

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Aiken County

Honorable Clifton Newman, Circuit Court Judge  
\_\_\_\_\_

**ORIGINAL**

THE STATE,

RESPONDENT,

V.

ANTONIO DEAUNTE SIMPKINS,

APPELLANT.

APPELLATE CASE NO. 2019-000656  
\_\_\_\_\_

ANDERS BRIEF OF APPELLANT  
\_\_\_\_\_

**RECEIVED**  
FEB 26 2020  
SC Court of Appeals

DAVID ALEXANDER  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
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ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Whether the trial court erred in denying appellant's motion to play only the audio (and not the video) of a recorded interrogation because appellant was shackled throughout the interrogation?

## STATEMENT OF THE CASE

An Aiken County jury indicted appellant Antonio Deaunte Simpkins for murder and on April 1, 2019, appellant was tried before the Honorable Clifton Newman and a jury. R. 1. Cassie W. Hall and Ashley A. Hammack represented the State. R. 1. Barry L. Thompson, II, and Charles H. Rudnick represented appellant. R. 1. The jury convicted appellant. R. 536, l. 8 – 537, l. 11. Judge Newman sentenced appellant to life imprisonment. R. 560, ll. 3 – 22. This appeal follows.

### **STANDARD OF REVIEW**

“The admission or exclusion of evidence is left to the sound discretion of the trial judge, whose decision will not be reversed on appeal absent an abuse of discretion.” State v. Brewer, 411 S.C. 401, 406, 768 S.E.2d 656, 658 (2015) (internal quotation omitted).

## ARGUMENT

The trial court erred in denying appellant's motion to play only the audio (and not the video) of a recorded interrogation because appellant was shackled throughout the interrogation.

In both his trial testimony and in a videotaped statement, appellant vigorously denied the State's theory that he lured Julian "JuJu" Williams to a rural part of Aiken County in order to murder him for having an affair with appellant's girlfriend. State's Ex. 17. R. 473, ll. 15 – 21. The important difference between the statement and appellant's testimony was that appellant was clearly and visibly shackled on the videotaped statement. State's Ex. 17. The jury seeing appellant in restraints while the officers accused him of premeditated murder was "inherently prejudicial" and violated appellant's right to due process. Holbrook v. Flynn, 475 U.S. 560, 568-569 (1986); see also Deck v. Missouri, 544 U.S. 622, 629 (2005).

In Deck, the Court explained "the law has long forbidden the routine use of visible shackles during the guilt phase" of a criminal trial. Deck, 544 U.S. at 626. "Visible shackling undermines the presumption of innocence and the related fairness of the factfinding process." Id. at 629. When an offender appears before a jury in shackles, the impression for the jury is that "court authorities consider the offender a danger to the community." Id. at 633. The presence of the shackles negatively affects the jury's perception of the character of the defendant. Id. at 633.

The Court in Deck dealt with the appearance of a defendant while sitting in the courtroom, but the same logic applies with equal force to the view of appellant shackled on video. Appellant's shackles are in plain view throughout the interrogation. State's Ex. 17. He drinks water from a bottle with his hands shackled. State's Ex. 17. He repeatedly rubs his face with his hands shackled. State's Ex. 17. He attempts to manipulate writing instruments and paper with his hands shackled. State's Ex. 17.

The jury perceiving appellant as dangerous and presuming him guilty because of the shackles in the video was particularly prejudicial because the police officers repeatedly accused appellant of luring JuJu to the scene. State's Ex. 17. Appellant explained that the meeting between him and JuJu was a chance encounter, which escalated into a physical confrontation because of a love triangle. State's Ex. 17. Appellant's girlfriend told appellant that she was pregnant and that the baby might be JuJu's. R. 243, l. 19 – 245, l. 15. Appellant said in the video that during the fight with JuJu, they struggled over appellant's gun and it went off. State's Ex. 17. Appellant never intended for JuJu to be shot. State's Ex. 17.

Prior to trial, appellant asked the court to only play the audio from the statement and not the video because of the "unfairly prejudicial" effect of the jury seeing appellant in shackles. R. 28, l. 14 – 29, l. 16. Judge Newman cited a case, Burton v. State, 237 So.3d 1138 (Fla. Ct. App. 2018), and asked both sides for additional authority on the issue. R. 31, ll. 9 – 17. At the end of Officer Platt's testimony at the pretrial hearing, Judge Newman asked why appellant was shackled during the interrogation. R. 45, ll. 15 – 25. The officer stated that their standard procedure was not to remove handcuffs during an interview because the suspect might be a flight risk and for the safety of officers. R. 45, l. 19 – 46, l. 7. The court watched the statement during the overnight recess. R. 48, ll. 4 – 14.

