STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Horry County
The Honorable Steven H. John, Circuit Court Judge
Appellate Case No. 2010-167826

THE STATE,

RESPONDENT,

v.

TYRONE BEATY,

APPELLANT.

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# FINAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT.

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## STATEMENT OF ISSUES ON APPEAL

Did the trial judge err in allowing a police officer to testify that a gunshot wound to the victim's hand was a defensive wound and could not have occurred while the victim was reaching for a handgun on his person where the officer was qualified as an expert in forensic investigation only?

## COUNTER-STATEMENT OF ISSUES ON APPEAL

Whether the trial judge abused his discretion by allowing Specialist Peter Cestare, of the Horry County Police Department, to opine that the gunshot wound to the victim's hand was a defensive wound and that it could not have occurred while the victim was reaching for a handgun because Specialist Cestare did not offer an opinion but merely stated a reasonable inference based on stated facts? Alternatively, whether there was an abuse of discretion because he was qualified, without objection, in the area of forensic investigation; he testified that he had received training in crime scene reconstruction, as well as "ballistics alignment, laser and trajectory" and that he is periodically called upon to reconstruct crime scenes, as part of his duties; and his opinion was cumulative to the forensic pathologist's conclusion that the wound to the victim's hand was a defensive wound?

## STATEMENT OF CASE

Appellant, Tyrone Beaty (Beaty), is incarcerated in the McCormick Correctional Institution of the South Carolina Department of Corrections (SCDC), as the result of his Horry County, South Carolina convictions and sentence for murder and armed robbery. The Horry County Grand Jury indicted Beaty at the April 27, 2006 term of court for murder (2006-GS-26-01748) and armed robbery (2006-GS-26-01747). His victim was Miles Thomas Slay. **R. pp. 297-300**. On July 12-16, 2010, Beaty received a jury trial before the Honorable Steven H. John. G. Scott Bellamy, Esquire, represented Beaty in the trial court. Assistant Solicitor Heather von Herrmann, of the Fifteenth Circuit Solicitor's Office, prosecuted him.

Beaty did not testify at trial. The trial judge charged the jury on accomplice liability and mere presence but he did not submit any lesser-included offenses of either murder or armed robbery. **Supp. R. pp. 119-24**. The jury found him guilty of both indicted offenses. Judge John sentenced him to concurrent sentences of thirty-four years imprisonment for murder and thirty years imprisonment for armed robbery. **R. pp. 295-96**.

A timely notice of appeal was served and filed.

## STATEMENT OF FACTS

### 1. Accounts of Eyewitnesses.

**Corey Smalls.**

Corey Smalls testified that he received a telephone call from the victim, Miles Thomas Slay, while he and his cousin, Antonio Smalls, were at an Horry County hotel on the morning of October 20, 2005. The victim, a cocaine dealer from whom Corey had purchased cocaine, wanted to purchase "a brick of cocaine," meaning a kilogram of cocaine.[1] However, the victim only had $ 16,000.00, and Corey told him this was not enough for a kilogram, which costs between $ 24,000.00 and $ 30,000.00. Still, Corey telephoned his usual contact in an unsuccessful effort to find a large quantity of cocaine for the victim. **R. pp. 4-86.**

Corey then contacted Beaty, in an effort to get a brick of cocaine for the victim. Beaty said he would contact Corey later. When Beaty called back, he told Corey that he could not get a brick but that he would look out for $16,000.00 worth of cocaine. Corey then called the victim and relayed Beaty's message to him. Corey also asked the victim what he wanted to do. Corey called Beaty, who asked him to come to Murrells Inlet, and to use a different car. Following this conversation, Corey told his cousin, Antonio, that they had to go to Murrells Inlet to meet Beaty, and Antonio drove them there. **R. pp. 6-9.**

Along the way, the cousins switch Antonio's blue Lincoln for a gold Maxima owned by one of Corey's clients. After dropping off Antonio's car at the home of Bridget Allen, the cousins went

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[1] Corey admitted that he was a drug dealer. He had met the victim through another cousin Also, Corey was charged with murder and armed robbery in this case, and he was pleading guilty to armed robbery. **R. pp. 3-4; 45-46.**

to Murrells Inlet. As soon as Antonio pulled into the yard, Beaty and Neil Hill, Beaty's cousin, arrived in a Jeep. Beaty and Hill got out of the Jeep and into the back seat of the car that Antonio was driving and in which Corey was seated. Beaty then said, "Man, ... let's rob him. ... Man, oh, man, y'all got to do nothing. Just let me rob him and we'll split the money." Although the Corey cousins were initially somewhat hesitant, Beaty convinced them that they would not have to do anything and all four men agreed to participate in the robbery. **R. pp. 9-16.**

As part of Beaty's plan, Antonio drove the four to an area Food Lion, where Beaty purchased flour, sandwich bags and some plastic to cover a broken car window. Beaty put plastic over the car window.[2] He then placed the flour and some real cocaine into the sandwich bags. While Beaty did this, Corey saw that he had a gun. From the Food Lion, the group went to a day care center, and Antonio picked up his daughter. **R. pp. 14; 16-18.**

As they drove away from the day care center, however, Beaty realized that he had accidentally thrown away the real cocaine,[3] and the group went back and Beaty retrieved it from a trash can. Once the group had dropped off Antonio's daughter at Ms. Allen's house, they continued with their plan. Antonio was still driving. **R. pp. 18-20.**

Beaty explained the plan, and he showed the robbery location to Corey. Corey testified that he was dropped off at a store, where he was supposed to meet the victim. He called the victim and waited on the victim to arrive. Because two people had accompanied the victim to the meeting place

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[2] Jarrett Jeffcoat, a loss prevention investigator with Food Lion, testified that his primary duties include identifying "associate theft, [and] associate dishonesty" for the chain. The State introduced a videotape of Beaty purchasing these items at the Food Lion that afternoon, as **State's Exhibit 29**, as well as a receipt for them. **State's Exhibit 30. Supp R. pp. 1-7.**

