

RECEIVED

Dec 08 2020

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dorchester County
The Honorable Diane S. Goodstein, Circuit Court Judge

Opinion No. 2020-UP-237 (S.C. Ct. App. Filed August 12, 2020)

THE STATE,

Respondent,

v.

TIFFANY ANN SANDERS,

Petitioner,

Appellate Case No. 2020-001390

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

W. JOSEPH MAYE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, South Carolina 29211
(803) 734-6305

DAVID M. PASCOE, JR.
Solicitor, First Judicial Circuit
Post Office Box 1525
Orangeburg, South Carolina 29116-1525
(803) 533-6252

ATTORNEYS FOR RESPONDENTS

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUES1

STATEMENT OF THE CASE.....2

STATEMENT OF THE FACTS3

ARGUMENT.....9

 I. The Petition for Writ of Certiorari should be denied due to
 Petitioner’s failure to demonstrate error on the part of the
 circuit court or the Court of Appeals in concluding that Mr.
 Kammerer was a known and available potential defense
 witness prior to trial.9

 II. Petitioner has failed to present any factual or legal basis as
 to why the ruling of the circuit court was in error in finding
 that Mr. Kammerer’s statement failed to satisfy the
 requirements for constituting after-discovered evidence..12

CONCLUSION.....13

TABLE OF AUTHORITIES

| Cases | Page(s) |
|---|-----------|
| <i>Black v. Lexington Sch. Dist. No. 2</i> , 327 S.C. 55, 488 S.E.2d 327 (1997)..... | 12 |
| <i>Brown v. Felsen</i> , 442 U.S. 127, 99 S. Ct. 2205, 60 L. Ed. 2d 767 (1979)..... | 11 |
| <i>Clark v. State</i> , 315 S.C. 385, 434 S.E.2d 266 (1993)..... | 9 |
| <i>Flexon v. PHC-Jasper, Inc.</i> , 413 S.C. 561, 776 S.E.2d 397 (Ct. App. 2015)..... | 11 |
| <i>Sanders v. State</i> , 2014 WL 7177386 (S.C. Dec. 17, 2014)..... | 2 |
| <i>State v. Harris</i> , 391 S.C. 539, 706 S.E.2d 526 (Ct. App. 2011)..... | 9 |
| <i>State v. Irvin</i> , 270 S.C. 539, 243 S.E.2d 195 (1978)..... | 9 |
| <i>State v. Terry</i> , 339 S.C. 352, 529 S.E.2d 274 (2000)..... | 11 |
| <i>State v. Tiffany Ann Sanders</i> , 2020 WL 4671611 (S.C. Ct. App. Aug. 12, 2020)..... | 3, 10, 11 |
| <i>White v. State</i> , 263 S.C. 110, 208 S.E.2d 35 (1974)..... | 2 |
| | |
| Rules | |
| Rule 29..... | 11 |
| SCRPC Rule 29(b)..... | 12, 13 |
| South Carolina Rules of Criminal Procedure, Rule 29(b) | Passim |

STATEMENT OF ISSUES

I

Whether the trial court erred by denying Sanders' motion for a new trial based on after discovered evidence pursuant to South Carolina Rules of Criminal Procedure, Rule 29(b) because Sean Kammerer's testimony – that Sanders was not aware of, nor did she participate in the murder of the victim – was not available until the proceeding in which it was raised, and could not have been obtained at any earlier point?

II.

Whether the trial court should have found that Sean Kammerer's affidavit constituted after discovered evidence, and granted Petitioner a new trial?

STATEMENT OF THE CASE

Petitioner Tiffany Sanders (hereinafter “Petitioner”) was indicted by the Dorchester County grand jury on a charge of murder. (R. p. 109-110). She was tried on August 3-5, 2010, in Dorchester County before the Honorable Diane S. Goodstein and a jury. Petitioner was represented at trial by attorney Michael O’Neal, Esquire. The State was represented by Assistant Solicitors Harrison Bell and Mandy Kimmons. (R. p. 221). Petitioner was convicted of murder and sentenced by Judge Goodstein to 30 years in prison. (R. p. 534; p. 574-575; p. 111; p. 544)

Petitioner did not initially appeal her conviction and sentence. (R. p. 96; p. 102-103). However, she filed an application for post-conviction relief on August 3, 2011, as well as an amended application on August 24, 2011. Part of the relief sought by Petitioner in her application was a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). An evidentiary hearing was conducted before the Honorable Deandrea G. Benjamin on May 24, 2012. (R. 124). Appellant was represented by Dale T. Cobb, Esquire and Thomas R. Goldstein, Esquire. (R. p. 93; p. 106; p. 124; APCR). Judge Benjamin granted Petitioner a belated appeal pursuant to *White*, but denied Petitioner’s other claims for post-conviction relief. (R. p. 112-123).

