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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

SIDNEY STCLAIR MOORER,

APPELLANT

APPELLATE CASE NO. 2017-001876

Appeal from Horry County

R. Markley Dennis, Jr., Circuit Court Judge

Opinion No. 2020-UP-198

PETITION FOR REHEARING

On July 1, 2020, this Court affirmed Appellant's conviction for obstruction of justice in an unpublished opinion without the benefit of oral argument. State v. Moorer, Op. No. 2020-UP-198 (S.C. Ct. App. filed July 1, 2020). Pursuant to Rule 221(a), SCACR, Appellant respectfully requests this Court rehear the matter due to significant points overlooked and/or misapprehended by this Court.

To arrive at the conclusion that the state presented "substantial circumstantial evidence reasonably tending to prove that [Applicant] lied and omitted relevant information during his several interviews with law enforcement, and therefore was guilty of common-law obstruction of

justice," this Court relied solely upon the "hinder" aspect of the common law obstruction of justice offense definition and cherry-picked several facts out of context. See State v. Moorer, Op. No. 2020-UP-198 (S.C. Ct. App. filed July 1, 2020). "Under common-law obstruction of justice, 'it is an offense to do *any* act which prevents, obstructs, impedes, or hinders the administration of justice.'" State v. Lyles-Gray, 328 S.C. 458, 464, 492 S.E.2d 802, 805 (1997) (quoting State v. Cogdell, 273 S.C. 563, 567, 257 S.E.2d 748, 750 (1979)). According to this Court, "hinder" as used in the common law definition of obstruction of justice means "to slow or make difficult … to impede, delay, or prevent." Id.

By affirming Appellant's conviction, this Court neglected to consider guidance from the Supreme Court regarding obstruction of justice cases. "All the offences which fall under the general head of 'obstructing justice' are considered to be of a very grave and high character, for the obvious reason that they strike at the very foundation of authority and government, and tend by the strong arm to defeat the administration of justice and to overthrow all peace and order." State v. Bowen, 17 S.C. 58, 60 (1882); see also State v. Yarborough, 363 S.C. 260, 262, 609 S.E.2d 592, 593 (Ct. App. 2005) (prosecution for obstruction of justice where a lawyer offered an alleged victim $500 to drop charges against his client); State v. Caskey, 273 S.C. 325, 328, 256 S.E.2d 737, 738 (1979) (considering an obstruction of justice charge where a lawyer and a magistrate conspired to dismiss charges in exchange for money). While the law is not entirely clear on what constitutes the obstruction of justice, some guidance regarding the character of conduct that would support such a charge is available:

> Attempts to suborn a witness to commit perjury or to prevent his giving evidence, are offences against public justice; and there can be no well founded reason why the fabrication of evidence not involving perjury, or the destruction and suppression of that which is good, should not equally be so; they are alike calculated to pervert the public justice of this country, and to do individual injustice.

State v. DeWitt, 2 S.C.L. (1 Hill) 282, 287 (1834). Despite this sage advice, this Court concluded the state presented substantial circumstantial evidence that Appellant "hindered" the administration of justice where the state showed simply that Appellant lied to police about inconsequential details that had no effect on the police investigation.

All cases in which the South Carolina Supreme Court has upheld convictions for obstruction of justice involve conduct affecting the administration of justice, not simply a police investigation. For example, the Supreme Court upheld Cogdell's convictions for twenty-one counts of obstructing justice where Cogdell, while Mayor of the Town of Landrum, failed to report traffic convictions to the highway department as required by state law, which prevented the imposition of penalties mandated for individuals convicted of certain offenses. Cogdell, 273 S.C. at 565-567, 257 S.E.2d at 749-750. Similarly, the Supreme Court found the evidence sufficient to deny a directed verdict for Police Officer Lyles-Gray for obstruction of justice, where there was evidence, including Lyles-Gray's conduct at the crime scene and her mishandling of evidence, that Lyles-Gray was on notice that her daughter was a suspect in the crime and she acted to shield daughter from criminal responsibility. Lyles-Gray, 328 S.C. at 466, 492 S.E.2d at 806-807. In State v. Love, 275 S.C. 55, 271 S.E.2d 110 (1980), the Court upheld an obstruction of justice conviction where a magistrate obtained a driver's license for an individual for $500, promised to remove from the public record all pending charges against an individual, and promised to

