ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Saluda County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ABIN LEE LOWMAN,

APPELLANT

APPELLATE CASE NO. 2018-001215

ANDERS BRIEF OF APPELLANT

ROBERT M. DUDEK
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ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Rules

STATEMENT OF ISSUE ON APPEAL

Whether the court abused its discretion by refusing to declare a mistrial where co-defendant James Wilson testified on direct examination for the state that appellant allegedly chose him as an accomplice in the crime because Wilson had "looked out for him" when appellant got out of prison, since evidence appellant had been in prison was an impermissible comment on his character, it was extraordinarily prejudicial, it denied appellant a fair trial, and a mistrial was the only cure for the prejudice?

STATEMENT OF THE CASE

Appellant was indicted at the June, 2018 term of the Saluda County Grand Jury for the offenses of burglary in the first degree, armed robbery, two counts of kidnapping, and criminal conspiracy. R. 1065 – 1074. His case was called to trial on June 18, 2018, before the Honorable Eugene C. Griffith, Jr., and a jury. Robert Theodore Williams, Sr., represented appellant. Solicitor Richard Samuel Hubbard and assistant solicitor Sutania Fuller represented the state. R. 1.

On June 22, 2018, the jury found appellant guilty on all counts. R. 1057, ll. 13-20. Judge Griffith sentenced appellant, based upon his prior record and the service of the life without parole notice, to life imprisonment concurrent on all of the convictions with the exception of criminal conspiracy. On the criminal conspiracy conviction, Judge Griffith sentenced appellant to five years imprisonment, concurrent. R. 1062, ll. 14-19.

This appeal follows.

STANDARD OF REVIEW

A trial judge's decision denying a mistrial will be reversed on appeal if the denial amounts to an abuse of discretion. State v. Rowlands, 343 S.C. 454, 458, 539 S.E.2d 717, 719 (Ct. App. 2000). "Whether a mistrial is manifestly necessary is a fact specific inquiry. It is not a mechanically applied standard, but rather is a determination that must be made in the context of the specific difficulty facing the trial judge." Id. at 457–58, 539 S.E.2d at 719 (internal quotations and citations omitted).

ARGUMENT

The court abused its discretion by refusing to declare a mistrial where co-defendant James Wilson testified on direct examination for the state that appellant allegedly chose him as an accomplice in the crime, because Wilson had looked out for him when appellant got out of prison, since evidence appellant had been in prison was an impermissible comment on his character, it was extraordinarily prejudicial, it denied appellant a fair trial, and a mistrial was the only cure for the prejudice.

Relevant Facts

Danny Tidwell and his wife, Lynda, were the owners of Tidwell's Jewelry Store in Johnston, South Carolina. They had owned and operated that jewelry store for forty-two years. R. 162, l. 12 – 163, l. 3. They owned three jewelry stores, although the main store was in Johnston. R. 163, ll. 7-20.

The Tidwells lived in a large house on the Persimmon Hill golf course subdivision in Saluda, South Carolina. R. 164, l. 14 – 165, l. 13. Mr. Tidwell remembered on March 8, 2017, he and Lynda, followed their usual routine of driving home from Johnston to Saluda after the jewelry store closed for the evening at six o'clock. However, on this particular night, Mr. Tidwell stopped at a Mexican restaurant near their home to purchase a take-out dinner. R. 167, l. 11 – 172, l. 24.

At around seven o'clock that night, they went by his daughter's house in the same golf course subdivision, and then Tidwell drove the extra block or so home. "I noticed a car that was not familiar to me at all. It's only seven neighbors that live back in that part and I know all of them and I know what they drive and it just was different. I didn't really think about it other than that's odd. I wonder who they are visiting or it was just strange. I had never seen that car

before." R. 172, l. 20 – 173, l. 25. The strange car was a "Mercury Marquis" owned by appellant's mother. R. 174, ll. 1-5.

As usual, Tidwell went to sleep at about 8:30 that night, and he testified that his wife usually was "not too far behind me. Tidwell remembered awakening to a noise that he thought was their under-the-counter ice machine in his kitchen. R. 175, ll. 9-23. However, Tidwell said the next thing that happened was "I hear men in my house hollering, 'ATF. ATF. Come out with your hands up.' I rolled over and wake [awakened] my wife. She might have already been awakened. I don't know. But I asked her, I said, we need to cooperate thinking that it was law enforcement." R. 182, ll. 1-15. Tidwell thought it was law enforcement but that they had "the wrong address." Tidwell and his wife were placed on the carpet, and they had their hands tied behind their backs with zip ties. R. 182, ll. 16-24.