Petitioner filed a Petition for Writ of Certiorari to appeal the denial of post-conviction relief; this Court granted certiorari on the issue of Petitioner’s request for a belated appeal, but denied certiorari for Petitioner’s remaining issues. *Sanders v. State*, No. 2014-MO-049, 2014 WL 7177386 (S.C. Dec. 17, 2014). Petitioner filed a Petition for Rehearing, but the Petition was denied on January 22, 2015.

On March 21, 2017, Petitioner next filed a motion for a new trial pursuant to Rule 29(b) claiming after-discovered evidence. (R. p. 1). A motion hearing was conducted before Judge Goodstein on May 30, 2017. Petitioner was represented by attorney Elizabeth Franklin-Best,

Esquire. (R. p. 12; 17). Judge Goodstein denied the motion on February 5, 2018. (R. p. 61-62; Judge Goodstein's Order). Petitioner appealed the denial of her motion, but the Court of Appeals affirmed Judge Goodstein's decision by unpublished opinion filed August 12, 2020. *State v. Tiffany Ann Sanders*, No. 2018-000210, 2020 WL 4671611 (S.C. Ct. App. Aug. 12, 2020). Petitioner now seeks a writ of certiorari.

STATEMENT OF FACTS

This matter concerns the murder of Victim Jesse Ham. It is undisputed that Sean Kammerer, pulled the trigger and murdered Victim. (R. p. 287, line 21 through p. 288, line 6; p. 560). Mr. Kammerer initially provided police with a statement that would lend support to Petitioner's argument that she did not know his intentions for violence. (R. p. 134, lines 23-25; p. 189, lines 12-15; p. 200, lines 10-22). Kammerer pled guilty prior to Petitioner's trial. (R. p. 287, line 21 through p. 288, line 6; p. 560). Based upon other evidence, the State's theory of the case was that Petitioner's was guilty of murder under the accomplice liability theory of "the hand of one, is the hand of all". (R. p. 327, line 16 through p. 330, line 6).

Appellant's Trial

The Record demonstrated that at Mr. Kammerer's request, Appellant took efforts to pick up Victim and drive him to Mr. Kammerer's location behind the nearby Publix. (R. p. 443, line 6-19; p. 380; p. 395). Appellant did so under the false pretense that she would take Victim to McDonald's to meet a girl who was romantically interested in him; it required 45 minutes of convincing before he agreed to go. (R. p. p. 354, line 3 through p. 357, line 7; 356-366; p. 381-386). A friend of Victim's named Kevin King was with Victim that night. King was suspicious of Appellant's statements and behavior, but accompanied Victim. Appellant drove around the McDonald's, but ultimately parked in the area *behind* the nearby Publix that abutted the woods.

(R. p. 356, line 10 through p. 357, line 24; p. 397). When she refused to move the car to another location King chose to exit the vehicle. He was immediately confronted by Mr. Kammerer who pulled a gun on him. King knocked the gun away, resulting in a shot being fired between King's legs. King proceeded to run from the scene. As he fled, he heard three or four gunshots fired behind him. (R. p. 357, line 25 through p. 359, line 17; p. 373). Evidence demonstrated that victim was shot four times; he was shot three times in the back and once in the neck and died at the scene. (R. p. 560).

