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IN THE STATE OF SOUTH CAROLINA **May 09 2022**
In the Court of Appeals

SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Appellate Case No. 2021-000701

The Honorable Letitia H. Verdin, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

Tremaine Pierre Johnson.....Appellant.

INITIAL REPLY BRIEF OF APPELLANT

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Introduction

Appellant, Tremaine Johnson, respectfully submits this reply brief in response to Respondent's brief filed April 8, 2022. For the reasons argued below and in Appellant's initial brief, this Court should vacate Appellant's conviction and sentence.

ARGUMENT

The trial court erred by submitting the case to the jury when the evidence adduced at trial was insufficient to show more than a mere suspicion that Johnson was responsible for the murder of the victim.

Respondent's (like the State's) chief argument why it believes Johnson murdered the victim is because he did not want to be a father to the victim's child. This theory ignores a number of relevant facts that were developed at trial and that vitiate Respondent's simple theory of guilt. It can both be true that Johnson did not want to have a child and that he did not murder the victim. Respondent's argument suggests there is no sunlight between the two positions. At the end of the day, the evidence adduced at trial was insufficient to support the case's being allowed to go to the jury since it raised only a "mere suspicion" that Johnson was guilty of the crime.

As detailed in Johnson's initial brief, the case against him was wholly circumstantial. Based on internet searches, essentially, the State argued Johnson murdered the victim because, it alleged, he did not want to be a father. The evidence just simply does not prove that it is the case. At most the evidence adduced at trial showed Johnson and Ms. Wiles had a sexual relationship. What Respondent fails to acknowledge is that the relationship was extremely short-lived. The two were only communicating since April 5, 2018. Tr. 244. It was only 5 weeks later that she was murdered. Tremaine Johnson was not even arrested until after a second DNA test was performed that indicated he was the father of the fetus because, presumably, the State realized it did not have

probable cause to arrest him for her murder. Tr. 414. That lack of probable cause does not change simply because Johnson, as it turns out, was the father of the fetus. *But he did not know that at the time of her death.*

There is no question but that Johnson had a brief relationship with the victim and she became pregnant. They had a falling out. But absent from this case is any evidence tending to show that Johnson was responsible for her death. At most the cell phone data showed the two were in the same area, but that's not unusual since they both lived in that area. The rest of the State's evidence amounts to rank speculation. The State did not provide any evidence to show Johnson had a gun on the night of the murder, or that he encountered the victim. The two even discussed the victim's getting a DNA test because Johnson was not convinced he was the father. The victim never indicated she would demand child-support from Johnson or even that they would continue to have a relationship after the birth of the child. The idea that Johnson would murder the victim simply because she was pregnant is nonsensical. According to the Centers for Disease Control, the percentage of unmarried women giving birth in 2020 was 40.5%. For non-Hispanic blacks, the number is 70.4%. See Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics Reports, February 7, 2022, found at: [chrome-extension://efaidnbnmnnibpcajpcglcfindmkaj/https://www.cdc.gov/nchs/data/nvsr/nvsr70/nvsr70-17.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr70/nvsr70-17.pdf) (last visited May 6, 2022). Pregnancy simply is not the motive for murder that Respondent and the State allege it is. The State used the fact of the victim's pregnancy to find a reason to account for the victim's murder, but that inference is wholly speculative.

The State knew it lacked probable cause to arrest Johnson for the murder of the victim which is why it did not immediately arrest him. Tr. 79, 85. It was not until 2021 that the State established paternity. Tr. 414. The mere fact of Johnson's paternity does not reasonably prove that

he murdered the victim. This case was shockingly weak and it was improper to submit it to the jury. Respectfully this Court should vacate Johnson's conviction and sentence.

CONCLUSION

Respectfully, this Court should vacate Johnson's conviction and sentence.

Respectfully submitted,

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