Tidwell said he quickly realized the men were not law enforcement based on their vulgar language, and from them demanding to know "Where's your valuables? Where's your belongings? Don't lie to me. I'll blow your F'ing head off." R. 182, l. 25 – 183, l. 11. Tidwell told one of the three inquiring men that he did not have a safe in his house. One of the men then asked Tidwell how he could own a jewelry store, and not have a safe in his house. R. 183, l. 12 – 190, l. 23.

Tidwell gave one of the men the alarm codes, the safe combinations for the jewelry store safe, as well as the store keys. R. 191, l. 7 – 197, l. 14. Tidwell said the men assured him that they would not hurt his wife or him as long as they cooperated.

At one point, Tidwell said he asked one of the men, "If I could pray. I didn't want to offend anybody. And then he said, 'What are you, a Jew?' And I said no. I'm Christian. And he said, 'Yeah. You can pray.'" R. 197, l. 21 – 198, l. 11.

Tidwell remembered after it awhile it became quiet, and he saw headlights from a car leaving the area on his ceiling. Mrs. Tidwell go free, untied Danny Tidwell, and they searched for a phone to call the police but all of the phones were gone.[1] Tidwell and his wife then came up with a plan where they would run out of different doors in the house to different neighbor's houses to ensure one of them could safely call the police. No one was injured, and Saluda police officer Dale Hallman was the first police officer on the scene that morning. R. 199, l. 2 – 203, l. 18.

Other police officers soon arrived. The robbers had taken Tidwell's car, a .380 caliber pistol, a silver money clip with about $3,000 in it, and another $1,000 from the house. An additional .45 caliber pistol, a pocket knife, and their cell phones were also all stolen. R. 205, l. 17 – 214, l. 12.

Neither Tidwell nor his wife could identify any of the burglars. They did, however, remember that there were only three men inside the house. One black man was said to be wearing dark glasses, and another man apparently wore "military" like boots. R. 215, l. 10 – 236, l. 19.

Tidwell also remembered that about $100,000 in jewelry was stolen from their bedroom drawers, as well as his wife's diamond ring. R. 247, ll. 5-24. However, the jewelry store was not burglarized and robbed that night or in the early morning as allegedly was planned. R. 236, ll. 3-10.

The state's theory of the case was that one of the accomplices gave appellant the key to the jewelry store, the alarm code, and the safe combination given to him by Mr. Tidwell during the burglary. Appellant was driving his Grand Marquis to the jewelry store in Johnston to

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[1] Two of their cell phones were later found by divers in one of the ponds on the golf course.

burglarize and rob it when he was stopped by the police There was a lengthy pre-trial motion to suppress the fruits of the traffic stop of appellant's Grand Marquis on the basis that the traffic stop was a pretext to assist a repossession agent, James Rutland, in repossessing the Grand Marquis, and not for any legitimate law enforcement reason. This, the defense argued, rendered the traffic stop illegal. The trial judge ruled the traffic stop was legal because the repossession agent, Rutland, told the Johnston police that appellant was driving without insurance, a legitimate reason to stop appellant. In addition, the judge accepted the state's claim that law enforcement also had the right to stop appellant because of the very dark tint on the Grand Marquis, which appeared to be illegal. R. 93 – 141. Regardless, there was no contemporaneous objection when the ammunition found in appellant's trunk, or a shell casing found on the passenger side of the vehicle, or other incriminating items were entered into evidence. R. 515, l. 1 – 517, l. 23.

Tidwell's wife, Lynda Tidwell, remembered the burglary lasted approximately two hours. Her necklace, bracelet, three rings, and a watch were among the items stolen during the burglary. R. 278, l. 4. – 279, l. 25. Mrs. Tidwell also remembered after the men left and the car lights disappeared that they went to the neighbor's house and were able to get the neighbors to call the police. R. 296, l. 20 – 298, l. 24.