King further testified that Victim and Mr. Kammerer had been fighting for two to three years, and that it was common knowledge that Victim had beaten Mr. Kammerer in the head with a miniature souvenir baseball bat on a previous occasion. King testified that Mr. Kammerer would tell everybody that he was going to kill Victim. (R. p. 364, lines 2-19; p. 444, lines 7-9; p. 183). Appellant was aware that Mr. Kammerer wanted revenge. (R. p. 444, lines 6-11). Appellant signed a confession wherein she admitted to taking Victim to the scene knowing that Mr. Kammerer wanted to fight Victim, but her confession denied knowing Mr. Kammerer had a gun and intended to kill Victim. (R. p. 443, line 6 through p. 444, line 11; 561-563).

PCR Evidentiary hearing

Petitioner raised as her first allegation for post-conviction relief that counsel was ineffective for failing to call Sean Kammerer as a witness.¹ (R. p. 101). Petitioner testified at her evidentiary hearing that she was aware Mr. Kammerer had entered a guilty plea to murder. She further testified that while Mr. Kammerer was not at her trial, her lawyer, Michael O'Neal, discussed with her the possibility of getting a statement from Mr. Kammerer for purposes of trial. (R. p. 135, lines 15-22). During cross-examination on the topic, Petitioner agreed that Mr.

¹ During the PCR evidentiary hearing Sean Kammerer's name is spelled as "Kaminer".

Kammerer could have been presented at trial, but that Petitioner and counsel could not be certain what he would say if he had taken the stand. (R. p. 140, line 15 through p. 141, line 15). In conclusion on the topic, Petitioner's evidentiary hearing testimony reads as follows:

Q Okay. And you also discussed with your attorney whether or not Mr. Kaminer should be produced as a witness for the defense; is that correct?

A Yes, ma'am.

Q And was it that – that also discussed that it might not be a good idea to do that because you don't have any control over what he may say once he gets on the witness stand; is that true?

A Yes, ma'am.

Q And it was decided, again, as a matter of trial strategy, that it would be best not to call Mr. Kaminer because there is no control and you don't know what's going to happen?

A Yes, ma'am.

Q But now that you've gone to trial and the result is not as you had hoped, you now wish you had called him just to see if it would make a difference?

A Yes, ma'am.

(R. p. 153, lines 8-25).

On the topic of potentially calling Mr. Kammerer, trial counsel Michael O'Neal testified that he believed in retrospect that it was a mistake not to go and speak with him and bring him to Petitioner's trial. He testified that 1) he had Mr. Kammerer's statement to police which cast doubt upon what Victim expected to happen between Victim and Kammerer, 2) knew Petitioner would not be taking the stand, and 3) knew that Petitioner's sister would not be taking the stand. He conceded that he wanted last argument that he would take that over putting up other testimony. (R. p. 188, lines 15-25; p. 190, line 6 through p. 191, line 10; p. 209, lines 8-15; p. 212, lines 1-16). Mr. O'Neal agreed that he discussed this trial strategy with Petitioner before trial, and explained it as best he could to her. (R. p. 193, lines 9-16). Mr. O'Neal further agreed that by the time of Petitioner's trial Mr. Kammerer had been sentenced to 34 years in prison and had no reward or motivation to avoid testifying at trial under subpoena. (R. p. 202, lines 14-18). Lastly, Mr. O'Neal

was aware that Mr. Kammerer had already been untruthful under oath in court, and that even if he had gone to take a statement from Mr. Kammerer, there was no way to know what he might say once he got on the stand. (R. p. 210, lines 2-19).

RULE 29(b) Hearing

On May 30, 2017, the Honorable Judge Diane S. Goodstein conducted a hearing to consider arguments on Petitioner's motion for a new trial under South Carolina Rule of Criminal Procedure 29(b). (R. p. 17). At the outset of the motion hearing Mr. Kammerer was present and conducted a colloquy with Judge Goodstein that ensured he was assigned counsel to discuss his rights and risks of testifying at the motion hearing. (R. p. 18 through p. 27). Counsel for Petitioner, Betsy Franklin-Best, informed the court that she acquired a written statement from Mr. Kammerer that indicated Petitioner was not aware he had a gun at the time of the altercation, and did not know that he had a hostile relationship with Victim until after the murder. (R. p. 13-14). The statement also indicated that Mr. Kammerer did not instruct Petitioner to bring Victim to the parking lot that night, and that Petitioner never even informed him that she was bringing Victim to the parking lot to meet him. Mr. Kammerer's statement then states that he "did not tell anyone of this information earlier, (i.e. Dale Cobbs who was Tiffany's P.C.R. lawyer) because I was pursuing my own legal remedies at that time." (R. p. 13-14).