Important for Appellant's case is how the Court confronted the interpretation of a city ordinance making it "unlawful for any person to assault, resist, hinder, oppose, molest, or interfere with any employee of the police department of the city, in discharge of official duties." City of Charleston v. Mitchell, 239 S.C. 376, 393, 123 S.E.2d 512, 520 (1961), rev'd on other grounds, 378 U.S. 551 (1964). In the height of the civil rights movement, individuals refused to

leave a store despite being requested to do so by the manager and the police. Id. The police arrested the individuals. Id. The judge found them guilty of violating the city ordinance because the individuals interfered with the police officer in the discharge of his duties by refusing to leave the premises after being ordered to do so. Id. at 393-394, 123 S.E.2d at 520.

When interpreting the ordinance, the Supreme Court cited a North Carolina case regarding the definition of "interfere." Id. (citing State v. Estes, 185 N.C. 752, 117 S.E. 581 (N.C. 1923)). Estes "was convicted on an indictment charging that he unlawfully and willfully did resist, hinder, delay, obstruct and interfere with an officer of the board of health in the discharge of his duty as such." Id. The evidence at Estes' trial revealed he used abusive and profane language towards the officer but did not get up from his desk where he was seated nor did he strike or offer to strike the officer and made no demonstration of violence whatever." Id.

The North Carolina court construed the word "interfere" to mean "to check or hamper the action of the officer, or to do something which hinders or prevents or tends to prevent the performance of his legal duty." Id. at 394-395, 123 S.E.2d at 521. The North Carolina court interpreted "obstruct" to mean "direct or indirect opposition or resistance to the lawful discharge of [an officer's] official duty." Id. at 395, 123 S.E.2d at 521. Using those definitions as guidance, the South Carolina Supreme Court concluded the civil rights protesters did not interfere with the police officer in the discharge of his official duty because their conduct was "merely inaction." Id.

The state's entire case was built upon the obstruction of justice being defined as a citizen lying during a police investigation. Not until this Court decided State v. Singleton, Op. No. 5722 (Shearouse Adv. Sh. No. 18 at 99) (S.C. Ct. App. filed May 6, 2020) had any appellate decision

equated the two.[1] Singleton admitted to police that he was driving a car from which shots were fired. Singleton, supra. He also told police that the shooter was an individual named Barrett. Id. The police arrested Barrett based upon the information provided by Singleton. Id. When others admitted to their involvement and exonerated Barrett, the police charged Singleton with obstruction of justice. Id. This Court concluded that "Singleton knowingly and intentionally lied to law enforcement to prevent [the real shooter]'s arrest." Id. Importantly, this Court held that "Singleton did more than simply lie to law enforcement – he intentionally misidentified someone he knew to be innocent and caused that person to be jailed and indicted." Id. This Court explained that "Singleton's actions in lying to the police … and falsely accusing Barrett impeded and delayed the administration of justice." Id. Accordingly, this Court held the state presented evidence "to reasonably prove Singleton's lies obstructed the administration of justice by temporarily preventing [the real shooter]'s arrest, hindering the police's investigation of [the] attempted murder, and causing Barrett to be indicted and jailed for an attempted murder with which he had no involvement." Id.

As this Court observed in Singleton, "[m]ost South Carolina obstruction of justice cases have involved public officials." Id. However, just as this Court stated, and Appellant concedes, "a private citizen" may be "charged with the offense." See id. Nevertheless, as described supra, obstruction of justice generally involves bribing witnesses, bribing court officials related to criminal charges, and falsifying police reports – conduct that affects the administration of justice. The state failed to prove that any of Appellant's actions interfered with any matter before any court of law. At most, the state was able to show that Appellant "lied and omitted relevant information during his several interviews with law enforcement." State v. Moorer, Op. No.

[1] A petition for rehearing is pending.

2020-UP-198 (S.C. Ct. App. filed July 1, 2020). This evidence simply cannot support a guilty verdict for obstruction of justice.

