STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to the Court of Appeals
Appeal from Spartanburg County
The Honorable Lee S. Alford, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

PETITIONER

Opinion No. 2022-UP-340 (S.C. Ct. App. Filed August 17, 2022)

APPELLATE CASE NO. 2022-001636

---

# APPENDIX

---

JESSICA M. SAXON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

TOMMY EVANS, JR.
Assistant Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3727

EDDIE JAMES HUNTER
HOPE COLEMAN-HICKS
Assistant Solicitors- Seventh Circuit
180 Magnolia Street, Floor 3
Spartanburg, SC 29036
(864) 596-2575

ATTORNEYS FOR RESPONDENT

# INDEX

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Spartanburg County

Honorable Lee S. Alford, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

APPELLANT

APPELLATE CASE NO 2019-001117

---

# FINAL BRIEF OF APPELLANT

---

JESSICA M. SAXON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Cases**



**Statutes**

## STATEMENT OF ISSUE ON APPEAL

Whether the trial court abused its discretion in denying Appellant Amy Taylor one-fourth parole eligibility where she proved by a preponderance of the evidence she suffered a history of criminal domestic violence at the hands of a household member, her live-in boyfriend, where the court erroneously ruled that the change in her live-in relationship with the decedent from being a cohabitating sexual relationship to a cohabitating caregiver relationship as the decedent grew more infirm, but still violent, disqualified appellant from showing a "long-term" history of domestic violence sufficient to satisfy the standard required by S.C. Code Ann. § 16-25-90?

## STATEMENT OF THE CASE

On June 7, 2019, a Spartanburg County grand jury indicted Appellant for one count of murder and one count of possession of a weapon during the commission of a violent crime. R. 266. The state, represented by Eddie Hunter and Hope Coleman-Hicks, called the case to trial before the Honorable Lee Alford and a jury on June 24, 2019. R. 1. Beverly Jones represented Appellant. R. 1.

On the third day of trial Appellant entered a guilty plea to one count of murder. R. 42-54. The following day Judge Alford sentenced Appellant to forty-five (45) years imprisonment. R. 59. On June 28, 2019, a hearing was held to determine if Appellant qualified for the one-fourth parole eligibility as a victim of domestic violence pursuant to S.C. Code Ann. § 16-25-90. R 61-63. Judge Alford ruled that Appellant had not met her burden of proof and was therefore not entitled to one-quarter parole eligibility pursuant to S.C. Code Ann. § 16-25-90. R. 247-262.

Following the conclusion of that hearing, Appellant moved for a sentence reconsideration. R. 261. 262. Judge Alford reduced Appellant's sentence to thirty-five (35) years imprisonment. R. 263-265. On July 2, 2019 Appellant filed a notice of appeal. At the direction of the Court of Appeals, Appellant filed an explanation of appeal pursuant to Rule 203 (d)(1)(B), SCACR on July 17, 2019, and this appeal was allowed to proceed.

This brief follows.

## STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown. State v. Laney, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." State v. Black, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012) (quoting State v. Jennings, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)). The appellate court does not reevaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial judge's ruling is supported by any evidence. State v. Winkler, 388 S.C. 574, 583, 698 S.E.2d 596, 601 (2010).

## ARGUMENT

The trial court abused its discretion in denying Appellant Amy Taylor one-fourth parole eligibility where she proved by a preponderance of the evidence she suffered a history of criminal domestic violence at the hands of a household member, her live-in boyfriend, where the court erroneously ruled that the change in her live-in relationship with the decedent from being a cohabitating sexual relationship to a cohabitating caregiver relationship as the decedent grew more infirm, but still violent, disqualified appellant from showing a "long-term" history of domestic violence sufficient to satisfy the standard required by S.C. Code Ann. § 16-25-90.

***Relevant Facts***

*Taylor and Sprouse's Relationship*

Appellant Amy Taylor (hereinafter Amy) first met the decedent, James Sprouse (Sprouse), when she was fourteen years old, in 1999. R. 102, ll. 12-15. At that time Sprouse worked for Jason Lyda[1] in an automotive repair garage. R. 102, ll. 16-20. There was a twenty-five-year age gap between Amy and Sprouse. R. 5, ll. 8-9; R. 103, ll. 5-9. Amy and Sprouse remained friends, working together at the garage over the course of many years. R. 4, ll. 6-11. In 2010, Amy and Sprouse began a sexual affair that spanned several years. R. 108-109.