Judge Goodstein reviewed the statement and concluded that she would not consider it a sworn affidavit, as it lacked notarization. *Counsel for Petitioner acknowledged this inadequacy and conceded that the statement did not constitute an affidavit.* Counsel articulated that she believed Mr. Kammerer would adopt the contents of the statement via testimony under oath.² (R.

² Mr. Kammerer did not testify that day and his testimony was ultimately deemed unnecessary by Judge Goodstein. Her denial of the motion was found on grounds that Kammerer's supposed testimony, regardless of veracity, was not newly discovered evidence.

p. 25; p. 30, line 9 through p. 31, line 4). Petitioner argued that Mr. Kammerer's testimony was not available to Petitioner because Mr. Kammerer was pursuing his own collateral remedies, and also relied upon what collateral remedies Mr. Kammerer *might* have had available to him in the future. (R. p. 29, lines 3-24). The State, represented by Solicitor Sorenson, argued in response that Petitioner had failed to comply with the one-year statute of limitations discovery rule applicable to Rule 29(b) motions. He articulated that Petitioner had knowledge of Mr. Kammerer as a witness for the defense since the incident occurred in June of 2007. (R. p. 32, line 18 through p. 34, line 12). Solicitor Sorenson bolstered his argument by highlighting the fact that Petitioner's first PCR allegation was to claim ineffective assistance of counsel for failing to call Mr. Kammerer as a witness at trial and that such a claim was denied on the basis that counsel made a strategic choice not to call Mr. Kammerer as a witness. (R. p. 34, line 25 through p. 36, line 1). Moreover, Solicitor Sorenson noted that Mr. Kammerer appeared before Judge Dickson in May of 2013 and *requested the court to allow him to voluntarily withdraw his PCR with prejudice*. Judge Dickson granted that motion on June 5, 2013. There is no indication that Mr. Kammerer possessed or pursued any further legal remedies. As such, even if Mr. Kammerer's pursuit of legal remedies were to be considered an impediment, Petitioner waited three and a half years to pursue a new trial motion on the basis of after-discovered evidence once such alleged impediments were absent. Solicitor Sorenson argued that Petitioner could therefore not possibly satisfy the reasonable diligence portion of the Rule 29(b) discovery rule. (R. p. 34, lines 13-21; p. 36, lines 12-24).

Petitioner concedes at hearing that the statement made by Mr. Kammerer to law enforcement was known to the defense, and that Mr. Kammerer for various points in time was

represented by counsel, and that counsel could have contacted Mr. Kammerer's lawyer to request an opportunity to speak with him.³ (R. p. 41, lines 1-23).

Unaware of any case law to support Petitioner's argument, Judge Goodstein asked if Petitioner could identify any precedent to support the contention that a witness or co-defendant's pursuit of their own legal remedies after having pled guilty would render them unavailable for interview or subpoena. Counsel for Petitioner did not have any such case law at the time of hearing, but informed the court she would search for such precedent. (R. p. 45, lines 6-14; p. 55, lines 1-11).

On February 5, 2018, Judge Goodstein filed a written Order denying Petitioner's motion for a new trial. Judge Goodstein reasoned that Mr. Kammerer's testimony was not necessary for sake of acquiring its contents under oath because the purported content of his statement did not satisfy the definition of newly discovered evidence. Judge Goodstein found that Mr. Kammerer was known to Petitioner at least as early as her arrest in 2007. Petitioner had methods available to her to subpoena Mr. Kammerer for her PCR evidentiary hearing, if he was found to be unwilling to do so voluntarily. Moreover, Judge Goodstein found that Mr. Kammerer had surrendered his rights against self-incrimination and pled guilty prior to Petitioner's trial. He therefore no longer enjoyed that privilege and could have been subpoenaed by Petitioner as a witnesses for the defense *at trial*. As such, Mr. Kammerer's supposed testimony and statement did not constitute newly discovered evidence and Judge Goodstein denied the motion for new trial. (R. p. 61-62).