[3] Corey estimated that there was roughly thirty grams of cocaine. **R. p. 19, lines 14-16.**

and Corey recognized one as a man named Dominique,[4] Corey called Beaty and asked for instructions. Beaty, who now feigned a Jamaican accent, said to tell them that the victim had to come to the meeting place alone because Beaty did not trust others. Small got into the front passenger seat of the victim's vehicle and the other men got out of it. **R. pp. 21-24.**

Corey got into the car with the victim, and they proceeded to the pre-determined area for the robbery. Corey did not initially recognize location and they passed it the first time.[5] However, the victim turned the car around and they found it on the second attempt. When they arrived at the location and Beaty walked over to the victim's car, the victim said, "Oh, I know my man. I know him." So, Corey got out of the victim's car and headed back toward the Maxima. **R. pp. 24-25; 30-33.**

Once Corey sat down in the Maxima, he heard Beaty say, "[h]e's grabbing for something. He's grabbing for something." Looking up, Corey saw Beaty and the victim struggling over a bag of money. "The next thing... Tyronne Beaty pulled his gun out and he shot in the Jeep, pow, pow, pow, three times." He then ran back to the Maxima and threw the white bag of money into Corey's lap. **R. pp. 33-34; 79-80; 82; 87.**

Before Antonio drove away from the scene, Beaty ordered Antonio to "[h]old on for a minute" because he realized that the victim was still living. Beaty immediately "jumped back out [of] the car and finished him off." Corey knew that the victim was dead because the victim said, "Oh-h," and "leaned over" in his car. Corey claimed that he had not known of Beaty's plan to kill the victim and he did not think that Beaty cared about what happened to him because Corey had touched the

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[4] Corey told police that the other man, who was white, was named Daniel. **R. p. 24, lines 8-10.**

[5] Corey testified that he had just gotten out of prison.

Jeep and the other persons who had originally been with the victim could identify him. **R. pp. 34-36; 87-88.**[6]

When Beaty got back into the car, he wiped the gun clean, and he threw a bullet out of the window. Corey asked Beaty why he had killed the victim, and Beaty said that he had to because the victim had recognized him. At that point, Beaty also "snatched" the money bag out of Corey's lap and said that "I'm going to hold onto the money just in case something go[es] down." Smalls did not know what Beaty did with the gun that he had used[7] and he never saw the money. **R. pp. 35-37; 40-41.**

From the crime scene, Antonio drove the group back to Ms. Allen's residence, where they separated. Antonio drove Beaty and Hill back to Beaty's residence in his blue Lincoln, and Corey returned the Maxima to its owner. As they were driving back to Allen's residence, Corey received a call on his cell phone from Daniel, the white male who had originally been with the victim when Corey met him. Daniel wanted to know where the victim was. Corey claimed he did not know the victim's whereabouts and suggested that the victim was out selling drugs. Later, he called Daniel and asked to purchase some marijuana, in an effort to allay Daniel's suspicion. **R. pp. 38-39; 65-67.**[8]

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[6] Beaty had wiped the Jeep door to remove his own prints. **R. p. 88.**

[7] Corey testified that Beaty had used "a big gun." Also, the gun had a clip. **R. pp. 38-39.**

[8] "Daniel" turned out to be Daniel Prater. Prater testified that he was good friends with the victim and that the victim sold drugs. He, the victim and their friend Dominique were together on the morning of October 20th, and the victim was waiting for a call from Corey because he was supposed to buy cocaine from "Corey and them." The victim had the money for this transaction in a white bag in the vehicle's console. **R. pp. 253-57.**

Prater confirmed meeting with Corey at a gas station, that Corey ordered Prater and Dominique out of the vehicle. Further, he testified that, to his knowledge, Corey was the only person involved in the drug deal. Prater also confirmed his two subsequent phone conversations with Corey. **R. pp. 72-89.**

Because Antonio was not at Allen's residence when Corey returned, Corey called him. Antonio thereafter arrived and drove both men back to their hotel room. Sometime that night, Corey called his girlfriend, Felicia, and he told her what had happened. Felicia, who was "a federal investigator," told him to act like he did not know what the police were talking about if questioned by them. **R. pp. 39-40; 57-58**. Corey eventually turned himself in to police and, although he initially was less than completely honest, his final statement was truthful. **R. pp. 41-44; 48**.

**Neil Hill.**

Neil Hill testified that he is Beaty's cousin, that the two men are close and that he did not want to testify. Beaty called on the afternoon of October 20, 2005 and asked Hill to take him to Murrell's Inlet because Corey Smalls owed him $ 1,000.00, and Beaty was going to ask Corey about the money. Beaty explained that "if [Corey] didn't have his money, there was going to be an altercation between him and Corey, and he asked me to come along with him in case Antonio jumped in." **R. pp. 104-06**.[9]

Beaty's girlfriend then drove Beaty and Hill to Corey's residence in Murrells Inlet and left them there. When they met up with Corey and Antonio, Antonio was driving the gold Maxima. Beaty asked Corey about his money, and Corey said that he would have it after he took care of something. Corey also told Beaty and Hill that they could come with him. They agreed to come, got into the Maxima and rode with him. **R. pp. 106-09**.

According to Hill, the group was "smoking and drinking" and Hill "never heard no discussion about they ripping nobody off." (Sic). However, the men went to the Food Lion, where Beaty purchased tape to fix the car window, as well as flour and sandwich bags. From there, the men

[9] Hill did not know either Corey or Antonio Smalls but he had heard of them. **R. p. 108**.

went to the day care center and Antonio picked up his daughter. Hill claimed that Antonio threw the real cocaine in the trash while there, and that Beaty instructed the group to return to the day care and retrieve the cocaine once he realized that his cocaine was missing. **R. pp. 109-12; 127-28.**

After that incident, Beaty kept the cocaine in his pocket. The men then dropped off Antonio's daughter and Hill claimed that he fell asleep. When he awoke, the men were at a soccer field. **R. pp. 112-15**. According to Hill,

> Tyronne woke me up and ask me if I need to use the bathroom. I told him yeah. Me, and him, and Antonio got out and we walked into the bathroom area. I went in and used the bathroom, and as we was coming back out, Tyronne told me to sit in the front seat, so I sat in the front seat, and me and Antonio was still in the car, and Antonio started talking to him about somebody owe him some money, and he asked him what do he think he should do about it, you know, so eventually, like I was telling you, I don't really associate with Antonio, though, so I lean back over and I was just sitting there, and I doze back off, and it seem like fifteen minutes later I heard gunshots go off.