During 2012, Amy, her second husband,[2] and their children were evicted from their home due to financial problems. The decedent offered them a place to stay. R. 105, ll. 14-17. The two families lived together in a two-bedroom trailer for a few months before Amy and her family

1 Jason Lyda was Amy's first husband. They were married in North Carolina, with parental consent, when Amy was fifteen years old. Together they had one child, Destiny Lyda, who was charged as an accessory in the death of Sprouse. Lyda and Amy divorced in 2003 after Lyda attempted to kill Amy and Destiny. He was ultimately convicted of criminal domestic violence. The marriage lasted roughly three years. R. 103, l. 10-R. 104, l. 8; R. 147, ll. 9-23.

2 Amy married her second husband, Kenny Taylor, a few years after divorcing Lyda. Together they had two daughters, one born in 2005 and the second born in 2011. R. 57-58; R. 104-107.

were able to find a new place to stay. Amy and her family ultimately ended up moving back in with the Sprouses in 2014. R. 106-107. During this period Amy and Sprouse continued their affair. R. 109, ll. 2-5. Eventually the marriages of Amy and Sprouse ended. After their respective spouses moved out of the trailer, Amy and Sprouse began to live together openly as a couple. R. 108, l. 24-R. 109, l. 14.

In addition to having a romantic relationship with Sprouse, Amy also acted as his caretaker, particularly in the last two years of his life. R. 110, ll. 15-16; R. 169, ll. 2-9. Amy coordinated and accompanied Sprouse to doctor's appointments, gave him his various medications, and took care of the home. R. 112, ll. 5-16. Sprouse suffered from various health problems including COPD, diabetes, and heart problems. R. 188, ll. 10-16. Both Sprouse and Amy abused Sprouse's Percocet and Xanax prescriptions and Amy purchased additional pills from an acquaintance. R. 125-126.

Amy described Sprouse as having a "nasty temper" that got worse as his health declined. R. 117, ll. 6-11. She further stated that he had a "violent streak" that caused her to fear Sprouse at times. R. 126, ll. 20-25. Added to that fear was the fact that Sprouse had numerous guns in the home and that he had threatened to "put a cap in people's asses" that owed him money as well as "put a cap" in Amy's family's ass. R. 114-116.

Amy stated the first time that Sprouse struck her was many years into their relationship. They had been in the garage working when something Amy said angered Sprouse. R. 118, ll. 3-24. Sprouse struck Amy in her face with enough force to knock her off of the table she was sitting on. Amy suffered a broken tooth and facial bruises as a result of the incident. R. 119, ll. 7-16.

The next time Sprouse struck Amy, he again hit her in the face for being a "smart aleck" to him while they were in their bedroom and the children were at school. R. 120, ll. 1-23. Sometime after that, while trying to find keys for a metal safe, Sprouse again became angry with Amy and set the safe down on her feet. As a result, she suffered some broken toes and numerous bruises. R. 121, ll. 4-19. Sprouse even threw Amy against the interior wall of their trailer in January of 2017. Amy had bruises along her chest, side and leg that her eldest daughter, Destiny, observed after the incident. R. 122, l. 14-R.123, l. 5.

Amy described not only the physical abuse inflicted upon her by Sprouse but mental and emotional abuse as well. Sprouse threatened to "shoot up" the house or "pop a cap in somebody's ass" and stated he was not afraid of going back to jail. R. 126, l. 23-R. 127, l. 1. He repeatedly threatened to kick Amy and her children out of the home when they had no where else to go. R. 80, ll. 11-13; R. 125, l. 9-10. He threatened to beat Amy's "ass" and stated he would shoot her and her children if she ever tried to leave. R. 117, ll. 16-17; R. 150, ll. 21-23.

*Sprouse's Death*

On March 2, 2017, the day before Sprouse's death, Sprouse became angry and accused Amy of taking some of his pills. During the argument Sprouse grabbed a gun and shot in the direction of Amy, leaving bullet holes in the wall. R. 127, l. 14-R, 128, l. 2. Amy texted their neighbor, Michael Head, and told him that Sprouse had "shot up" the house. When Sprouse learned that Amy had told Head what had happened he became even more angry and told her in a text that "what I do here is no damn body business." R. 40-436; R. 128, ll. 3-18.

