motion for resentencing. Although Enriquez received a mandatory life sentence for murder as a juvenile offender, the circuit court's sentence afforded Enriquez parole eligibility after the service of twenty years' imprisonment.[2] *See* S.C. Code Ann. § 16-3-20(A) (Supp. 1993) (providing that a person who is convicted of or pleads guilty to murder must be sentenced to (1) death or (2) life imprisonment with the possibility of parole after twenty years' imprisonment). This sentence differs significantly from those at issue in *Graham*, *Miller*, and *Byars* in which the juvenile offenders received sentences of life imprisonment *without* the possibility for parole. *See Graham*, 560 U.S. at 82 ("The Constitution prohibits the imposition of a life *without parole* sentence on a juvenile offender who did not commit homicide." (emphasis added)); *Miller*, 567 U.S. at 479 ("We therefore hold that the Eighth Amendment forbids a sentencing scheme that mandates life in prison *without possibility of parole* for juvenile offenders." (emphasis added)); *Byars*, 410 S.C. at 545, 765 S.E.2d at 578 ("We hold the principles enunciated in *Miller* . . . apply . . . to all juvenile offenders who may be subject to a sentence of life imprisonment *without the possibility of parole*." (emphasis added)). Enriquez attempts to expand the protections established in our precedent to apply to juvenile sentences of life imprisonment *with* the possibility of parole. However, as our supreme court recently noted in *State v. Slocumb*, this court's ability to provide relief in cases such as this is limited by the parameters set forth by the United States Supreme Court. *See* 426 S.C. 297, 306, 314–15, 827 S.E.2d 148, 152–53, 157 (2019) (noting this court's review is confined by the parameters established by the United States Supreme Court and therefore declining to extend the holdings of *Graham* and *Miller* to include de facto LWOP sentences imposed upon juvenile offenders). Therefore, we find Enriquez is not a member of the class of offenders contemplated by our precedent as he did not receive an LWOP sentence. *See State v. Finley*, Op. No. 5665 (S.C. Ct. App. filed July 17, 2019) (Shearouse Adv. Sh. No. 29 at 27–35) (holding life sentences *with* the possibility of parole imposed upon juvenile offenders do not violate the Eighth Amendment); *id.* (holding juvenile offenders sentenced to life imprisonment *with* the possibility of parole are not entitled to resentencing pursuant to *Byars*).

CONCLUSION

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[2] Enriquez became eligible for parole on January 23, 2014.

Based on the foregoing, the circuit court's order is

AFFIRMED.

WILLIAMS, GEATHERS, and HILL, JJ., concur.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

ANTHONY M. ENRIQUEZ,

APPELLANT

APPELLATE CASE NO. 2016-002237

Appeal from Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

Opinion No. 2019-UP-295

PETITION FOR REHEARING

On August 21, 2019, this Court affirmed the circuit court's denial of Appellant's motion to reconsider his sentence pursuant to Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). State v. Enriquez, 2019-UP-295 (S.C. Ct. App. filed August 21, 2019). Pursuant to Rule 221(a), SCACR, Appellant petitions the Court for rehearing and respectfully submits that this Court misapprehended the holding in Miller v. Alabama, 567 U.S. 460 (2012) and Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014) in reaching its decision. The Court also wholly ignored Appellant's argument that a parole hearing in South Carolina does not offer a meaningful opportunity for release under Miller.

In Miller, the United States Supreme Court held that the imposition of a life without parole sentence on a juvenile defendant violated the Eighth Amendment's protections against cruel and unusual punishment because, "a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty." Miller, 567 U.S. at 471, 489. The Court in Miller cited Graham v. Florida, 560 U.S. 48, 75 (2010), and held that a juvenile defendant *must* be afforded "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." Miller, 567 U.S. at 479. Therefore, before a court can sentence a juvenile to life without parole, the sentencing court must conduct an individualized hearing where it considers the offender's age and maturity. Id. at 477-480.

In Aiken, the South Carolina Supreme Court held that the holding in Miller applied retroactively and outlined considerations that a sentencing court must consider before imposing a life without parole sentence for a juvenile. Aiken, 410 S.C. at 544, 765 S.E.2d at 577. The sentencing court *must* consider: the age of the offender, the family and home environment of the offender, the circumstances of the homicide offense, the "incompetencies" associated with youth, and the possibility of rehabilitation. Id.