The Tidwells' car had an OnStar tracking device on it. Consequently, the police were able to trace the stolen car to "Old Camp Log Road in Aiken County," where they found the car abandoned. The car was abandoned not far from a Waffle House. R. 307, l. 12 – 308, l. 11; r. 321, ll. 8-18.

When law enforcement went to the nearby Waffle House in Aiken County, they went through the trash can in the men's room. They found Mr. Tidwell's apparent silver money clip and a white glove there.[2] R. 328, l. 22 – 329, l. 25.

As a result of surveillance tapes at the Waffle House and one of the Wal Marts in Aiken County where the ammunition was purchased, the suspects, in addition to appellant, became Joshua Darian, James Christopher Wilson, and Robert Goodwin. R. 386, ll. 3-7.

Appellant's mother purchased the Grand Marquis for appellant from Jiggie's Truck and Auto Sales in October 2016. R. 407, l. 11 – 409, l. 24. The car came with a GPS contract which allowed the car lot to disable the vehicle if there was no insurance on the vehicle, or if the purchaser was behind on the payments. R. 411, l. 9 – 418, l. 22. The owner of the car lot was Sheila Rutland. Her husband, James Rutland, was the repossession agent for Hook and Book Recovery Services.

James Rutland remembered that the Grand Marquis was traced on the night of March 7, 2019, to the golf course near the Tidwell home. R. 427, l. 12 – 431, l. 22. Rutland found the vehicle there but was unable to repossess it because of the narrow dirt road it was on. Rutland actually had to drive on the golf course to turn around. He was worried about "tearing up the golf course, or getting stuck." R. 441, ll. 6-25; r. 470, l. 20 – 471, l. 8.

In the interim, Appellant returned to the car and drove away in it. Rutland followed appellant in the vehicle from the golf course to Johnston. Rutland informed a female police officer in Johnston that there was no insurance on the Grand Marquis appellant was driving, and that he intended to repossess the vehicle that night. R. 441, ll. 6-25; r. 470, l. 20 – 471, l. 8.

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[2] Mr. Tidwell never identified the money clip as being his clip.

Both Rutland and the Johnston police officers claimed that appellant was not stopped that evening so that Rutland could repossess the car. When appellant was stopped, he did not have a driver's license. He was arrested for driving under suspension. R. 481, l. 24 – 489, l. 20.

A box of nine millimeter ammunition was found in the trunk of the vehicle. R. 494, l. 1 – 495, l. 3; r. 515, l. 1 – 516, l. 11. In addition, a nine millimeter shell casing was found inside the front passenger seat of the car, along with multiple cell phones and identification cards for Robert Goodwin and appellant. In addition, walkie talkie handheld radios were found inside the car. R. 556, l. 2 – 557, l. 18.

Appellant was arrested on the night of the robbery, March 8, 2017, for driving under suspension. No ticket was apparently issued for the tint on the car windows being illegal. R. 652, ll. 10-16.

James Wilson was arrested in Maryland on March 11, 2017. R. 652, ll. 17-23. Joshua Darian was also arrested in Maryland on March 24, 2017. R. 653, ll. 4-14. Robert Goodwin was arrested in Maryland on July 10, 2017. R. 653, ll. 16-21. James Wilson and Joshua Darian testified for the state against appellant.

James Wilson

James Wilson was charged with burglary in the first degree, two counts of kidnapping, armed robbery, and criminal conspiracy in this case, the same charges for which appellant was also indicted. R. 689, ll. 14-24. Wilson claimed the solicitor had not promised him anything in return for his testimony against appellant. Wilson then maintained that appellant, Robert Goodwin, and Joshua Darian were the other participants in this crime. R. 689, l. 14 – 690, l. 12.

Wilson was from Guyana, South America. He lived in Maryland. Before March, 2017, he had never been to South Carolina. He was twenty-two years old at the time of the burglary. Joshua Darian was eighteen years old. R. 691, l. 17 – 692, l. 5.

Wilson claimed that appellant told him he could come to South Carolina and participate in the robbery of some drug dealers who ran a jewelry store. There was going to be at least $300,000 involved in the robbery. R. 694, l. 1 – 695, l. 1.

Wilson said he was told that appellant would provide a rental car, the guns, and that they would be given money for hotels, food, and any extra expenses. "Pretty much all we had to do would be to go in there and pretty much rob them, tie them up, lay them down. I was to get the codes." R. 695, l. 11 – 696, l. 25.