**R. p. 115, lines 9-20**.

It was dark and Hill did not think that they were still at the soccer field when he heard the three or four shots. Also, he did not recall another vehicle. After he heard the shots, he "jumped up" and both Beaty and Corey "jumped"jump into the car. When Hill supposedly asked Corey, "'What's going on? What's going on?' ... Corey was like, 'To the death, to the death,' and, ... 'Ain't nothing. Ain't nothing." Corey also threatened to come see Hill if Hill said anything. **R. pp. 116-17; 131-32.**

After the group left the scene, they went back to Allen's house. As they were getting out of the car, Beaty told Corey, "I'm not f-ing with you. You got me ... caught up in this B.S. I'm not f-ing with you." Then, Corey returned the Maxima to its owner and Antonio dropped off Hill and Beaty. **R. pp. 117-18.**

However, Hill conceded that Beaty told him that Beaty was going to meet Corey and that he

did not know what other conversations Beaty may have had with Corey. He likewise admitted that he figured out that they were going to rip off the victim when he saw Beaty "bagging up the flower; that it was Beaty's idea to go to the Food Lion; and that Beaty was going to hand the cocaine to the victim. However, Hill did not withdraw from this plan. Also, he heard Beaty and Corey arguing about money over the phone, with Beaty telling Corey, "he [Beaty] better hold it for bail."[10] **R. pp. 119-24; 135-37**.

**Antonio Smalls.**

Antonio Smalls testified that he and his cousin, Corey Smalls, and Bridget Allen were at an Horry County hotel on the morning of October 20, 2005, when Corey received a phone call from someone wanting to buy "a large quantity of drugs."[11] Corey made "a couple of calls" to attempt to find the drugs, but no one answered. So, he called Beaty. After this conversation, Corey asked Antonio to drive him to Murrells Inlet to pick up Beaty and Hill. **R. pp. 141-43**.[12]

Antonio drove them to Allen's residence in his Lincoln Towncar, and they dropped her off there. Corey got the gold Maxima because Antonio's car was not running well. Beaty and Hill showed up thirty minutes after Corey and Antonio arrived in Murrells Inlet, and they got into the Maxima. The group headed to the Food Lion because Beaty wanted to get flour, ziplock bags and some tape to "fix" the car window, but Antonio did not hear his cousin and Beaty talking about

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[10] Hill claimed not to remember telling police that Beaty had been the one who held the money for bail.

[11] Antonio did not know the victim. Also, Antonio was charged with murder and armed robbery in this case. He also had an unrelated drug distribution charge. He had entered an agreement on these charges but he had not been promised anything by the State in exchange for his testimony. **R. pp. 170-71**.

[12] Antonio tried to talk Corey out of the robbery but Corey insisted that he needed the money. **R. pp. 174-75; 196**.

Corey owing Beaty money. **R. pp. 143-46.**

Antonio testified that the men discussed a plan to rip off someone in the car and that Hill had heard this conversation. Beaty had some real cocaine and he bought the flour to fool their intended victim into believing that it was also cocaine.[13] After they left Food Lion, Antonio dropped his daughter off at the day care. As they were leaving that location, Beaty instructed Antonio to return because Beaty had accidentally thrown the real cocaine in the trash. Antonio returned to the daycare, retrieved the cocaine from the trash and handed it to Beaty. **R. pp. 146-52.**

Corey then asked Antonio to take him to an area apartment complex and Antonio did so. Once Corey had been dropped off, Antonio drove to the scheduled meeting place. Along the way there, Corey called Antonio's cell phone and spoke with Beaty. Antonio stopped at the "Moose Lodge" and he backed the car in at Beaty's direction. Eventually, a small Toyota SUV pulled up and parked a short distance from them and facing them. **R. pp. 150; 152-56; 160-61.**

The victim was driving and Corey was seated in the passenger seat. It was at that point that Antonio saw that Beaty had a semiautomatic weapon in his lap. This scared Antonio and caused him "to panic a little bit." Beaty walked over to the victim's car, while Corey got out of the victim's car, walked behind the Maxima, and smoked a cigarette. Hill remained in the Maxima, with his eyes closed but awake. **R. pp. 158-63.**

Antonio saw Beaty showing the cocaine to the victim and saw that they were having a conversation. Then, as Antonio and Hill were talking, Antonio heard three gunshots and "jumped." He looked up and saw Beaty leaving the victim's vehicle.[14] "I looked at the victim's car, and it look

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[13] Hill confirmed that Beaty made the purchases at Food Lion.

[14] Beaty was within a foot of the vehicle and no one else was near it. **R. pp. 163; 188; 196-97.**

like he was trying to reach for something, and I'm looking at Neil Hill and he's looking at me, and I heard two more gunshots." Beaty returned to the Maxima with a bag of money in his hand, which he put in his shirt. **R. pp. 162-65**.

Both Corey and Beaty got into the car, and Corey asked Beaty why he had shot the victim. Beaty replied, "'He was reaching for something." Following instructions, Antonio drove the group back to Allen's residence. Everyone got out of the Maxima but Corey, who returned it to its owner. Antonio did not know if Hill got any of the victim's money, but he did not get any and, to his knowledge, Corey did not get any of it either. Also, when Corey asked Beaty about the money, Beaty said "he's not giving up no money because we might need it for bond." **R. pp. 165-68**.

At Beaty's request, Antonio dropped off Beaty and Hill "up the road." In a subsequent telephone conversation with Beaty, Antonio told Beaty that he had received a call from a detective who wanted to speak to him. Beaty told him, "please go down there and tell them what they -- tell them the truth, whatever, so we can get some sleep, because [Beaty] couldn't sleep." So, Antonio went to the police and told them what he knew. **R. pp. 168-70**.

**2. Autopsy findings.**

Dr. Cynthia Schandl is the forensic pathologist who performed an autopsy on the victim, on October 22, 2005. Dr. Schandl opined that the victim "was shot either five, or six, or seven times." However, she could not determine precisely how many gunshot wounds were present because, with one exception, all of the gunshot wounds went all the way through the victim's body and left at least two holes in his body. It was possible that a bullet from one of these wounds may have re-entered the body and caused a second wound. **R. pp. 209-12**.