In its unpublished opinion in this case, this Court held Appellant was not entitled to resentencing pursuant to Miller and Byars because although Appellant received a mandatory life sentence for murder as a juvenile offender, the circuit court's sentence afforded Appellant parole eligibility after the service of twenty years' imprisonment.[1] Consequently, this Court concluded Appellant's sentence "differs significantly from those at issue in Graham, Miller, and Byars in which the juvenile offenders received sentences of life *without* the possibility of parole." (emphasis in original).

[1] Appellant became parole eligible on January 23, 2014.

This Court incorrectly interpreted Miller and Byars to limit the prohibition of life sentences imposed on juveniles to only de jure life without parole sentences. Appellant is aware of our Supreme Court's opinion in State v. Slocumb, 426 S.C. 297, 426 S.E.2d 297 (2019), but respectfully argues the holding in Slocumb, that only de jure life without parole sentences imposed on juvenile defendants violate the Eighth Amendment, is not in line with Miller and Graham. See Slocumb, 426 S.C. at 306, 827 S.E.2d at 152.

For whatever reason, this Court wholly ignored Appellant's argument that the opportunity for parole does not create a meaningful opportunity for release in the Miller context because a parole hearing does not afford the inmate with the same protections as a Miller hearing. Specifically, in a parole hearing there is no appointed counsel for the inmate and the parole board is not *mandated* to consider Appellant's "youth and its attendant characteristics." Miller, 567 U.S. at 465. However, during a Miller hearing, the defendant is entitled to the entire gamut of Sixth Amendment protections.

Moreover, the holdings in Miller and Byars require the sentencing court to hold a hearing for the defendant to show evidence of how "youth and its attendant characteristics" should make a lesser sentence "more appropriate" before a life sentence is imposed. Miller, 567 U.S. at 465. This procedure ensures the juvenile defendant has a meaningful opportunity for release prior to the sentence being imposed. Id. at 479. Appellant's past and future parole hearings do not provide the same opportunity for release as a Miller hearing.

The parole process and the considerations involved in determining whether to grant an inmate parole are explained in S.C. Code Ann. § 24-21-640 and in the S.C. Board of Paroles and Pardons Policy and Procedure Manual ("SCBPP Manual"). The parole board manual recognizes there are very little procedural due process protections at a parole hearing. SCBPP Manual, p.

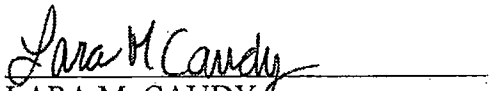
20. A parole hearing does not *require* the parole board to consider Appellant's youth and its attendant characteristics, as a Miller hearing would, nor does a parole hearing provide an appointed attorney. Id.; see S.C. Code Ann. § 24-21-640. Consequently, Appellant's opportunity for a parole hearing in South Carolina does cure the wrongful process by which his life sentence was imposed in violation of Miller because it does not provide a meaningful opportunity for release.

While a parole hearing "can" operate as a "meaningful opportunity for release" it does not *always* suffice to substitute for a Miller hearing. Montgomery v. Louisiana, __ U.S. __, 136 S.Ct. 718, 734-735 (2016). In South Carolina, the parole process does not offer a meaningful opportunity for release in the Miller context because the parole board is not *required* to consider Appellant's "youth and its attendant characteristics" and Appellant is not entitled to the same Sixth Amendment protections at the parole hearing as he would have been had a proper Miller hearing been conducted, most importantly his right to counsel. Miller, 567 U.S. at 465.

Therefore, Appellant is entitled to a Miller hearing where there would be a *required* examination of his "youth and its attendant characteristics" before being sentenced to life in prison. Miller, 567 U.S. at 465. Appellant respectfully requests this Court grant rehearing and address his argument that a South Carolina parole hearing does not offer a meaningful opportunity for release.

Based on the foregoing, Appellant respectfully requests this Court rehear his case pursuant to Rule 221(a), SCACR, due to the significant legal and factual points overlooked and/or misapprehended by this Court in affirming the circuit court's denial of Appellant's motion to reconsider his sentence.