The first alleged lie by Appellant was when he returned the first officer's telephone call. R. 20, ll. 20-24; R. 31, ll. 10-13; R. 429, ll. 9-11. The officer asked if Appellant "had any information on the whereabouts of Heather Elvis." R. 21, ll. 4-7; R. 31, ll. 10-13. Despite the formal police report indicating that Appellant told the first officer that he had not *seen* Elvis in six weeks, the first officer insisted at trial that Appellant explained that he had not "spoken to her in approximately six weeks." R. 21, ll. 8-10; R. 30, l. 24 – R. 31, l. 5; R. 31, ll. 19-20; R. 1077-1088. Nevertheless, the officer was forced to admit that during that *same* conversation with the supervisor, Appellant said "he had spoken to her the night before." R. 21, ll. 20-23; R. 1077-1088.

Minutes later when two police officers arrived to speak to Appellant in person, Appellant told the officers that the last time he spoke to Elvis was either last night or the night before. State's Exhibit #1. Although Appellant never told the officers that he had called Elvis that night, he did say that she had called him and left a voicemail. R. 49, ll. 10-16; State's Exhibit #1. Appellant never mentioned a pay phone call. R. 49, ll. 19-20. Appellant told police that the last time he saw Elvis was several weeks prior to the police speaking to him. R. 49, ll. 21-23. Appellant did not mention seeing Elvis around his house the week prior to the conversation. R. 50, l. 24 – R. 51, l. 1. During this conversation, Appellant provided the officers with his phone and permitted the officers to look at his phone, including seeing text messages from Elvis. R. 182, ll. 3-23; State's Exhibit #1.

The police obtained Elvis's phone records "[f]irst thing in the morning" on December 20, 2018. R. 51, l. 24 – R. 52, l. 1; R. 63, ll. 1-11. Using "exigent circumstances," the police

obtained Elvis's phone records "very quickly" – having the records around 8:30 or 9:00 a.m. R. 64, ll. 9-17; R. 64, l. 20. In fact, the police may have had Elvis's phone records prior to questioning Appellant on December 20, 2013, at 2 a.m., which would explain an officer's reference to text messages and phone calls during the earlier conversation. R. 60, ll. 13-21; R. 124, ll. 8-12; State's Exhibit #1. As the police explained, it would be "routine" to obtain the cell phone records of a missing person. R. 58, ll. 15-17. According to Martin, "[i]n a normal missing person case" the police will "look to see if [the missing person had] any communication with people." R. 64, ll. 9-13.

Elvis's phone records on December 18, 2013, from 1:35 a.m. until 3:41 a.m. revealed that she received a phone call from a pay phone at 1:35 a.m. that lasted for just under five minutes. R. 68, l. 23 – R. 72, l. 10.[2] In light of the call being made from a pay phone, the police did not know the identity of the caller.

"In the beginning stages" of the investigation, the police obtained video of the pay phone at a gas station. R. 293, ll. 9-15. The police had this video *prior* to Appellant's interrogation during the afternoon on December 20, 2013. R. 293, l. 25 – R. 294, l. 2. The police obtained the video because they were aware that Elvis's phone received a call from that pay phone, but they were not aware of the caller's identity. R. 295, ll. 10-19; R. 297, ll. 23-25. Due to its quality, the video did not reveal the identity of the caller either. R. 297, ll. 20-22.

Prior to Appellant meeting with police during the afternoon of December 20, 2013, at least one officer had watched video footage from a location near the pay phone. R. 98, ll. 15-20. The footage revealed a "male figure" fitting Appellant's description. R. 98, ll. 19-20. The police

[2] The payphone records established that at 1:33 a.m. on December 18, 2013, there was a call to Elvis's phone from that payphone that lasted for four minutes and fifty seconds. R. 115, ll. 10-21.

were aware that Appellant was "the one communicating with her so much around" the time of the pay phone call; therefore, "it made sense" to the police that "he would have been the one to make that phone call" from the pay phone. R. 101, ll. 7-12. However, the police would not have known the caller's identity had Appellant not told the police that he was the person using the pay phone to call Elvis. R. 300, ll. 3- 23. In fact, according to at least one officer, Appellant aided the investigation by supplying this information. R. 301, ll. 3-6.