That night Amy slept on the couch with her youngest daughter. Throughout the night Sprouse paced through the trailer, mumbling and cursing. Amy heard Sprouse repeatedly say "I'm going to get you" and "I'm gonna kill you, bitch" as he moved through the home that

evening. R. 128-130. Sprouse's words and actions that evening left Amy in fear for her life. She believed that Sprouse has "flipped his gourd" and she did not know what he would do. R. 128, ll. 11-12; R. 129, ll. 21-22.

After a stressful and fear filled evening Amy awoke the next morning afraid of what Sprouse might do to her. R. 128. Amy entered the bedroom and was walking to the closet when she noticed the gun sitting in the top drawer of a chest of drawers. Sprouse was in the bed talking and as Amy walked by, he leaned toward chest of drawers and extended his arm. Amy thought that Sprouse was reaching for the gun and was going to kill her. She grabbed the gun and shot Sprouse, killing him. R. 130; R. 138-139.

*The Police Investigation*

On March 4, 2017, Spartanburg County Sheriff's Office received a call from James Fowler. Fowler stated that his son, Anthony Fowler,[3] had just told him that his "girlfriend's mom had shot her boyfriend." Fowler said his son told him that there was "blood all over the place and bullet holes in the walls" and that the police had been called. However, because the coroner was busy, Anthony said they had been instructed to place the body of the boyfriend in a tarp and move him out into a field. R. 2, l.11-R. 3, l. 16.

Deputies responded to Amy and Sprouse's home to perform a welfare check. R. 7, ll. 8-16. They spoke with Amy and were given permission to walk through the mobile home. R. 8, ll. 7-15. Inside deputies observed fresh spackling on the living room wall and what appeared to be blood on the floor and walls of the back bedroom. They also saw that the box spring was on its side, the mattress was not in the trailer, the bedding was in a number of trash bags and there were

3 Anthony, who was nineteen, was dating Appellant's daughter Destiny, who was sixteen, at the time of the incident. Anthony was also living in a camper on Appellant and Sprouse's property at the time of the incident. R.74-483; R.85

latex gloves and cleaning supplies on the dresser. R. 8, l. 17-R. 9, l. 2. Based on those observations the deputies called for investigators to respond to the scene. R. 22, ll. 8-24.

Investigators arrived on scene and discovered the body of Sprouse wrapped in a tarp, roughly two to three hundred yards into the woods. R. 23, ll. 7-14. Amy, Destiny, and Anthony Fowler were separately transported to the Sherriff's office to be interviewed. Search warrants were drawn and executed at the mobile home and on the various vehicles found at the property. R. 10, ll. 20-22; R. 12, ll. 6-10; R. 13, ll. 2-8. Law enforcement also received consent to search the cellphones of Amy, Destiny and Anthony. R. 27, ll. 15-20; R. 28, ll. 17-18.

The investigation concluded that Sprouse had been shot and killed on the previous morning, March 3, 2017. Amy had told Destiny and Anthony that she called the police who instructed her to remove Sprouse's body from the home in a tarp and place it in the woods until the coroner could arrive. Amy gave various versions of the events leading up to the death of Sprouse before eventually stating that Sprouse had beaten her, she was afraid of him and that she had shot him because she thought he was going to kill her. R. 16-21.

*The Expert Testimony of Dr. Lois Veronen*

Dr. Loise Veronen is a clinical psychologist who has devoted her career to the research of how violence or traumatic events impact the functioning of women. R. 155-156. In the legal field this area of study is often referred to as Battered Women's Syndrome. R. 157, ll. 12-17. The court qualified Veronen as an expert in "clinical psychology with research, variance in victims of violence." R. 157, ll. 4-9.

Veronen testified that abuse manifests in many forms, not just physical violence. She identified threats of violence, control of contacts, and isolation as forms of emotional or mental abuse. She stated that any of these forms of abuse can be used to batter or control a woman. R.

