



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 08, 2022

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

## REMITTITUR

Re: The State v. Curnez Ellerbee  
Lower Court Case No. 2018GS4005441  
Appellate Case No. 2019-000910

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen*

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire  
Joanna Katherine Delany, Esquire  
Joshua Abraham Edwards, Esquire  
The Honorable DeAndrea G. Benjamin

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State, Respondent,

v.

Curnez Ellerbee, Appellant.

Appellate Case No. 2019-000910

---

Appeal From Richland County  
DeAndrea G. Benjamin, Circuit Court Judge

---

Unpublished Opinion No. 2022-UP-117  
Submitted January 1, 2022 – Filed March 23, 2022

---

**AFFIRMED**

---

Appellate Defender Joanna Katherine Delany, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant  
Attorney General Joshua Abraham Edwards, both of  
Columbia, for Respondent.

---

**PER CURIAM:** Curnez Ellerbee appeals his conviction for evasion of a tax or payment and sentence of three years' imprisonment, suspended upon five years' probation, terminable upon payment of \$3,000 restitution. On appeal, Ellerbee argues the trial court erred by charging the jury on willfulness arising from an

omission or failure to act when tax evasion requires proof of a willful affirmative act.

Considering the jury charge in its entirety, we hold the trial court did not abuse its discretion because it instructed the jury on the current and correct law for tax evasion. Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Adkins*, 353 S.C. 312, 318, 577 S.E.2d 460, 463 (Ct. App. 2003) ("In reviewing jury charges for error, [an appellate court] must consider the court's jury charge as a whole in light of the evidence and issues presented at trial."); *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010) ("An appellate court will not reverse the trial [court]'s decision regarding a jury charge absent an abuse of discretion."); *id.* at 479, 697 S.E.2d at 583 ("The trial court is required to charge only the current and correct law of South Carolina."); S.C. Code Ann. § 12-54-44(B)(1) (2014) ("A person who wilfully attempts in any manner to evade or defeat a tax or property assessment imposed . . . is guilty of a felony . . ."); *State v. Sowell*, 370 S.C. 330, 336, 635 S.E.2d 81, 83 (2006) ("A willful act is defined as one 'done voluntarily and intentionally with the specific intent to do something the law forbids . . .'" (quoting *Spartanburg Cnty. Dep't of Social Servs. v. Padgett*, 296 S.C. 79, 82-83, 370 S.E.2d 872, 874 (1988))); *State v. Zeigler*, 364 S.C. 94, 106, 610 S.E.2d 859, 865 (Ct. App. 2005) ("If, as a whole, the charges are reasonably free from error, isolated portions which might be misleading do not constitute reversible error.").

**AFFIRMED.**<sup>1</sup>

**WILLIAMS, C.J., MCDONALD, J., and LOCKEMY, A.J., concur.**

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.