After the pay phone called Elvis, she called Appellant's phone number numerous times, including a call that lasted for just over four minutes. R. 75, l. 18 – R. 77, l. 1; R. 80, ll. 1-14. Due to the phone records, the police were also aware that at 3:41 a.m. on December 18, 2013, Elvis spoke to Appellant. R. 90, ll. 24-25. On December 20, 2013, the police obtained Appellant's phone records as well. R. 76, ll. 7-9; R. 86, ll. 16-22; R. 87, ll. 13-15. In fact, the police had Appellant's phone records when Appellant met with the police on later in the day on December 20, 2013. R. 87, ll. 13-20; R. 95, ll. 3-5.

Police interrogated Appellant on December 20, 2013, at approximately 3 or 3:30 p.m. R. 89, ll. 4-9; R. 124, ll. 3-5; State's Exhibit #8. Appellant spoke to the police for "about 45 minutes." R. 91, ll. 20-22; State's Exhibit #8. What Appellant told police initially did not "match up with the phone records" the police received. R. 91, ll. 23-25. Martin explained that initially, Appellant "did not disclose the pay phone call," but when the police "presented him with the belief that he was the one that made the call," including having video from the area of the pay phone, Appellant admitted he made the pay phone call. R. 92, ll. 1-5; R. 144, l. 21 – R. 145, l. 1; State's Exhibit #8. Although Appellant initially denied calling Elvis from a pay phone, within ten or fifteen seconds, he admitted to the call. R. 101, l. 22 – R. 102, l. 2; State's Exhibit #8. Appellant explained he called Elvis at 3:17 a.m. to tell her to stop putting notes on his car.

R. 135, ll. 4-12; R. 135, ll. 13-14; State's Exhibit #8. Additionally, during the interrogation, Appellant denied seeing Elvis the week before. R. 92, ll. 6-8.

One officer reluctantly admitted that he would not have known that Appellant made the phone call to Elvis without Appellant's admission. R. 110, l. 5 – R. 222, ll. 23. In essence, the information Appellant provided actually assisted law enforcement in their investigation. R. 111, ll. 21-23. However, the police still complained that due to Appellant's failure to tell the police the absolute truth immediately, his inconsistencies required the police to investigate to corroborate the information he provided. R. 92, ll. 9-21; R. 94, ll. 2-11. At most, the police alleged that if Appellant had told the patrolman with whom he initial spoke that he used a pay phone to call Elvis, that "probably would have furthered" law enforcement "a couple of hours." R. 98, ll. 4-9.

When pressed for how Appellant's denial of making the call from the pay phone impeded or obstructed the investigation, the officer seemed bewildered: "If he was honest about making the pay phone call then there would have been …." R. 103, ll. 9-11. Upon further prodding, he stated, "There would have been more belief that the statements he [was] providing us were truthful, everything was truthful, as opposed to - - a single lie can make the entire statement be questioned." R. 103, ll. 12-16.

Other than Appellant denying using the pay phone to call Elvis, which Appellant corrected within ten seconds, the police could point to no other time that Appellant *lied* to law enforcement. R. 167, ll. 2-6. Nevertheless, the police claimed Appellant *misled* the police regarding the length of his relationship with Elvis when he said the two were involved from the beginning of September until late October or early November. R. 171, ll. 7-12. Further, the police claimed Appellant "misled" the police by leaving "parts of the story out." R. 163, ll. 2-6.

To this point, Appellant told the police that Elvis rode by his house four or five times. R. 144, ll. 2-4; R. 149, ll. 5-9; State's Exhibit #8. However, the police claimed that the tower information obtained from Elvis's phone records indicated Appellant was misleading the police regarding Elvis riding by his house. R. 144, ll. 5-9. The police admitted, however, that they did not know *when* Appellant said Elvis was on his road five times. R. 155, ll. 13-16. Further, the officer complaining of Appellant's alleged misrepresentations confessed he did not even recall if Appellant had told him that. R. 155, ll. 17-18. In fact, when confronted with a transcript of the interview, it was revealed that Appellant never indicated *when* he saw Elvis on his road. R. 156, ll. 22-25; R. 171, l. 21 – R. 172, l. 1.

Regarding Appellant not telling police that he was near Elvis's residence, Appellant told the police he did not know where Elvis lived, but believed she lived somewhere in North Myrtle Beach. R. 158, ll. 21-23. However, Elvis lived nowhere near North Myrtle Beach, which the police knew. R. 159, ll. 3-13. Appellant's presence near Long Beard's was important to police because they knew Elvis had been at Long Beard's. R. 164, ll. 8-10. The police never asked Appellant if he were near Long Beard's. R. 160, l. 18 – R. 161, l. 10. The police could not even say that Appellant knew where Long Beard's was located. R. 162, ll. 21-23. Appellant never denied to the police that he was near Long Beard's. R. 162 l. 24 – R. 163, l. 1.