First and of importance to the issue raised on appeal, she found "a through and through ...

gunshot wound to his right hand." She opined that it was possible the bullet that caused this wound thereafter re-entered the victim's body but she did not know where and she could not determine on which side of the hand the entrance wound was located. **R. pp. 212; 214; 226**. Also, she opined that this was a defensive wound, explaining that "[a]ny wound that's to the hands or even to the forearms is considered a defensive wound because one can presume that one would attempt to defend [himself] if [he was] being fired upon, so it is consistent with a defensive wound." **R. pp. 219**.

Second, she found "a through and through gunshot wound that went through ... the [left] side of the arm or the shoulder." Dr. Schandl opined that it was possible the bullet that caused this wound then entered the other side of the victim's face before exiting his body. **R. pp. 212-13**.

She also found

> another [wound] that's here ..., on the left chest (indicating) that comes out right here on the neck. Now, this one I'm quite certain then re-enters right here on the neck because there is a continuous what we call a graze wound that's connecting ... this exit gunshot wound, with this re-entrance gunshot wound, which then continues to come out the face here.
>
> This is the one that went through the aorta and the left lung, and then it continued here and shattered the jaw over here and some teeth, okay, so this one I'm quite certain is a single gunshot wound that caused four different defects in this individual, so again, that one through the hand, one through this shoulder, possibly also that continuing through the neck to the face, one through here (indicating), to the neck, to here, and out the face, okay?
>
> Now, the other one is to the back at about here (indicating), and it travels across the mid-line, hit the right lung, and ends up in this arm, okay, and then we have another one that travels from the ... posterior lateral thigh back here and then exits about here on the upper buttocks on the right-hand side, okay, so traveling from about here (indicating) to about here in an upward direction, depending on, of course, where the body is.
>
> .... [T]here's another one that is here (indicating) that crosses the mid-line without entering the chest cavity and comes out the front of the right arm.

**R. pp. 213-14**.

Dr. Schandl opined that the cause of death was the perforation of his aorta and lung caused by the distant gunshot wound. The multiple "penetrating and perforating gunshot wounds to the back, chest, neck, and extremities" contributed to his death. The manner of death was a homicide. **R. pp. 219-20**.

Because Dr. Schandl did not find the presence of either soot or stippling on any wound, she opined that they were all "distant" gunshot wounds.[15] A toxicology report showed the presence of "ethanol, which is alcohol, at a level of twenty-two milligrams per deciliter, which is 0.022 percent." The other finding was "Delta Nine Carboxyl Tetrahydrocannabinol, which is an inactive metabolite of THC, so a cannabinoid,[[16]] and then there's also nicotine, which is from cigarettes or chewing some kind of tobacco product, and its metabolite, cotinine." **R. pp. 215-17**. (Footnote added).

**3. Evidence from crime scene.**

A 911 call was placed on October 21, 205, the day following the shooting (**Supp. R. pp. 8-10**), and the case was investigated by the Horry County Police Department. **Supp. R. pp. 10-16**. Inv. John Caulder is the Senior Crime Scene Investigator in the Horry County Police Department and he was the first crime scene investigator on the scene. His supervisor, Specialist Peter Cestare, also was involved in processing the scene. The scene had already been secured when they arrived. "There was a Masonic Lodge to the right of the area that was cordoned off, and there was a new vehicle, a SUV type vehicle, parked to the left of the Masonic Lodge with the driver's door ajar." **Supp. R. pp. 17-18; R. pp. 231; 239.**

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[15] In Dr. Shandl's opinion, intermediate and distant wounds are the same. **R. p. 215-16**.

[16] There was an insufficient amount present to say that he was under the influence of marijuana.

While the officers waited on a search warrant for the vehicle, they made a brief walk around the area and they saw the victim lying in the front seat of the SUV. They processed the scene after they had a warrant, using metal detectors to help find metal objects in the area. Outside of the vehicle on the driver's side, the officers found three baggies containing an unknown substance and a shell casing. **Supp. R. pp. 18-23; 49-50**.

Inside the door, the officers found a second shell casing, and a fourth plastic baggie containing an unknown substance. They found a projectile on the ground on the passenger side of the SUV, and two projectiles on the passenger seat. Also, "on the actual sides of the vehicle are exit marks made from ... a fired projectile where they actually enter from the inside of the vehicle and exit the outer shell of the vehicle;" and the passenger side window was shattered. The shattered glass could have been caused either by a projectile passing through it or the concussion of the gunshots. Specialist Cestare opined that all shots had been fired from the driver's side of the vehicle and none were fired from the passenger side. **Supp. R. pp. 23-28; 44-45; R. pp. 236-37; 240-41.**

The victim still had his cell phone with him, and the officers found a fourth projectile, which had gone through his body, in his clothing. They also found a third shell casing on the driver's seat, after the victim had been removed from the vehicle. Other casings were found on the ground. In all, the officers recovered five .45 caliber shell casings and five .45 caliber projectiles, in or around the vehicle. A fifth projectile was removed from the victim's body at autopsy. **Supp. R. pp. 27-29; 42-43; 50-52; 96; R. pp. 237-38.**

The officers never recovered a murder weapon. However, when the victim was moved out of the vehicle, officers "felt an object on his right side." When they lifted up his t-shirt, they found a .45 caliber handgun "tucked in the waistband of the pants." **R. pp. 243-44**.

SLED Agent Dan Defreese, an expert in firearms identification and analysis, testified that he analyzed the cartridge casings and projectiles recovered in this case. He found "sufficient matching individual markings on" four of the projectiles to opine that they were fired by the same semiautomatic .45 caliber weapon. The remaining projectile "had a number of similarities to the other four bullets, but [it] was somewhat more damaged than the other ones, and I just did not see sufficient agreement to conclude that this was fired by the same gun barrel to the exclusion of another gun barrel. It certainly could have been fired by the same gun, but I just can't say so for sure." **Supp. R. pp. 92-100**.

