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JUN 17 2022

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

SC Court of Appeals

Appeal From Williamsburg County
Court of General Session
Honorable R. Ferrell Cothran Jr. Circuit Court Judge

Appellate Case No. 2019-001784

Ronald Brown, Appellant,

v.

State of South Carolina, Respondent.

Petition For Rehearing

Ronald Brown, #381581
Lee Correctional Inst.
990 Wisacky Hwy
Bishopville, SC 29010

PRO SE

The Appellant does hereby respectfully Present to this Court the Petition For Re-hearing. The Appellant is informed and believe that this Court overlooked and/or misapprehended an important point of law and/or facts in its analysis and decision in the case. Accordingly, Pursuant to Rule 221(a), SCACR, the Appellant respectfully requests that this Court hold another hearing on these matters and reconsider its Opinion accordingly.

POINT ONE

THE COURT OVERLOOKED AN IMPORTANT POINT OF LAW AND/OR FACTS IN ITS ANALYSIS OF WHETHER THE TRIAL COURT ABUSED ITS DISCRETION WHEN FAILING TO CHARGE THE JURY ON THE DEFENSE OF OTHERS.

For a brief reiteration of the facts as outlined in the defendant's brief filed with the court.

On October 20, 2017, defendant's car

was blocked in by the victim, Matthews Cooper, who was accompanied with a friend Neil. See R. 305, l. 10 - 306, l. 8.

The victim accused defendant of owing him money. A fight between them transpired and a gun was drawn on defendant and he was made to leave the scene, leaving his two children behind with an acquaintance, Quamella McCormick. See R. 306, l. 11 - 309, l. 21.

Defendant returned to the scene to get his kids after arming himself with a 40 caliber hand gun. R. 311, l. 13 - 312, l. 16.

Upon arriving at the scene, defendant witnessed a McCormick girl with one of his children, and he asked his old lady to go and get the kids, while he went to get two cigarettes from a guy name Freddie. See R. 314, l. 10 - 25. As defendant walked through the yard, the victim popped up and began shooting. Defendant ducked down and pulled out his gun and returned fire, which killed the victim. R. 315, l. 2 - 19.

In light of the aforementioned facts, defendant made a request that the trial Court Charge the jury on the defense of others. The trial court declined to give the instruction on the grounds that — "There's no testimony that Decedent was anywhere in aggressive towards his children. The fact that his children may have been shot as an innocent bystander, I don't think, qualifies for the defense of others. He was defending himself." R. 354, 11. 20-24.

This Court affirmed the trial court's ruling and this Petition for Rehearing follows.

During the trial defendant testified on his own behalf and told the jury the following:

"He shot at me first. I didn't see it coming. He could've hit, he could've hit my child actually because the way he was standing and the way I'm walking to the driveway and my child is coming from straight ahead. If I would've — if they would've been

walking faster he definitely would get hit, somebody would've got hit. She would've got hit or my child, one of the two."

R. 316, 11. 16-17; R. 318, 11. 7-14 (emphasis added).

Defendant also testified:

"I come up, the other sister was walking my child up that way when he fired and my child could've got hit at that time... so I fired to try to get him back from shooting, shooting that way - in case he might shoot..." R. 315, 11. 2-19 (emphasis

added).

With an examination of defendant's trial testimony, defendant places his child in the line of fire. "He could've hit, he could've hit my child..." Defendant also told the jury that he returned fire (shots) to keep his child from being hit by a bullet. "My child could've got hit at that time... so I fired to try to get him back from shooting..."

The law to be charged is det-

etermined from the evidence presented at trial. State v. Gourdine, 322 S.C. 396, 472 S.E.2d 241 (1996).

Evidence is not limited to the State's case. It was therefore error for the trial court to conclude that defendant shot the victim in defending himself. This conclusion contradicts defendant's trial testimony that he shot the victim to prevent his child from getting hit with a stray bullet. Moreover, the trial court also erred by concluding that defendant wasn't entitled to a "defense of others" charge because his child was not the target of the victim's aggression. R.

354, 11-20-24. Because defendant's children were in the line of fire or could have potentially been hit by a stray bullet, they (the children) were in imminent danger of losing their lives and/or suffering serious bodily injury. Because this was the case, as testified to by defendant, "(she would've got hit or my child...)"

defendant had a legal right to use deadly force to stop the shooter.

This too defendant testified to — "SO I fired to try to get him back from shooting..." R. 315, 11.2-19. SO

although defendant was the target of the victim's aggression, this does not eliminate defendant's children being

in "imminent danger". It was not

for the trial court to weigh in on the evidence; of whether defendant's

version of the facts were true or

not. The trial court's duty when

deciding whether to give the law

on a particular defense is solely

to determine whether or not the

record supports such a charge.

Clearly, defendant places his

children in the line of fire and/or

in the vicinity of the victim's gun

fire. He (defendant) also told the

jury that the reason why he re-

turned fire, i.e. gun shots was to

prevent the victim from hitting his

children with a stray bullet. This

was defendant's version of the facts.

Reliance on the Facts and Principles of law outlined above, defendant is of the belief that this Court overlooked and/or misapprehended an important Point of law and/or facts. It is for these reasons, defendant respectfully ask this Court to reconsider it Prior decision.

CONCLUSION

For reason outlined and explained above a rehearing should be granted.

Dated: 6-14-2022

Ronald Brown

Ronald Brown # 381581

Lee Correctional Inst.

990 Wisacky Hwy

Bishopville, SC 29010

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Proof of Service JUN 17 2022

SC Court of Appeals

I, Ronald Brown, certify that I did mail (1) one original and (3) three copies of my Petition for Rehearing and Motion to Relieve Counsel, to the Clerk of the Court, South Carolina Court of Appeals, 1220 Senate St. Columbia, S.C. 29201. Also, a copy of the same was forward to the address below:

To: Shang Montgomery
Office of Attorney General
P.O. Box 11549
Columbia, S.C. 29211

I, Ronald Brown, certify that the statements made by me are true. I am aware that if any statements made by me are willfully false, I am subject to punishment.

Dated: 6-14-2022 Ronald Brown

Ronald Brown #381581

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SC Court of Appeals

To: Clerk of the Court

S.C. Court of Appeals

1220 Senate St.

Columbia, S.C. 29201

Dear Clerk:

Please find the following Papers enclosed:

1. Motion to Relieve Counsel
2. Petition for Rehearing
3. Proof of Service

Kindly file the above material.

Thank you in advance for your time and attention.

Dated: 6-14-2022

Truly,
Ronald Brown

IMS

Donald Brown #381581
Sec Correctional Inst
190 W. Sack Hwy
Bishopville, S.C. 29010

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JO Clerk of The Court
S.C. Court of Appeals
1220 Senate St.
Columbia, S.C. 29201