

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State, Respondent,

v.

William D. Lewis, Appellant

Appellate Case № 2019-001815

RECEIVED

Sep 16 2021

S.C. SUPREME COURT

Appeal from Greenville County
G. Thomas Cooper, Jr. Circuit Court Judge

Opinion № 28051
Heard March 2, 2021 - Filed August 11, 2021

Reply to the Return to the Petition for Rehearing

Replying to the Return to the State, William D. Lewis replies based upon the following:

I. This Court failed to apply *Stromberg v. California*, 283 U.S. 359 (1931) to this case.

The State contends that William D. Lewis cannot argue that *Stromberg v. California*, does not apply because it was not argued in the brief of Mr. Lewis. In that sense, this Court should not have considered it because it was not argued in the State's brief. This Court was the first to raise the *Stromberg* case. Therefore Mr. Lewis contending the case was not properly applied in his petition for rehearing was proper.

II. This Court failed to acknowledge that criminal negligence was charged to the jury.

The State contends that William D. Lewis cannot raise the issue of the jury charge in his petition for rehearing. Mr. Lewis is raising the issue, not as an objection to the jury charge, but in contending this Court erred in saying negligence was not submitted to the jury. As negligence is in the statute, Mr. Lewis would have had no basis to object to what the statute actually said.

III. The conduct of William D. Lewis does not clearly fall within the statute.

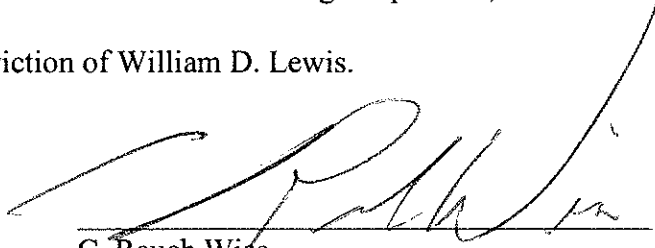
The State cites to cases to contend that Mr. Lewis conduct clearly falls within the statute. Neither supports the position of the state. The conduct of the defendant in the two cases was tantamount to criminal sexual conduct with a minor or extortion. In *People of the Territory of Guam v. Camacho*, 103 F.3d 863, 866 (9th Cir. 1996) the Court said, “ If Camacho had molested children while purporting to be performing his busdriverly duties (for example, by telling them he needed to frisk them for security reasons), he would be guilty of official misconduct.” Child molestation charges would put anyone on notices that the conduct was not proper. In *Matter of Lee*, 313 S.C. 142, 143, 437 S.E.2d 85, 86 (1993), this Court said, “The charges of misconduct in office arose from his using his office to obtain sexual favors from at least twelve different women whose contact with respondent was initiated because he was a Magistrate.” Requiring a defendant to have sex with the magistrate to obtain a favorable ruling is the crime of extortion. Clearly such conduct would also clearly fall within official misconduct.

Mr. Lewis believes the Petition for rehearing adequately addresses the other issues as to the Return by the State.

CONCLUSION

For the reasons stated above and for the reasons stated in the original petition, this Court should rehear this matter and reverse the conviction of William D. Lewis.

September 16, 2021



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