Agent Defreese found that all of the shell casings were identical in construction, they were all produced by the same company and they were all CCI Blazer casings. He then looked "for the kinds of markings on each of these cartridge cases" that would allow him to conclude that they were fired by the same gun. However, the cartridge casings "did not have enough markings on them to conclude that they were fired by one gun." Nevertheless, they cold have all been fired by one gun. When Agent Defreese compared the projectiles and cartridge casings to bullets and casings from the victim's weapon, he was able to exclude it as having fired any of them. **Supp. R. pp. 101-04.**

Subsequent testing of the substances in the plastic baggies revealed that one baggie had 24.34 grams or 375.61 grains of cocaine, but three other baggies did not contain any controlled substance. **Supp R. pp. 36-40**. Also, Specialist Cestare lifted twenty-two latent prints from the vehicle and sent to SLED for analysis, but none of these were connected to Beaty or his co-defendants. **Supp. R. pp. 53-66; R. pp. 259; 264-65; 286-87.**

## ARGUMENT

**The trial judge did not abuse his discretion by allowing Specialist Peter Cestare, of the Horry County Police Department, to opine that the gunshot wound to the victim's hand was a defensive wound and that it could not have occurred while the victim was reaching for a handgun because Specialist Cestare did not offer an opinion but merely stated a reasonable inference based on stated facts. Alternatively, there as no abuse of discretion because he was qualified, without objection, in the area of forensic investigation; he testified that he had received training in crime scene reconstruction, as well as "ballistics alignment, laser and trajectory" and that he is periodically called upon to reconstruct crime scenes, as part of his duties; and his opinion was cumulative to the forensic pathologist's conclusion that the wound to the victim's hand was a defensive wound.**

Beaty maintains that the trial judge erroneously allowed Crime Scene Specialist Peter Cestare, of the Horry County Police Department, to testify that a gunshot wound to the victim's hand was a defensive wound and that it could not have occurred while the victim was reaching for a handgun on his person because Officer Cestare was only qualified as an expert in forensic investigation and this opinion was beyond the scope of his expertise. Respondent submits that his argument is without because Specialist Cestare did not offer an opinion but merely stated a natural inference based on stated facts. Alternatively, there as no abuse of discretion because he was qualified, without objection, in the area of forensic investigation; he testified that he had received training in crime scene reconstruction, as well as "ballistics alignment, laser and trajectory" and that he is periodically called upon to reconstruct crime scenes, as part of his duties; and his opinion was cumulative to the forensic pathologist's conclusion that the wound to the victim's hand was a defensive wound. Further, any error in the admission of his testimony is non-prejudicial and harmless beyond a reasonable doubt, at worst, since his opinion was cumulative to the forensic pathologist's conclusion that the wound to the victim's hand was a defensive wound and there was overwhelming evidence of guilt.

## A. Proceedings in the trial court.

Specialist Peter Cestare testified that he is employed by the Horry County Police Department, where he had been employed since 1981. Specialist Cestare is "in charge of the Crime Scene, and Property and Evidence sections." He supervises the crime scene investigators and personally conducts investigations. He explained that his "position is overall forensic investigation for all cases within Horry County." As part of his duties, he analyzes crime scenes and he is periodically called upon to reconstruct those scenes. **R. pp. 233-34.**

When asked to give his education, experience and training, he testified that:

> Prior to Horry County, I was employed by the New York City Housing Police Department under N.Y.P.D. I was a detective, rose through the ranks from police officer to detective commander there. I was in charge of their special investigations unit which would consist of major cases, homicides, mechanical deaths, things of that nature. I've been trained by the N.Y.P.D. in crime scene processing, forensics processing, DNA collection and handling of evidence by N.Y.P.D. and the Department of Justice, blood stain pattern interpretation and analysis by both N.Y.P.D. and the Department of Justice, crime scene processing and analysis by N.Y.P.D. and the Department of Justice, crime scene reconstruction by N.Y.P.D. and the Department of Justice, ballistics alignment, laser and trajectory by N.Y.P.D. and the Department of Justice -- I'm sorry, by N.Y.P.D., AFIS, Automated Fingerprint Identification System, through both SLED and Motorola, the manufacturer of the equipment. I'm trained in photography through Nikon, the Nikon School of Photography, and I've been trained in fingerprinting, fume and chemical treatment and alternate light source, both by N.Y.P.D. and by Horry County Police Department.

**R. p. 234, line 13 - p. 235, line 12.**

The Assistant Solicitor established that "all of those things sort of fall under the purview of forensic investigation," and that he had previously testified as an expert seven or eight times in Horry County and "upwards of fifty" times in New York courts. Then, Specialist Cestare was qualified, without objection, as an expert in the field of forensic investigation. **R. p. 235, line 13 - p. 236, line 5.**

Specialist Cestare testified that he responded to the crime scene on October 21, 2005, and participated in processing the scene. Much of his testimony was admitted without objection, including his opinion that all of the shots were fired from the driver's side of the vehicle, and his testimony that the officers recovered a gun, which was on victim's right side under his t-shirt and tucked into the waistband of his pants, when the officers removed him from the vehicle. **R. pp. 236-45.**

Specialist Cestare also identified and described for the jury **State's Exhibit 17**, a photograph depicting the interior of the vehicle taken from the driver's side; **State's Exhibit 36**, a photograph showing where the victim's gun was located; and **State's Exhibit 20**, a photograph depicting the interior of the vehicle taken from the passenger's side. **R. pp. 236-45.** Beaty objected when Specialist Cestare was asked whether he had an opinion as to whether the victim was attempting to reach for his weapon, based upon his review of **State's Exhibit 36** and **State's Exhibit 20. R. p. 247, line 21 - p. 248, line 9.** Following an unrecorded bench conference, Cestare testified - without objection - that the victim's gun was not exposed in any way. Rather, "[i]t was covered by the shirt and ... tucked into the waistline of ... the pants." **R. p. 248, lines 10 - 15.**

Beaty also objected to introduction of a photograph of the victim's right hand (**State's Exhibit 45**), on the grounds that it was irrelevant and the cumulative to the pathologist's testimony. After Specialist Cestare testified that the photograph would assist him in explaining the crime scene and that it depicted something that he observed on the victim's hand on October 21st, the trial judge allowed the State to introduce it. **R. p. 248, line 19 - p. 250, line 1.**

Then, the following colloquy occurred of which Beaty now complains:

Q. What is this a photograph of?

A. This photograph shows the victim's right hand. You can clearly tell it's the right hand by the placement of the thumb and fingers. What you see on this photograph is both -- is two wounds, entrance and exit, and what makes this photograph unique to me is that it's what I would refer to as a defensive wound. This photograph indicates to me - - -

MR. BELLAMY: Your Honor, I am going to —

A. - - - that this person's hand was up.

THE COURT: I am going to allow him, based upon the Court qualifying him as a forensic investigator and his experience, I am going to allow him to testify and respond to that question. Thank you.