Wilson said on the day of the robbery, Joshua Darian was driving because appellant's driver's license had been suspended. Wilson said appellant went in the Tidwell Jewelry Store that afternoon to buy a ring.[3] R. 710, l. 3 – 711, l. 22. Wilson said the purpose of this purchase was so appellant would know the layout of the jewelry store he was to burglarize later that evening. R. 711, ll. 19-22; r. 738, ll. 7-11. Appellant was supposed to rob the jewelry store while the other three men held Mr. and Mrs. Tidwell as prisoners in their golf course home. R. 738, ll. 4-11.

Wilson explained that that night, he went into the Tidwell home with Darian and Goodwin while appellant remained on the back porch. R. 751, ll. 7-10. Wilson said he was led to believe that the Tidwell Jewelry Store was a front for a drug operation. "People come in there and they look to buy, act like they're buying jewelry . . . but they're buying drugs. He said it

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[3] Mr. Tidwell testified that appellant did not buy anything when he came into the jewelry store that afternoon. He talked to appellant about appellant's father who Mr. Tidwell remembered as a "good man."

was an old bank, had a bank vault in the business and he was going to clean the bank vault out." R. 752, l. 9 – 753, l. 12.

Wilson said the men entered the house, they beamed their flash lights into their eyes, and screamed: "ATF." R. 753, l. 13 – 754, l. 7. They then tied up Mr. and Mrs. Tidwell with the zip ties, obtained the security codes, the combination to the safe, and the store keys for appellant. They then held the Tidwells as prisoners. R. 754, l. 17 – 757, l. 20.

A short time later, appellant sent a text message to Wilson informing him that he had been "pulled over" by the police. "I really thought he was lying. I didn't believe him to be honest with you because I kind of figured once I realized there was nothing in the house, I kind of figured it was, he kind of used us to go and rob the jewelry store so I'm thinking that he just robbed the jewelry store and just left us. I didn't believe him at all but just to be on the safe side I left. I left the house." R. 766, l. 23 – 767, l. 8.

Wilson, Darian, and Goodwin then traveled in the Tidwells' stolen car to Aiken, South Carolina. Wilson explained: "I knew it had OnStar on it so I knew we had a limited time in the car. So once we got back to Aiken, I figured it was time to get rid of the car so I parked it in this like in the woods or whatever." R. 769, ll. 15-22. Wilson saw police officers swarming in the area, and he threw his gun into a bush by the Waffle House. Wilson would later lead the police to find the gun he threw into the bushes there. R. 772, l. 4 – 773, l. 19.

Wilson related that the men were chased through the woods by the police from the Waffle House area for about two hours.[4] They then called a cab, and got a ride back to the Econo Lodge in Aiken. From there, Wilson caught a cab to Columbia, and he took a Greyhound

[4] None of the law enforcement witnesses testified about chasing the men through the woods.

bus back to Maryland. R. 774, l. 15 – 776, l. 6. Wilson said he only received about $700 for his part in the crime. R. 823, ll. 19-23.

Mistrial Motion

Wilson testified on direct examination that "I always had my doubts about this whole situation." He said he did not trust appellant, and he wondered why appellant chose him to be a participant in the crime. "[H]e knew a lot of people, so why did he pick me? And his best answer was I looked out for him rather than some of his home boys when he first got of, I guess, prison. Something about the whole situation didn't sit right with me so I took a picture of his ID just in case anything foul happened." Defense counsel told the judge he had a matter of law at this point. R. 782, ll. 6-21.

Defense counsel then moved for a mistrial, noting there had been no evidence of appellant's prior criminal record before the jury, and that the jury now knew appellant had been in prison. R. 782, l. 25 – 783, l. 6.

The solicitor argued that she did not intentionally elicit this testimony that appellant had been in prison. The solicitor also urged there was not enough prejudice from the mention of appellant having been in prison to justify a mistrial. Further, the solicitor reasoned the jury was later going to hear a stipulation that appellant had two prior burglary convictions. "I think we can minimize this and not cause any prejudice to the defendant at this stage in the trial." R. 783, ll. 8-23.