Respectfully Submitted,



LARA M. CAUDY
Appellate Defender

ATTORNEY FOR APPELLANT

This 26th day of August, 2019.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY M. ENRIQUEZ,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Petition for Rehearing in the above-entitled case has been served upon Sherrie Butterbaugh, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Anthony M. Enriquez, #215961, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 26th day of August, 2019.

Lara M Caudy

Lara M. Caudy
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO BEFORE ME this 26th day of August, 2019.

(L.S)

Notary Public for South Carolina
My Commission Expires: September 27, 2028.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Carmen T. Mullen, Circuit Court Judge
Appellate Case No. 2016-002237

The State, Respondent,

v.

Anthony M. Enriquez, Appellant.

RETURN TO PETITION FOR REHEARING

On August 21, 2019, this Court properly affirmed the trial court's decision denying Appellant's resentencing motion pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). The Court affirmed the ruling following a thorough analysis applying the facts of Appellant's case to both state and federal law. Contrary to Appellant's assertions in the petition for rehearing, the Court did not misapprehend or overlook any relevant law applicable in this case, particularly recent South Carolina Supreme Court precedent analyzing juvenile sentencing. Accordingly, this Court should deny the petition.[1]

Appellant contends the Court "incorrectly interpreted *Miller*[2] and *Byars* to limit the prohibition of life sentences imposed on juveniles to only de jure life without parole sentences," and maintains the Supreme Court's recent holding in *State v. Slocumb*, 426 S.C. 297, 827 S.E.2d

[1] The Court ordered a return to the petition for rehearing by letter dated September 4, 2019. *See* Rule 221(a), SCACR (providing that no return may be filed unless requested by the appellate court).

[2] *Miller v. Alabama*, 567 U.S. 460 (2012).

148 (2019), was in error. (Rehrg.Pet.p.3). The Court properly applied state and federal law to find Appellant's sentence "differs significantly" from those at issue in *Miller* and its progeny in which the juvenile offenders received sentences of life *without* the possibility of parole because Appellant has the opportunity for release given his sentence of life *with* parole.[3] *State v. Enriquez*, Op. No. 2019-UP-295, at p.3 (S.C. Ct. App. filed Aug. 21, 2019). As properly analyzed by this Court, our Supreme Court chose not to extend protections to juveniles serving any sentence other than life without parole, explaining the "ability to provide relief in cases such as this is limited by the parameters set forth by the United States Supreme Court." *See Slocumb*, 426 S.C. at 314-15, 827 S.E.2d at 157 (declining to extend relief for non-homicide juvenile offenders serving *de facto* life sentences, holding it does not violate the Eighth Amendment); *see also Enriquez*, Op. No. 2019-UP-295, at p.3. The *Slocumb* Court held it was unwilling to extend precedent related to juvenile sentencing beyond their "explicit holding[s]." *Slocumb*, 426 S.C. at 299, 306, 827 S.E.2d at 149, 152-53. The Court explained:

> The *Roper* [*v. Simmons*, 543 U.S. 551 (2005)]-*Graham* [*v. Florida*, 560 U.S. 48 (2010)]-*Miller* trilogy has resulted in much confusion and conflicting opinions in ascertaining the reach of the Eighth Amendment in the sentencing of juveniles. . . . Courts have struggled in good faith in trying to determine the manner in which juveniles may be constitutionally sentenced. We are one of those courts. Rather than predict what the Supreme Court may or may not do, we believe the proper course is to respect the Supreme Court's admonition that lower courts must refrain from extending federal constitutional protections beyond the line drawn by the Supreme Court.

Id. at 313, 827 S.E.2d at 156.

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[3] Notably, this Court cannot overrule Supreme Court precedent and must apply the decisions as decided. *See Mathis v. United States*, 136 S.Ct. 2243, 2254 (2016) ("[A] good rule of thumb for reading our decisions is that what they say and what they mean are one and the same."). Accordingly, this Court did not misapprehend any law where the opinion applied the relevant precedent as determined by the Supreme Court.