The officer claimed that if he had "all of this information" that he "eventually had," he would have done things differently when he "got up from that interview room on December 20th." R. 149, ll. 15-19. Specifically, the officer asserted the police "would have been able to start on this investigation earlier than what [they] did." R. 149, ll. 20-23. To this point, the officer claimed that if Appellant had told the initial officer with whom he spoke what Appellant told the investigators just hours later, then the officer would have called out the investigations

unit. R. 149, 24 – R. 150, l. 2. The allegation was that the police "definitely would have been able to get to the evidence quicker" and "would have been able to get to an interview with him quicker." R. 150, ll. 5-6. However, the police could not point to one thing that the police would have found at that point. R. 150, ll. 6-7. Nevertheless, he asserted it was "always best to get the investigation started as fast as possible." R. 150, ll. 7-9. The police want to get to evidence quickly because "it helps the evidence from being tainted or destroyed in any way." R. 150, ll. 10-13. In one officer's opinion, Appellant's conversation with police "hindered the investigation." R. 150, ll. 14-20.

The police admitted that even if the police believed what Appellant said regarding his discussion with Elvis on the pay phone, *the investigation would not stop*. R. 176, l. 22 – R. 177, l. 5. When asked whether there was anything in the investigation that was done because Appellant said he told Elvis to stop leaving notes, the officer responded, "Everything thereafter was because of his lie." R. 177, ll. 6-9. Yet, when asked if the police "take away the lie," if there would be "no investigation," the officer admitted the police were still investigating Appellant and others. R. 177, ll. 10-14.

Regarding what the police did differently based upon Appellant's interview, the officer contended that the police "had to get extensive phone records" – for Appellant, Appellant's wife, and Appellant's kids. R. 177, ll. 15-24. The police "had to Cellebrite" Appellant's phone because the police "needed to know more information there." R. 177, l. 25 – R. 178, l. 1. Additionally, the police got video from "a couple of places," which resulted in "MAIT" being called out. R. 178, ll. 1-4. There were "several things that took place after the fact." R. 178, ll. 4-5. Yet, if Appellant had never met with the police – if Appellant had never said one word to

the police – then the police still would have gotten Appellant's phone records, Appellant's wife's phone records, and Elvis's phone records. R. 178, l. 6 – R. 179, l. 1.

According to the police officer, if Appellant "would have come out with this information" during his first phone call with the police, then "things could have been different in [the police] investigation." R. 179, ll. 15-19. Later, the officer amended this statement to be clear that he could only contend that the investigation "could have been different," and could not say it "would" have been different. R. 180, ll. 7-12. It was "hard" for to say "exactly" what the police "would have found" if the police "got to it early enough." R. 180, ll. 20-21; R. 187, ll. 3-8.

After Elvis disappeared, Donald DeMarino and other family members were at Appellant's house. R. 373, l. 21 – R. 374, l. 3. As to specifics, however, DeMarino had *no idea* when this alleged conversation took place. R. 375, ll. 18-25. DeMarino claimed that he and Appellant walked outside where the two men had a private conversation. R. 374, ll. 4-14. During the conversation, Appellant allegedly showed DeMarino a phone – "a flip phone, gray flip phone." R. 374, ll. 20-23. When the prosecutor asked DeMarino if Appellant showed him "something on that phone that showed [DeMarino] that he knew more about Heather Elvis after she went missing," DeMarino answered, "I want to say yes." R. 375, ll. 6-9.

Despite his alleged awareness of this information, DeMarino did "[n]othing," at least, initially. R. 376, ll. 10-11. DeMarino had been arrested and placed in the local detention center "[t]en, maybe 15 times." R. 376, ll. 17-20. In fact, DeMarino still had a charge pending against him until June of 2017, just two months before Appellant's trial. R. 377, ll. 1-16. It was at some point while DeMarino was sitting in jail that he told the police about his alleged encounter with Appellant. R. 378, ll. 17-23. DeMarino admitted he had been questioned by the police

previously and did not reveal the alleged conversation with Appellant until he was awaiting disposition of his outstanding criminal charges. R. 379, ll. 6-12.