The next day, the court heard argument on the motion. R. 52, l. 5 – 59, l. 6. The court ruled that the presence of the handcuffs was not unduly prejudicial and it was important for the jury to view the defendant's demeanor during the interrogation. R. 52, l. 5 – 59, l. 6. Appellant renewed his objection when the video was played for the jury. R. 338, ll. 14 – 19.

Based on his statement and his testimony at trial, appellant sought and received instructions on voluntary and involuntary manslaughter.<sup>1</sup> R. 484, l. 21 – 494, l. 19. The viewing of the appellant in shackles on video combined with the officers' accusations about premeditation prejudiced appellant and tipped the scales from one of the lesser included offenses to murder. Had the jury not seen appellant in shackles and believed he was dangerous, they would have likely convicted appellant of the lesser included offenses. This Court should reverse.

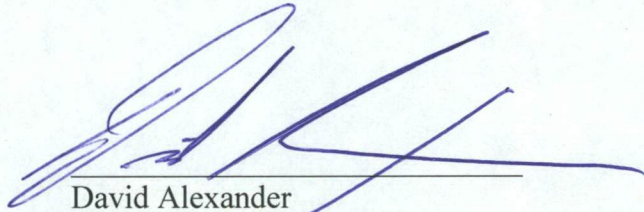
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<sup>1</sup> This Court, should it wish to abandon traditional rules of error preservation, may wish to consider whether the court erred in not charging the defense of accident after initially indicating it would give the charge based on the solicitor's questioning during cross-examination. R. 491, l. 21 – 492, l. 18.

**CONCLUSION**

For the foregoing reasons, this Court should reverse appellant's conviction and remand for a new trial.

This 26th day of February, 2020.

A handwritten signature in blue ink, appearing to read 'DAVID ALEXANDER', written over a horizontal line.

David Alexander  
Appellate Defender

ATTORNEY FOR APPELLANT

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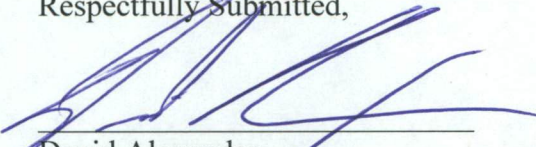
\_\_\_\_\_  
PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for Antonio Deaunte Simpkins states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Clifton Newman, which was held on April 1 - 4, 2019, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for Antonio Deaunte Simpkins.

Respectfully Submitted,

  
\_\_\_\_\_  
David Alexander  
Appellate Defender

This 26th day of February, 2020.

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

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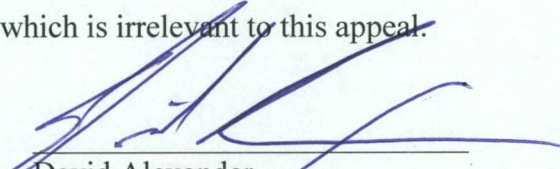
**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Trial Transcript dated April 1-4, 2019
- (2) Court's Exhibit No. 1
- (3) Court's Exhibit No. 3
- (4) State's Exhibit No. 2
- (5) State's Exhibit No. 17 (to be transported)
- (6) Indictment
- (7) Motion to Redact Defendant's Statement to Detective Freeman filed April 1, 2019
- (8) Motion to Suppress Defendant's Statement to Detective Freeman filed April 1, 2019
- (9) Motion to Suppress Defendant's Statement to Detective Fleurry filed April 1, 2019

I certify that this designation contains no matter which is irrelevant to this appeal.

February 26, 2020

  
David Alexander  
Appellate Defender

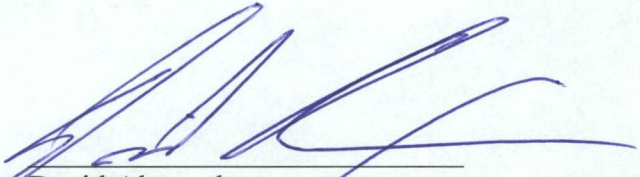
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ATTORNEY FOR APPELLANT

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

February 26, 2020.



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Appellate Defender

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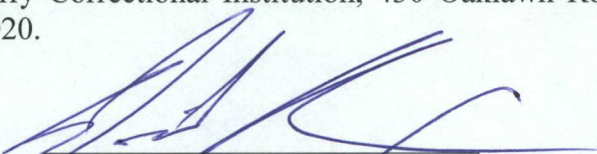
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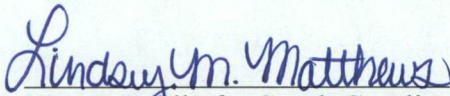
APPELLANT.

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case have been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on Antonio Deaunte Simpkins, 379717, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 26th day of February, 2020.

  
\_\_\_\_\_  
David Alexander  
Appellate Defender  
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 26th day of February, 2020.

 (L.S)  
Notary Public for South Carolina  
My Commission Expires: October 22, 2024.