159, ll. 2-10. In describing how fear and anxiety can impact the reaction of a victim of violence Veronen stated:

> In general, what we find is that people who had those kinds of histories, they become sensitized to potential for violence. So they may recognize small que's that somebody is going to be violent because they have this intimate association and knowledge of them. You know, could be the change in the voice tone. That means that violence is imminent. Or it could be, you know, movement toward. But women who have a close, intimate relationship usually are generally more attuned to when violence is imminent … their reaction may be, you know, quicker than it would be. Other people might not view it as the same threat, but because of their close association with that individual, they may view it as very threatening. Their state of mind is different potentially than, you know, how another person might view it.

R. 177, l. 10-R.181, l. 2.

Veronen met with Amy and interviewed her over the course of three days and eight or nine hours. R. 181, ll. 17-23. She performed various psychological and personality test and conducted a lengthy clinical interview with Amy. R. 165-166. Veronen stated that the tests were designed to catch attempts to manipulate them and she believed Amy was truthful in her responses. R. 200, l. 20-R. 201, l. 25. The interview and tests revealed that Amy was suffering from identifiable substance abuse and multiple clinical diagnoses. R. 170, ll. 15-22. Further, the test showed Amy had very poor self-esteem and poor reasoning skills which could have led to instances where her thinking was severely impaired. R. 171, ll. 4-10.

Veronen found that Amy and Sprouse had a co-dependent relationship and that Amy was particularly dependent on Sprouse for a place for her and her children to live. R. 175, ll. 13-17. Veronen noted that Sprouse had paid to have a drug arrest expunged from Amy's records following a 2014 arrest but then continued to give Amy drugs to support her habit. R. 186, ll. 16-23. She stated that Amy likely did not exercise "options or opportunities" to leave the

relationship, call the police, or do other things to remove herself from the situation because of how co-dependent the relationship was for her. R. 175, ll. 13-19.

Veronen concluded that Amy had suffered multiple events of a violent nature and a very traumatic event of being shot at on the day prior to Sprouse's death. R. 174, ll. 19-23. Based on the data from the tests and the clinical interview, Veronen opined that Amy's perception of danger posed by Sprouse on the morning of March 3, 2017, was highly significant and that Amy was "very, very fearful." R. 175, ll. 2-5. When Amy fired the gun, she was in a "high state of fear and anxiety … in a state of fear, terror, for herself and her children." R. 175, l. 23-R. 176, l. 2. Given Amy's history with Sprouse and the incident the evening before, Veronen determined that Amy's response the morning Sprouse was killed was reasonable. R. 176, ll. 8-10.

The state, after having its expert review Veronen's testing data, reports, and findings, focused its cross-examination on minor errors in her report, such as the age of Sprouse at the time of his death or the number of years in age between Amy and Sprouse. R. 182, ll. 18-24; R. 186, ll. 13-R. 187, l. 8. The state confirmed that all of the information Veronen received was from the discovery materials and her meetings with Amy. R. 200, ll. 1-7. Veronen also stated that Amy knew the purpose of the meetings with Veronen was to determine Amy's "history of victimization and the nature of her relationship" with Sprouse which could potentially be used as a defense or mitigation during Amy's trial. R. 190, ll. 8-21.

*Testimony of Other Witnesses at the Domestic Violence One-Quarter Parole Eligibility Hearing*

In addition to Amy and Dr. Veronen, defense counsel also called Virginia Lee Teague and Destiny Lyda to testify during the one-quarter parole eligibility hearing. Teague testified that when Amy was married to her second husband, she and Amy became friends. She had known Amy for about ten years and at the beginning of their friendship Amy would sometimes

watch her daughter for her. R. 62, l. 1-13. When asked about her relationship with Amy in the years leading up to Sprouse's death, Teague stated, "I wouldn't say we were friends, but I wouldn't say we weren't friends. Like, we were acquaintances." R. 63, l. 4-10. Eventually, Teague became Amy's drug dealer, supplying her with prescription pills. R. 63, ll. 13-22.

Teague recalled two times, in the roughly eight weeks before Sprouse's death, that Amy had come to her home to get pills with visible injuries. R. 64, ll. 5-10. Once Amy had a bruise on her face and the second time Amy had broken toes. Amy told her that the injures were from Sprouse hitting her. R. 64, ll. 12-25. Amy told Teague that Sprouse had shot live rounds in the house and said, "if I end up dead you know who did it." R. 65, ll. 6-7; R. 66, ll. 23-25. When Teague asked Amy why she did not leave Sprouse, Amy told her she had no where else to go. R. 65, ll. 7-10. Teague testified that she never saw anything happen, that she did not know Sprouse personally and that she had heard nice things about Sprouse. R. 72, ll. 4-7.

