

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Charleston County
Honorable J.C. Buddy Nicholson, Circuit Court Judge

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Jan 18 2022

S.C. SUPREME COURT

Opinion No. 2021-UP-330 (S.C. Ct. App. Filed September 15, 2021)

Lower Court Case No. 2017-GS-10-05922

THE STATE,

RESPONDENT,

V.

CARMIE JOSETTE NELSON,

PETITIONER

APPELLATE CASE NO. 2021-001356

REPLY TO RETURN TO PETITION FOR WRIT
OF CERTIORARI TO THE COURT OF APPEALS

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ARGUMENT IN REPLY

The record reflects that it was a contested fact at trial as to whether petitioner's statements heard on the cell phone recordings were a given without any coercion.

Petitioner offers this brief reply to the Return to Petition for Writ of Certiorari to address certain assertions made by respondent. Respondent's interpretation of the evidence at trial is not supported by the record. Specifically, respondent argues that:

The transcript did not unduly emphasize the evidence. The fact this was a defendant confessing to murder emphasize[s] this evidence. Since the Petitioner's defense was that Mr. Nelson was the guilty party this piece of evidence proved her testimony was untrue. **This statement was voluntary and given without any coercion.**

(Return to Petition for Writ of Certiorari, p. 10) (emphasis added). The record reflects that it was a contested fact at trial whether petitioner's statement was given without any coercion. Correction and clarification of the facts relied upon by respondent is required.

At trial petitioner testified that Nelson held her hostage for multiple days. R. 373, l. 24-375, l. 4. During that time, petitioner said Nelson forced her to make two recordings, on his cell phone, where she described the murder. R. 377, l. 17-378, l. 2. Petitioner adamantly denied any involvement in the murder including helping Nelson in any way with moving the body or cleaning up the house. R. 377, ll. 13-17; 382, ll. 1-9; 385, l. 15-387, l. 12.

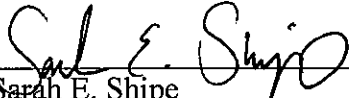
Petitioner and Daniel Nelson were married and lived together until 2015 when Nelson was convicted of criminal domestic violence after he attacked petitioner with a knife. R. 44, ll. 9-24; 46, l. 10-93, l. 6; 162, ll. 17-25. Petitioner testified that she was forced by Nelson, her estranged husband, to make the recordings. R. 377, l. 17-378, l. 2. Conversely, Nelson claimed he secretly recorded petitioner describing how she murdered Lum. R. 76, l. 20-79, l. 2.

Respondent's assertion that petitioner's statement, heard on the recordings was a confession voluntarily given was a contested fact at trial and not the only way to view the facts. Petitioner's testimony clearly contradicts respondent's contention that "this statement was voluntary and given without coercion."

CONCLUSION

Petitioner respectfully requests this Court grant the petition for writ of certiorari and allow full briefing of the issues.

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR PETITIONER

This 18th day of January, 2022.