This Court carefully considered *Slocumb* and other relevant precedent to correctly determine the holdings do not extend protection to juvenile offenders such as Appellant serving a life *with* parole sentence for murder. As argued in Respondent's brief, Appellant received the sentence the Supreme Court deemed sufficient to remedy an unconstitutional sentence and is eligible for release. *See Montgomery v. Louisiana*, 136 S.Ct. 718, 736 (2016) (offering parole eligibility as a solution to states tasked with re-litigating cases where a juvenile received mandatory life without parole, explaining states could permit juvenile homicide offenders to be considered for parole, rather than resentencing them). Further, our Supreme Court in *Slocumb* also signaled parole eligibility was a solution to remedy a *Miller* violation. *See Slocumb*, 426 S.C. at 313-14, 827 S.E.2d at 156-57 (discussing juvenile sentencing statutes enacted in states such as Iowa which provide juvenile offenders "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" and detailing the bill introduced in South Carolina which provides, among other things, parole eligibility for juvenile homicide offenders after twenty-five years). This Court found Appellant was "not a member of the class of offenders contemplated by our precedent" and correctly denied relief. *Enriquez*, Op. No. 2019-UP-295, at p.3.

Appellant also argues the Court ignored his argument regarding the constitutionality of the parole process. (Rehrg.Pet.p.3). Contrary to Appellant's assertion, this Court was not required to consider the argument because that was not the question before the lower court. The circuit court was tasked with considering only whether Appellant's sentence of life *with* parole afforded him the opportunity for release contemplated in *Miller* and *Aiken*. (R.pp.33-34; pp.38-45; pp.61-67; pp.73-74; p.76; pp.79-81). It was not until after the circuit court denied Appellant's motion for resentencing and following a subsequent denial of parole that Appellant

challenged the due process requirements of the parole system. (R.pp.82-86). As asserted in Respondent's brief, the argument Appellant is entitled to resentencing because he has been denied parole does not create a cognizable claim under *Miller* and its progeny. *See James v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 376 S.C. 392, 396, 656 S.E.2d 399, 401 (Ct. App. 2008) ("[A]n inmate has a liberty interest in gaining access to the parole board, although there is no protected right to parole."). Appellant's sentence affords him the continuous attempt to obtain release by demonstrating to the proper authority rehabilitation, maturity, and growth. *See* S.C. Code Ann. § 24-21-640 ("The board must carefully consider the record of the prisoner before, during, and after imprisonment."); *see also State v. Calhoun*, 222 So. 3d 903, 907 (La. Ct. App. 2017) ("He has a chance at parole, but he will have to earn it. This scheme is reasonable and satisfies *Miller*."). As argued by Respondent, Appellant's lengthy disciplinary record while incarcerated belies his contention he is entitled to relief. Such evidence, which is considered by the parole board, is not indicative of rehabilitation in keeping with the "central intuition" of *Miller* that juveniles who commit even violent crimes are capable of change. *Montgomery*, 136 S.Ct. at 736.

Every two years, the parole board considers evidence presented by Appellant to determine whether he is eligible for release. Nothing guarantees anyone the right to parole. By statute, the parole board may only grant release if the inmate "has shown a disposition to reform," he will probably obey the law and "lead a correct life," his conduct led to "a lessening of the rigors of his imprisonment," the "interest of society will not be impaired" by his release, and if he has obtained employment. S.C. Code Ann. § 24-21-640. Examining the board's manual shows it can also examine any other factors it "may consider relevant." *See* DPPPS South Carolina Board of Paroles and Pardons Policy and Procedure Manual, (June 2017), p.27,

https://www.dppps.sc.gov/content/download/120663/2749351/file/Parole+Board+Manual+June+7+2017.pdf (providing other criteria the board can consider including criminal history and risk to the community, general attitude, health, adjustment while confined, employment history, and "[a]ny other factors that the Board may consider relevant").