A. This photograph would indicate that this person's hand was up in a defensive manner blocking something coming at him, a shot. Commonly a defensive wound is - - there's two, two types of wounds when you classify wounds on a body, offensive and defensive, offensive being the aggressor, defensive being the person who is trying to defend themselves or protect themselves. This would appear to me to be a defensive wound, like the hand was placed up.

**R. p. 250, line 8 - p. 251, line 5**. The trial judge understood Beaty's objection was that the testimony exceeded the witness' qualifications. **R. p. 251, lines 10 - 14**. *See also* **R. p. 248, lines 1 - 2**.

Thereafter, Specialist Cestare was asked whether he could determine the sequence of the gunshots, and he indicated that although it was possible to do so "[i]n some cases," here he could only determine "how everything was placed." Beaty objected because the pathologist had previously testified that it was not possible to determine the order of the shots. **R. p. 253, line 20 - p. 254, line 4**. The trial judge did not understand Cestare's answer to contradict the pathologist's opinion but indicated that he had to hear the answer in order to make a ruling and he instructed Specialist Cestare to answer the question. **R. P. 254, lines 5-9**.

Cestare then testified that:

A. As I mentioned earlier, in looking at that injury, it is in my opinion a

> defensive wound which would indicate his hand was up. When you look at the photos you've shown here, State's Exhibit 20, State's Exhibit 36, clearly show the victim's arm in a downward angle towards the front passenger floorboard. In order for that shot to have been through his hand, it could not have occurred where his hand is now, so, therefore, his hand had to be up when that shot occurred.

**R. p. 254, lines 10-18**. The trial judge ruled that this testimony was admissible. **R. p. 254, line 20**.[17]

**B. Discussion.**

The State submits that Beaty's argument is without merit, and that the trial judge properly overruled his objection. It is well-settled that:

> The qualification of a witness as an expert and the admissibility of his or her testimony are matters left to the sound discretion of the trial judge, whose decision will not be reversed on appeal absent an abuse of that discretion and prejudice to the opposing party. *Nelson v. Taylor*, 347 S.C. 210, 214, 553 S.E.2d 488, 490 (Ct.App.2001). An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law. *State v. Wise*, 359 S.C. 14, 21, 596 S.E.2d 475, 478 (2004).

*State v. Jamison*, 372 S.C. 649, 652, 643 S.E.2d 700, 701 (Ct.App. 2007). *See also* Rule 702, SCRE ("If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise"); *State v. Tapp*, 398 S.C. 376, 385, 728 S.E.2d 468, 473 (2012) ("The admission or exclusion of evidence is an action within the sound discretion of the circuit court and will not be disturbed on appeal absent an abuse of discretion. .... An abuse of discretion occurs when the conclusions of the circuit court are either controlled by an error of law or are based on unsupported factual conclusions") (citations

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[17] Beyond the determination that the hand wound was a defensive wound, Cestare could not determine the order in which the shots were fired. **R. p. 255, lines, 22-25**.

omitted); *State v. Robinson*, 396 S.C. 577, 586, 722 S.E.2d 820, 825 (Ct.App. 2012).

"There is no abuse of discretion as long as the witness has acquired by study or practical experience such knowledge of the subject matter of his testimony as would enable him to give guidance and assistance to the jury in resolving a factual issue which is beyond the scope of the jury's good judgment and common knowledge. *State v. Henry*, 329 S.C. 266, 495 S.E.2d 463 (Ct.App.1997)." *White*, 372 S.C. at 374-75, 642 S.E.2d at 612. In other words, "[f]or a court to find a witness competent to testify as an expert, the witness must be better qualified than the fact finder to form an opinion on the particular subject of the testimony." *Ellis v. Davidson*, 358 S.C. 509, 525, 595 S.E.2d 817, 825-26 (Ct.App. 2004) (citations omitted).

Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. Rule 403, SCRE; *State v. Shuler*, 353 S.C. 176, 184, 577 S.E.2d 438, 442 (2003); *State v. Martin*, 347 S.C. 522, 533, 556 S.E.2d 706, 712 (Ct. App. 2001).

Applying the above standards to the present case, it is clear that Beaty's argument lacks merit. In support of his claim of error, Beaty relies upon the Supreme Court's decision in *State v. Ellis*, 345 S.C. 175, 177-79, 547 S.E.2d 490, 491- 92 (2001). Respondent submits that his reliance is misplaced.

In *Ellis*, the defendant was convicted of murder. The victim was found in the street, near both his bicycle and a knife. Ellis admitted that he had shot the victim three times. However, he maintained that he had acted in self-defense because the victim, who wore a leg brace, had dropped

the bicycle and approached him in a menacing fashion while holding the knife. Ellis claimed that he had verbally warned the victim to stop, but that he instinctively shot when the victim jumped towards him, while still "holding the knife in a threatening position." *Id* at 177, 547 S.E.2d at 491.

In order to disprove the self-defense claim, the prosecution sought to show that "the victim was shot while riding the bike." To this end, the State presented a police officer, who "was qualified as an expert in crime scene processing and fingerprint identification. *Id.* Over objection, the officer was permitted to opine "that, in his opinion, the victim was astride the bike when shot." *Id.*

On appeal, the Supreme Court agreed with Ellis' argument that the officer was not qualified to offer opinion testimony in the area of crime scene reconstruction because he had not been qualified as an expert in crime scene reconstruction. The Court reasoned as follows:

> Sergeant Walters was qualified as an expert in crime scene processing and fingerprint identification. As such, he was qualified to testify, as he did, to measurements taken at the scene, to the recovery of shell casings, and to the identification of blood stains. He exceeded the scope of his expertise when he was permitted, over appellant's objection, to impart to the jury his conclusion, drawn from these measurements and observations, regarding the location of the victim and the position of his body vis-a-vis the bicycle at the time of the shooting. In effect, Sergeant Walters was allowed to give his opinion on the ultimate issue: Whether appellant was acting in self-defense when he shot and killed the victim. This was error. *See* Rule 704, SCRE; *State v. Wilkins*, 305 S.C. 272, 407 S.E.2d 670 (Ct.App.1991) (opinion may be offered on ultimate issue only where witness is otherwise qualified).