³ Petitioner's arguments at this point diverted to questioning the propriety of the ruling of the court in denying Petitioner's PCR application. (R. p. 43-44).

ARGUMENT

- I. **The Petition for Writ of Certiorari should be denied due to Petitioner's failure to demonstrate error on the part of the circuit court or the Court of Appeals in concluding that Mr. Kammerer was a known and available potential defense witness prior to trial.**

Petitioner has failed to demonstrate that Mr. Kammerer's testimony constitutes newly discovered evidence acquired after Petitioner's trial, or that Petitioner complied with the requirements set forth by SCRCrimP Rule 29(b). As such, Petitioner has failed to demonstrate that the circuit court abused its discretion in denying the motion for a new trial and that the Court of Appeals erred in affirming that decision. The Petition for Writ of Certiorari should be denied.

"In order to obtain a new trial based on after discovered evidence, the party must show that the evidence: (1) would probably change the result if a new trial is had; (2) has been discovered since the trial; (3) could not have been discovered before trial; (4) is material to the issue of guilt or innocence; and (5) is not merely cumulative or impeaching." *Clark v. State*, 315 S.C. 385, 387–88, 434 S.E.2d 266, 267 (1993). A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence. SCRCrimP 29(b). "A motion for a new trial based on after-discovered evidence is addressed to the sound discretion of the trial judge." *State v. Harris*, 391 S.C. 539, 544–45, 706 S.E.2d 526, 529 (Ct. App. 2011). (citing *State v. Irvin*, 270 S.C. 539, 545, 243 S.E.2d 195, 197 (1978). "The granting of a new trial because of after-discovered evidence is not favored," and a reviewing court "will affirm the trial court's denial of such a motion unless the trial court abused its discretion." *Id.* (citing *State v. Irvin*, 270 S.C. at 545, 243 S.E.2d at 197–98).

Judge Goodstein correctly found that Petitioner failed to demonstrate both the second and third elements for after-discovered evidence. The record shows conclusively that the defense was

aware of Mr. Kammerer's statement to police that could potentially cast doubt upon what Victim knew in her efforts to deliver Victim to the area behind Publix. As Judge Goodstein correctly noted, Mr. Kammerer had already pled guilty and therefore had surrendered his 5th Amendment rights to remain silent and not provide evidence of self-incrimination. As such, Petitioner had the both the means and opportunity to subpoena Mr. Kammerer as a witness for her trial and her PCR hearing. The Court of Appeals in turn properly referenced the applicable law concerning the elements for a new trial on after-discovered evidence, the disfavor of granting such a remedy, and the standard of review that a denial of a new trial based on after-discovered evidence should only be reversed upon a showing of abuse of discretion. *Sanders*, No. 2018-000210, 2020 WL 4671611, at *1 (S.C. Ct. App. Aug. 12, 2020). In the application of such case law, the Court of Appeals correctly affirmed the decision, holding that "Sanders could have discovered Kammerer's potential testimony by exercising due diligence prior to her trial." *Id.*

Petitioner's argument for certiorari first addresses the intermediate step that leave of the court is required to subpoena a witness for a PCR evidentiary hearing and the argument that a PCR court would not likely have granted such a request. Petitioner then disputes the Court of Appeals' footnoted observation that trial counsel acknowledged the fact that he did not call Mr. Kammerer as a matter of trial strategy (*Id.* at *1, footnote 1), and proceeds to cite testimony from the post-conviction relief proceeding that would allegedly support her conclusion.

There are a plethora of shortcomings with Petitioner's arguments. First, it is entirely speculative to presume a court would not have permitted Mr. Kammerer to be subpoenaed to testify at the PCR evidentiary hearing, and Petitioner's argument inherently confirms that Petitioner had a means of seeking Mr. Kammerer's testimony that was not pursued during collateral litigation. Second, while Petitioner may disagree with the ruling of the PCR court, Petitioner's collateral

litigation is complete, rendering the PCR court's findings as the law of the case and preserved under *res judicata*. *Flexon v. PHC-Jasper, Inc.*, 413 S.C. 561, 571, 776 S.E.2d 397, 403 (Ct. App. 2015); *Brown v. Felsen*, 442 U.S. 127, 131, 99 S. Ct. 2205, 2209, 60 L. Ed. 2d 767 (1979). The primary relevance of the PCR evidentiary hearing testimony to the matter at hand is that it proves unequivocally that both trial counsel and Petitioner were aware, *prior to trial*, of the potential usefulness of Mr. Kammerer's testimony as a defense witness at her trial. Petitioner now misconceives such testimony as newly discovered evidence.