Critically, these are the exact types of criteria the Fourth Circuit recently considered and found provide a meaningful opportunity for release. *Bowling v. Director of Va. Dep't of Corr.*, 920 F.3d 192, 198-99 (4th Cir. 2019). In *Bowling*, the appellant alleged the parole process was unconstitutional because the board was not specifically required to consider age-related characteristics unique to juvenile offenders. *Id.* at 194. The court declined "to find that juvenile-specific Eighth Amendment protections extend to juvenile homicide offenders sentenced to life with parole" or "to find that those protections extend beyond sentencing proceedings." *Id.* at 197. Explaining its reasoning, the Fourth Circuit stated:

> Significantly, the Supreme Court has placed no explicit constraints on a sentencing court's ability to sentence a juvenile offender to life with parole. The Court has not yet gone so far as to require that juvenile offenders be released from prison during their lifetime. *See Graham*, 560 U.S. at 75, 130 S.Ct. 2011. ("A State is not required to guarantee eventual freedom to a juvenile offender . . ."). That is to say, the Court "[did] not foreclose" the possibility that "the rare juvenile offender whose crime reflects irreparable corruption" could be sentenced to life without parole. *Miller*, 567 U.S. at 479-80, 132 S.Ct. 2455. Rather, the Supreme Court required that, before sentencing a juvenile to life without parole, sentencing courts "take into account how children are different." *Id.* at 480, 132 S.Ct. 2455.

Id.

While declining to extend *Miller*'s protections beyond a sentencing proceeding, the Fourth Circuit explained it was not persuaded appellant's parole proceedings fell below the standard established in *Graham* and *Miller*. *Id.* at 198-99. The court found the parole board

considered whether appellant's release "would be compatible with public safety and the mutual interests of society" and appellant, whether his "character, conduct, vocational training, and other developmental activities during incarceration reflect the probability" he will lead a law-abiding life in the community and "live up to all the conditions of parole," appellant's "personal history," his institutional adjustment, change in attitude, appellant's release plans, his evaluations, "impressions gained . . . by the parole examiner," and any other information provided by appellant. *Id.* at 198. The Fourth Circuit found the factors allowed the parole board "to fully consider the inmate's age at the time of the offense, as well as any evidence submitted to demonstrate his maturation since then, and account for the concern at the heart of *Graham* and *Miller*: 'that children who commit even heinous crimes are capable of change.'" *Id.* (citing *Montgomery*, 136 S.Ct. at 736); *see also State v. Scott*, 416 P.3d 1182, 1187 (Wash. 2018) (finding the statutory grant of parole eligibility remedied any constitutional issues with Scott's "de facto" life sentence for offenses committed as a juvenile, rejecting the argument the parole process was inadequate because "it does not provide for consideration of a defendant's diminished capacity due to attributes of youth," and noting the Supreme Court in *Montgomery* expressly approved of a Wyoming parole-eligibility statute that also did *not* require consideration of factors related to youth as part of a parole determination).

Appellant's life sentence includes parole eligibility which is a meaningful way by which he can attempt to obtain release during his lifetime and is not cruel and unusual under the Eighth Amendment. Appellant has failed to demonstrate any fact or law which was either overlooked or misapprehended by the Court. Rehearing is not warranted in this case. Therefore, this Court should deny the petition and decline to modify the original decision finding Appellant was not entitled to resentencing.

CONCLUSION

For all of the foregoing reasons, Respondent requests the panel deny the petition for rehearing.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

September 13, 2019.

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Charleston County
Carmen T. Mullen, Circuit Court Judge

THE STATE,

Respondent,

v.

ANTHONY M. ENRIQUEZ,

Appellant.

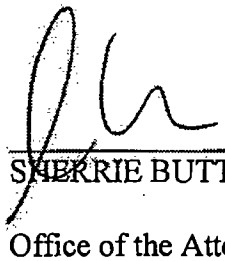
Appellate Case No. 2016-002237

CERTIFICATE OF SERVICE

I, Sherrie Butterbaugh, counsel for the Respondent, certify that I have served the within *Return to Petition for Rehearing* by depositing two (2) copies of the same in the United States mail, addressed to his attorney of record: Lara Mary Caudy, Esq., P.O. Box 11589, Columbia, South Carolina 29211-1589.

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

This 13th day of September, 2019.



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ATTORNEY FOR RESPONDENT

The South Carolina Court of Appeals

The State, Respondent,

v.

Anthony M. Enriquez, Appellant.

Appellate Case No. 2016-002237

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

H B Wilson J.

J.

D. Hamlin J.

Columbia, South Carolina

cc:
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Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Sherrie Butterbaugh, Esquire

FILED
October 15, 2019

Melody Jane Brown, Esquire
Lara Mary[illegible]audy, Esquire