It is unknown what the solicitor meant by minimizing the prejudice. This assertion would have made sense if the solicitor meant in light of Wilson's testimony that appellant had been in jail the state would now agree that the stipulation that appellant had two prior burglary convictions, for purposes of that element the first degree burglary statute, would *not* be heard by

the jury. However, that is not what happened, and the jury heard the two prior burglary convictions appellant had on his record stipulation.

The judge also noted the indictments placed the jury on notice of appellant's two prior burglary convictions. The judge also reasoned that appellant's character had already been placed at issue through testimony about appellant planning the robbery. Defense counsel countered, "That's his [the witness's] opinion [of the plan]." R. 784, ll. 8-19. The judge agreed with defense counsel's statement, and he said he could give a curative instruction, but that he was not granting a mistrial. Defense counsel agreed that a curative instruction in this situation would only make the matter worse. The judge then denied the mistrial motion, and warned the solicitor to tell his witnesses not to mention appellant's prior criminal record or prison again. R. 784, l. 20 – 785, l. 24.

Joshua Darian

Joshua Darian also claimed there was "no deal" in return for his testimony against appellant. Darian, like Wilson, was facing the same charges. R. 892, l. 5 – 893, l. 2. Darian testified that "Wilson let him in on the plan" to rob drug dealers located in South Carolina. The burglary and jewelry store robbery were expected to result in about $250,000 in stolen money. R. 896, l. 2 – 897, l. 23.

On the night of the robbery at the Tidwell home on the golf course, Darian said appellant remained outside while he went inside the Tidwell home with Wilson and Goodwin. R. 925, ll. 15-22. The men inside were going to provide appellant with the keys to the jewelry store, the alarm code, and the safe code. R. 926, ll. 16-20.

Darian said his role was "like to be a scavenger over the house, look around in the house trying to find the drugs." R. 928, ll. 15-17. Darian testified once they had the keys and code that

appellant left to go to the jewelry store. Darian said they repeatedly assured the Tidwells that they were not going to harm them. Darian said he got a blanket and a pillow for Mrs. Tidwell while she laid on the floor. R. 929, l. 13 – 931, l. 24.

The solicitor again had Darian repeat that he had no deal with him for his testimony against appellant. Darian also said he had no promises from the federal government for his testimony against appellant. The federal authorities had apparently charged the men with firearms violations, and impersonating federal officials. R. 945, ll. 5-25.

However, the solicitor later asked to recall Darian so Darian could admit that he was making a proffer with federal authorities that would cause a decrease in his federal sentence. Darian still claimed the deal with the federal authorities would have *no* effect on his state court charges, although this Court can take judicial notice of the fact Darien's state court sentence ran ultimately was ordered to run concurrent to his federal sentence. R. 980, l. 5 – 981, l. 4.

At the end of the state's case, the judge read the jury a stipulation that appellant had two prior convictions for burglary in Edgefield County on March 17, 1998, and March 20, 2000. R. 995, ll. 13-23.

Discussion

In this case, state's witness Wilson testified that appellant trusted him because of the way Wilson treated appellant when appellant got out of prison. However, this was not a single vague reference to appellant's prior criminal record. The state chose to introduce appellant's two prior convictions for burglary by way of a stipulation where the state simply could have stipulated with appellant to the two prior burglaries without the jury hearing of the stipulation as was commonly done prior to State v. Hamilton, 327 S.C. 440, 486 S.E.2d 512 (Ct. App. 1997). See, also, State v. James Scott Cross, Op. No. 27903 (filed July 24, 2019) where the Supreme Court

reversed a Criminal Sexual Conduct with a minor conviction because Rule 403, SCRE, dictated that the defendant's bifurcation motion be granted to prevent the jury from learning of the defendant's prior predicate conviction and his sex offender registry status at the same time the jury was determining his guilt or innocence of the crime for which he was on trial.

Thus, Wilson's reference to appellant's prior criminal record by stating appellant had been in prison was not a vague single reference that was *not* sufficient to justify a mistrial. See State v. Thompson, 352 S.C. 552, 561, 575 S.E.2d 77, 82 (Ct. App. 2003); State v. Manning, 400 S.C. 257, 270, 734 S.E.2d 314, 320 (Ct. App. 2012) (holding a single reference to a separate charge does not constitute sufficient prejudice to warrant a mistrial).