There is no dispute that Appellant initially lied to police when he denied calling Elvis from a pay phone. However, Appellant immediately – within ten seconds – admitted to the call. The state failed to present any evidence that Appellant's lie obstructed the administration of justice in any way. The state even failed to present any evidence that Appellant's lie hindered the investigation in any way. All of the evidence indicated the police investigation before and after Appellant's interrogation was the type of investigation the police would have engaged in whether Appellant spoke to law enforcement or not. At best, the state could rely upon the officer's testimony that had Appellant not been caught in a lie to the police, then the police would have conducted a less than thorough investigation. In other words, by catching Appellant in a lie, the police were forced to conduct a more thorough investigation. By any measure, having the police conduct a very thorough investigation surrounding the disappearance of a young woman would not be the equivalent of hindering or impeding the investigation. In fact, Appellant's lie improved the investigation by forcing the police to investigate more thoroughly.

To the extent, the administration of justice could be equated with a police investigation, the state failed to present evidence that Appellant did any act that had the intent to prevent, obstruct, impede, or hinder the administration of justice. There was no evidence that Appellant's omission of the pay phone call and other calls was intended to prevent, obstruct, impede, or hinder the administration of justice. In fact, there was no evidence regarding how Appellant's omissions could have done so.

Any insistence that Appellant lied about his whereabouts was belied by the record. Appellant answered law enforcement's questions about his whereabouts to the best of his ability.

He admitted to being near restaurants because he was working. He admitted he was unclear regarding everywhere he had been that night and early morning, which was reasonable and understandable, but he did provide accurate information about his whereabouts, including telling the police about going to gas stations and stores.

The assertion that Appellant intentionally misled law enforcement about the length of his relationship with Elvis was unproven and not connected to any obstruction of the investigation, or more importantly, the administration of justice. Similarly, the claim that Appellant misled the police by claiming Elvis drove by his house when the phone records showed her phone did not use the tower by his house was an erroneous conclusion. The phone records only showed when the phone was in use with a voice call. The phone records could not show Elvis never drove by Appellant's house. Any conclusion otherwise is based upon a false premise.

Most telling of the state's case was that Cauble, the lead investigator, admitted that the police would have investigated the disappearance, in much the same way as they did, had Appellant never even spoken to police. Further, Cauble admitted that Appellant's omissions would not have resulted in a different investigation. He thought things "could have been different," but he was not able to say what those things were or how Appellant's omissions altered the investigation.

Quite simply, the state failed to present any direct evidence or substantial circumstantial evidence that Appellant did any act that had the intent to prevent, obstruct, impede, or hinder the administration of justice. As defense counsel succinctly put it, the police "never did anything that they weren't going to do. Anything." R. 434, ll. 4-5.

In rendering its opinion, this Court seems to have defined obstruction of justice in the same way the solicitor did in closing – anything that tends to mislead law enforcement during an

investigation no matter how quickly any misconceptions are cleared or how unlikely law enforcement is to believe the misleading information. See R. 379, ll. 7-9 (solicitor arguing obstruction is anything that misleads the police). Despite this Court's citation to its recent opinion in Singleton, this Court failed to acknowledge the glaring distinction between the two cases. As this Court explained, "Singleton did more than simply lie to law enforcement – he intentionally misidentified someone he knew to be innocent and caused that person to be jailed and indicted." Id. Here, at most, Appellant lied to the police about making a phone call to Elvis from a pay phone, which he corrected within ten seconds. Appellant's lies to police never hindered the police investigator, and certainly, never hindered the administration of justice. For these reasons, Appellant respectfully requests this Court rehear the matter.

Respectfully Submitted,

s/*Susan B. Hackett*
SUSAN B. HACKETT
Appellate Defender

This 16th day of July, 2020.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

R. Markley Dennis, Jr., Circuit Court Judge

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SIDNEY STCLAIR MOORER,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-entitled case has been served upon Deborah R.J. Shupe, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is, dshupe@scag.gov and Sidney Stclair Moorer, #373721, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 16th day of July, 2020.

s/*Susan B. Hackett*
Susan B. Hackett
Appellate Defender
ATTORNEY FOR APPELLANT