*Ellis*, 345 S.C. 175, 177-78, 547 S.E.2d at 491. Further, the Court found that the error could not be harmless because of Ellis' claim that he acted in self-defense and the State's closing argument, which repeatedly referred to the officer's testimony as "scientific evidence." *Id* at 178-79, 547 S.E.2d at 491-92.[18]

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[18] The Court noted that "the State was free to argue that the evidence supported an inference that the victim was astride the bicycle when shot," and that "the jury could certainly have concluded that he was." However, the Court found that admission of the officer's opinion to this effect was prejudicial error. *Id* at

In the present case, however, Cestare did not reach an opinion based upon the measurements that he had taken that day. Rather, he was merely testifying about the common sense proposition that the victim's hand could not have been shot in the position in which it was found by police because the wound would not have gone through his hand, as it did. Again, the physical evidence was that the victim was seated in the driver's seat; the shooter, Beaty was standing on the driver's side of the car; and the victim's gun was on the victim's right side, under his t-shirt, and tucked into the waistband of his pants, when the officers removed him from the vehicle. **R. pp. 236-45**. Thus, Cestare testified to the quite natural inference that the victim's hand must have been up when he received the wound to it because his body would have been between Beaty and his right hand, and his right hand would not have been at such an angle to the Beaty that it would have permitted a through and through wound, as occurred.

This was demonstrated by the two photographs that were taken that day and on which he premised his testimony. "A natural inference based on stated facts is not opinion evidence. Where the distinction between fact and opinion is blurred, it is often best to leave the matter to the discretion of the trial judge." *State v. Williams*, 321 S.C. 455, 464, 469 S.E.2d 49, 54 (1996). *See also Commonwealth v. Lodge*, 727 N.E.2d 1194 (Mass. 2000) (detective with extensive experience in investigating homicides may have general knowledge to testify that falling blood forms teardrop shape without rising to level of expert "blood spatter" evidence; however, detective was not asked appropriate foundational questions).

Furthermore, and assuming that Specialist Cestare's testimony is considered as the opinion of an expert, Respondent submits that the trial judge did not abuse his discretion by permitting this

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178, 547 S.E.2d at 491.

testimony because, contrary to Beaty's argument and unlike the scenario involved in *Ellis*, Specialist Cestare had specialized knowledge that assisted the trier of fact to understand the evidence and to determine a fact in issue, based upon his knowledge, experience, training and education. He was qualified, without objection, as an expert in the field of forensic investigation, and he testified that he had previously testified as an expert seven or eight times in Horry County and "upwards of fifty" times in New York courts. **R. p. 235, line 13 - p. 236, line 5**.

He was not qualified merely as an expert in crime scene processing or as a crime scene technician. *Contra Ellis*, 345 S.C. at 177, 547 S.E.2d at 491. Rather, his expertise was "forensic investigation." Moreover, his testimony concerning his education and work experience reflected that he had been with the Horry County Police Department for eight years and that he was employed by the N.Y.C.PD. before that. Also, he worked with the New York City Housing Police Department under N.Y.P.D., where he eventually became a detective commander and "was in charge of their special investigations unit which would consist of major cases, homicides, mechanical deaths, things of that nature.

With respect to his training, he testified that he had received training in the areas of "crime scene processing and analysis by N.Y.P.D. and the Department of Justice, crime scene reconstruction by N.Y.P.D. and the Department of Justice, ballistics alignment, laser and trajectory by N.Y.P.D." **R. p. 234, line 13 - p. 235, line 12**. Additionally and again contrary to *Ellis*, in explaining the nature of his expertise, he testified that he analyzes crime scenes and that he is periodically called upon to reconstruct those scenes. **R. pp. 233-34**.

Respondent would note that other courts have sanctioned expert testimony from seasoned police officers, where the subject matter involved drawing common sense conclusions that are more

obvious or noticeable to an officer due to his or her long experience with those types of crime. *See, e.g. State v. Vega*, 691 A.2d 22 (Conn. App. Ct. 1997) ("It is common to qualify law enforcement officers as experts in the conduct of criminals because of their experience and the lack of such knowledge among lay jurors"); *Casey v. State*, 523 S.E.2d 395 (Ga. Ct. App. 1999) (officer's training and experience qualified him to opine about DUI defendant's driving abilities); *State v. Crosby*, 748 So.2d 502 (La. Ct. App. 1999) (officer with experience and training in narcotics trade could give expert testimony as to packaging of narcotics; this merely assisted jury in understanding packaging of cocaine for retail sale in order to judge defendant's claim that he merely possessed for personal use); *Commonwealth v. Frias*, 712 N.E.2d 1178 (Mass. App. Ct. 1999) (police officer may give expert testimony as to how drug transactions are carried out on the street level: this may (or may not) assist the untrained jury in understanding the evidence they have heard of particular conduct on the street); *Bui v. State*, 964 S.W.2d 335 (Tex. Ct. App. 1998) (officers with long experience who touched and held fireplace log were qualified to give expert opinion that it could be used to beat someone to death).

In *Cammon v. State*, 500 S.E.2d 329 (Ga. 1998), the Georgia Supreme Court upheld the introduction of police opinion testimony as to the trajectory of a bullet, even though the officer was not qualified in ballistics. The Court noted that the testimony was based the officer's extensive investigation which established the facts forming his opinion. *Id* at 333. Similarly, Specialist Cestare's testimony was based on evidence gathered in his investigation, and he more than adequately established for the jury the facts behind his opinion.