Further, Wilson's statement that appellant had been in prison -- when coupled with the solicitor's decision to publish the stipulation to appellant's two prior burglary convictions in Edgefield County in 1998 and 2000 -- *constituted a calculated decision by the state to place before the jury two more instances of appellant's prior criminal record.*

Thus, State v. Council, 335 S.C. 1, 515 S.E.2d 508 (1998), is also distinguishable, since in that case a law enforcement agent made an isolated statement that appellant's fingerprints were on file with the police. The Supreme Court held this single reference to fingerprints did not warrant a mistrial during that death penalty case since the jury would have to infer that the defendant's fingerprints were on file because of his past criminal conduct, and not for perfectly lawful reasons.[5]

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[5] In State v. James Scott Cross, Op. No. 27903 (filed July 24, 2019), the Supreme Court held that the judge should have ordered bifurcation of the trial where the state refused to stipulate out of the presence of the jury that appellant had a 1992 conviction and that he had to register as a sex offender, which were introduced to prove the prior element of a criminal sexual conduct charge. Here, also, the solicitor could have stipulated to appellant's two prior burglaries without that stipulation being heard by the jury.

In State v. Hurell, 424 S.C. 341, 818 S.E.2d 21 (Ct. App. 2018), the defense moved for a mistrial when the defendant's sister inadvertently told the jury Hurell had been in prison as a result of a prior conviction. This Court in Hurell noted that this was a single isolated incident, and that the judge therefore did not abuse his discretion in denying the mistrial motion.

The factors to be considered in determining whether a motion for a mistrial should be granted upon the admission of inadmissible testimony are: the character of the testimony; the circumstances under which the testimony was offered; the nature of the case; and other testimony in the case. State v. Howard, 296 S.C. 481, 374 S.E.2d 284 (1988). Here, the inadmissible testimony was an improper comment on appellant's character where appellant had not put his character into issue. See Mitchell v. State, 298 S.C. 186, 188, 379 S.E.2d 123, 125 (1989) ("In a criminal case the state cannot attack the character of the defendant unless the defendant herself first places her character in issue.")

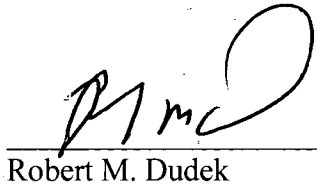
State's witness Wilson inadmissible testimony came from co-defendant who claimed he had no "deal" with the state and where the state wanted to present him as a neutral witness. That increased the power of its prejudice. The other testimony in the case did not make appellant's guilt overwhelming either.

The salient point was the solicitor indicated to the trial judge that the state wanted to provide appellant with a fair trial, a statement the state made when the testimony that appellant had been in prison occurred. This assertion was made to avoid the judge granting a mistrial. Yet, the state had every opportunity to minimize the prejudice from the inadmissible testimony that appellant had been in prison by stipulating to appellant's two prior burglary convictions without demanding that the stipulation be published to the jury. Cf. State v. Stanley, 365 S.C. 24, 615 S.E.2d 465 (Ct. App. 2005).

Under the highly unusual facts of this case, the judge abused his discretion by refusing to declare a mistrial.

CONCLUSION

By reason of the foregoing arguments, appellant's conviction should be reversed, and this case remanded to the Saluda County Court of General Sessions for a new trial.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of July, 2019.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Saluda County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ABIN LEE LOWMAN,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Abin Lee Lowman states:

1. He is Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. He has reviewed the record of appellant's trial before Judge Eugene C. Griffith, which was held on June 18 - 22, 2018, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for Abin Lee Lowman.

Respectfully Submitted,

Robert M. Dudek
Chief Appellate Defender
ATTORNEY FOR APPELLANT

This 24th day of July, 2019.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Saluda County
Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ABIN LEE LOWMAN,

APPELLANT

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

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

(1) True-billed indictments;
(2) Entire trial transcript.

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

July 24, 2019

Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

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

July 24, 2019.

Robert M. Dudek
Chief Appellate Defender

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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

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ABIN LEE LOWMAN,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon William M. Blitch, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on Abin Lee Lowman, 248506, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 24th day of July, 2019.

Robert M. Dudek
Chief Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 24th day of July, 2019.

(L.S)
Notary Public for South Carolina
My Commission Expires: July 26, 2028