Petitioner addresses the holding that Mr. Kammerer's testimony was known to Petitioner prior to trial by arguing that Mr. Kammerer could not have testified due to his own ongoing PCR litigation. As was noted by the Court of Appeal, Petitioner has yet to provide any authority for such an argument. (*Id.* at *1, footnote 1). Moreover, Petitioner has relied upon circumstances where the availability of the witness is still based on the *speculative* choice of the witness, not a 5th Amendment necessity. Cf. *State v. Terry*, 339 S.C. 352, 356, 529 S.E.2d 274, 276 (2000). In connection to her trial or PCR evidentiary hearing, Petitioner has never attempted to call Mr. Kammerer as a witness or subpoenaed him to testify. Regardless, there is no legal basis to suggest that a co-defendant who pled guilty is perpetually unavailable for subpoena at trial because of the prospect of collateral remedies.

Lastly, and in further consideration of Petitioner's reliance upon Mr. Kammerer's collateral remedies, Petitioner has provided no explanation for why her motion for new trial could be considered timely under Rule 29. As the record demonstrates, Mr. Kammerer voluntarily withdrew his PCR application and allowed the statute of limitations to all collateral litigation to expire. Nevertheless, Petitioner waited more than three years to file the present motion. It cannot be

considered newly discovered evidence under Rule 29(b), as it fails to abide by the restraints of the incorporated discovery rule.

Petitioner has failed to demonstrate that certiorari should be granted as to Issue I. Certiorari should therefore be denied.

II. Petitioner has failed to present any factual or legal basis as to why the ruling of the circuit court was in error in finding that Mr. Kammerer's statement failed to satisfy the requirements for constituting after-discovered evidence.

Petitioner's second issue is largely encompassed by Respondent's arguments set forth under Respondent's Argument I. (*Supra*). Nevertheless, Petitioner has failed to demonstrate any error on the part of the circuit court in concluding Mr. Kammerer's purported testimony did not constitute after-discovered evidence. The Petition for Writ of Certiorari should be denied.

As an initial matter, Mr. Kammerer never provided an "affidavit" due to the failure to have the statement notarized. *Black v. Lexington Sch. Dist. No. 2*, 327 S.C. 55, 58, 488 S.E.2d 327, 328 (1997) (noting that "[a]lthough the document was a sworn statement, it did not comply with South Carolina's requirements for a valid affidavit because it was not notarized."). Counsel for Petitioner concedes this point during hearing. (R. p. 30, line 12 through p. 31, line 4). Secondly, Petitioner was not only on notice of Mr. Kammerer's guilt for the murder of Victim, she and her attorney were aware of his statement to police that could cast doubt upon Victim's knowledge of his intentions to kill Victim. Pursuant to Rule 29(b), a motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant *or after the date when the evidence could have been ascertained by the exercise of reasonable diligence*. SCRCP Rule 29(b) (emphasis added). The content of Mr. Kammerer's potential testimony was known and available for investigation and presentation at trial, if deemed prudent. To the extent Petitioner contends that Mr. Kammerer had more details to provide pertinent

to Petitioner's alleged innocence, those details could likewise have been ascertained prior to trial by the exercise of reasonable diligence. The nature of the evidence in question and Petitioner's long held knowledge of that evidence prevent Petitioner from establishing the second and third elements necessary for after-discovered evidence under Rule 29(b). As such, certiorari should be denied.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the Petition for Writ of Certiorari be denied as to both of Petitioner's issues.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

W. JOSEPH MAYE
Assistant Attorney General
ID No. 100851

DAVID M. PASCOE, JR.
1st Circuit Solicitor
Post Office Box 1525
Orangeburg, South Carolina 29116-1525
(803) 533-6252

By: s/ W. Joseph Maye
W. Joseph Maye

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-6305
ATTORNEYS FOR RESPONDENT

December 8, 2020