Additionally, Respondent would note that although Beaty's objection was that Specialist Cestare's opinion went beyond the scope of his expertise, the objection was premised upon the

expectation that Cestare would offer an opinion inconsistent with that of the forensic pathologist that it was impossible to determine the order of the gunshot wounds. As a result, Respondent submits that the objection was improperly based upon pitting of the State's witnesses. Moreover, his opinion was consistent with her opinion. *Cf.*, *e.g.*, *State v. Benning*, 338 S.C. 59, 62-64 & nn. 1-2, 524 S.E.2d 852, 854-55 & nn. 1-2 (Ct.App. 1999) (Solicitor's attempts on cross-examination of defendant to pit his testimony against testimony of two prosecution witnesses were improper); *State v. Kelsey*, 331 S.C. 50, 502 S.E.2d 63 (1998) ("Although it is improper for an attorney to cross-examine a witness in such a manner as to force him to attack the veracity of another witness, improper 'pitting' constitutes reversible error only if the accused was unfairly prejudiced"); *Stephen W. Brown Radiology Associates v. Gowers*, 278 S.E.2d 653 (Ga.App. 1981) (sustaining objection to defense counsel's question to expert witness based on testimony previously given by another expert witness on ground that court was not going to allow one witness to be pitted against another witness was not error where examination of testimony given by previous expert witness showed that his testimony was opinion testimony and counsel made no effort to allow witness to testify further by asking him hypothetical question with reference to matter in issue"); *Gray Line, Inc. v. Keaton*, 428 A.2d 360, 362 (D.C. 1981) ("Appellant's expert witness testified that his examination of appellee prior to trial revealed no "objective evidence" of any condition requiring treatment. ... Thus, appellant's expert appears to be pitted against appellee herself on the issue of permanency of her injury from this particular accident") (record citation omitted). Moreover, the trial judge properly determined that Cestare's testimony did not contradict the pathologist's opinion. **R.p. 254, lines 5 - 20**. Other than his testimony that the hand wound was a defensive wound received while the hand as up, Cestare could not determine the order in which the shots were fired. **R. p. 255, lines, 22-25**.

Respondent further submits that Beaty cannot show any prejudice resulting from the trial judge's ruling because the ruling was harmless and non-prejudicial beyond a reasonable doubt, since it could not reasonably have affected the result of the trial. *See State v. Sherard*, 303 S.C. 172, 175, 399 S.E.2d 595, 596 (1991) ("Error in a criminal prosecution is harmless when it could not reasonably have affected the result of the trial"); *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989) ("When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result"). Specifically, Respondent notes that Cestare's opinion is merely cumulative to that of Dr. Schandl that the through and through gunshot wound to the victim's right hand was a defensive wound. While Dr. Schandl could not determine on which side of the hand the entrance wound was located (**R. pp. 212; 214; 226**), she unequivocally opined that this was a defensive wound, explaining that "[a]ny wound that's to the hands or even to the forearms is considered a defensive wound because one can presume that one would attempt to defend themselves if they were being fired upon, so it is consistent with a defensive wound." **R. p. 219**.

Moreover, Beaty conveniently overlooks that even if the victim had been reaching for a gun, as Beaty suggests, any wound that he received in the course of doing so was necessarily a defensive wound because he was the victim of an armed robbery.[19] The applicable law was succinctly stated in *State v. Bryant*, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999):

> "[O]ne who provokes or initiates an assault cannot escape criminal liability by

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[19] Armed robbery occurs when"[a] person ... commits robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon." S.C. Code Ann. § 16-11-330(A) (2001).

> invoking self defense ...." Ferdinand S. Tinio, *Comment Note: Withdrawal, After Provocation of Conflict, As Reviving Right Of Self-Defense*, 55 A.L.R.3d 1000, 1003 (1974). "Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a homicide. 40 Am.Jur.2d *Homicide* § 149 (1999). "[A] robber, who is met with such violent resistance by his victim that he has no opportunity to convince [the] victim that he has abandoned his criminal intentions and only wants to withdraw, may not claim self defense if he injures or kills his victim." 55 A.L.R.3d at 1003-04; *see also United States v. Thomas*, 34 F.3d 44 (2d Cir.1994) (one who commits or attempts a robbery armed with deadly force and kills the intended victim when victim responds with force may not avail himself of the defense of self-defense); *People v. Couch*, 436 Mich. 414, 461 N.W.2d 683 (1990) (a robber or other wrongdoer engaged in felonious conduct has no privilege of self-defense); *Stiles v. State*, 829 P.2d 984 (Okla.Crim.App.1992) (one who kills while committing armed robbery is an aggressor and an aggressor is not entitled to a claim of self-defense).

The victim, therefore, had a right to defend himself, even to the point of using lethal force.

Indeed, Respondent would note that the trial judge charged the jury on accomplice liability and mere presence but he did not submit any lesser-included offenses of either murder or armed robbery. **Supp. R. pp. 119-24; 126-32**. He also did not charge self-defense. **Supp. R. pp. 113-25; 126-32**. As a result, Specialist Cestare's testimony cannot be prejudicial to Beaty. Finally, Respondent would note that there was overwhelming evidence of Beaty's guilt. Therefore, the trial judge's ruling must be affirmed.

## CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment of the lower court and Dukes' murder conviction should be affirmed.

Respectfully submitted,

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February 25, 2013.

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**STATE OF SOUTH CAROLINA**
**IN THE COURT OF APPEALS**

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**Appeal from Horry County**
**The Honorable Steven H. John, Circuit Court Judge**
**Appellate Case No. 2011-196667**

**THE STATE,**

**RESPONDENT,**

**v.**

**TYRONE BEATY,**

**APPELLANT.**



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## CERTIFICATE OF SERVICE

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I, William Edgar Salter, III, counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance on Appellant by depositing three (3) copies of the same in the United States mail, first class, postage prepaid, addressed to his attorney of record, Susan B. Hackett, Esq., SCCID/Division of Appellate Defense, 1330 Lady St., Ste. #401, Columbia, South Carolina 29201.

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

This 25th day of February, 2013.

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## CERTIFICATE OF COMPLIANCE

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The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and does not include, or partially redacts, personal data identifiers, Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007)(requiring redaction of social security numbers, names of minor children, financial account numbers, and home addresses).

This 25th day of February, 2013.

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