Destiny testified that when her mother and Sprouse would argue she would take her younger sisters inside of her bedroom to shelter them from what was happening. R. 79, l. 1-21. While Destiny never saw Sprouse be physically violent toward her mother, she would hear Sprouse threaten to kick them all out of the house and threaten to hit her mother. R. 80, ll. 11-13; R. 94, ll. 1-9. Destiny also heard Sprouse loudly talk about his guns and angrily threaten to shoot people, stating he would "blow a cap in their ass." R. 80, l. 19-R. 82, l. 15. She would also hear Sprouse stat that he was not "scared to go to jail" and that if they called the police it would not matter because "he had connections and would be able to get out." R. 82, ll. 20-23.

Destiny stated her mother told her about Sprouse hitting her sometimes. R. 93, ll. 4-7. Once, Destiny saw bruises along her mother's side and chest and when she asked what had happened, and Amy said she ran into the side of table. However, Destiny did not think her

mother was telling her what really happened. R. 83, ll. 19-24. In the last few months of his life, Destiny saw Sprouse become moodier, yelling and frightening Destiny. R. 86, l. 23-R. 87, l. 7.

The state called Amy's fourteen-year-old daughter to testify that she thought the marks she had seen on her mother were fake. The minor said she thought that Amy was using makeup to draw on bruises to get attention and openly admitted that she hated Amy. R. 210, l. 8-R. 211, l. 7; R. 213, ll. 5-10. The state did have Dr. Robert Nelson, a psychological expert, present at the hearing who reviewed Dr. Veronen's testing data and reports, but Nelson was never called to testify. TR. 586-588.

*The Trial Court's Ruling*

At the conclusion of the testimony the trial court stated that the defendant had the burden of proof to show "by trustworthy evidence, credible evidence … that she [Amy] meets the definition of a battered, in this case, girlfriend I guess, since they weren't married." R. 215, l. 22-TR. 216, l. 2. Respectfully, defense counsel was often interrupted by the court during her presentation of proof for the statutory "domestic abuse" element. R. 216-236; R. 241-246. Prior to issuing its ruling, the court made observations about the nature of Amy and Sprouse's relationship.

The trial court stated that Amy and Sprouse had not been in an "open relationship" until sometime after "August 2016 up until she killed him." While the court noted that the two were in an illicit sexual relationship for a number of years during which they did live together, what mattered for the purposes of the domestic violence statute was the amount of time that Amy and Sprouse were in a relationship openly as a couple. R. 223-224.

In discussing when S.C. Code Ann. § 16-25-90 was applicable that court stated,

> "You know the statute is a special statute. It is very specific. It's specifically addressed to those situations where

> you've got a spouse subjective to domestic abuse over a long period of time and is dominated basically controlled, totally controlled by somebody. And there is domestic abuse over a long period of time. That's not what we have here, is what I'm telling you. I don't see that here."

R. 241, ll. 18-24. Defense counsel argued that they were not required to prove that Amy was under total control of Sprouse but that there was a credible history of domestic abuse. R 242, ll. 1-6. In response the court stated, "You know about spousal abuse like that and domestic violence abuse, it's just not slapping somebody a couple times. That's not gonna qualify." R. 242, ll. 11-14.

In announcing its ruling on the record, the trial court explained,

> "[A]lthough there was some sexual activity between the deceased and the defendant in this case several years earlier, *they weren't living together as spouses at that time in an open relationship of like husband and wife*. They weren't living together like that. And whatever went on with them was some kind of elicit [sic] sexual affair, should say adulterous affair because both of them were married at the time, and that was conducted outside of the marriage."

R. 248, l. 222-R. 249, l. 6. The court determined that the actual amount of time that Amy and Sprouse were living together as a couple was about a "seven-month period" which the court found was not a "long-term relationship as intended by the statute." R. 250, ll. 15-17.

The court found that there was one alleged instance of domestic abuse during that seven-month time period, other than the shooting of the gun. R. 249, ll. 7-9. Based on the testimony and evidence at the hearing the court ruled against Amy stating,

> "I don't find credible evidence of any long-term domestic abuse by a partner who was able to put them in a home. I just don't find it. There may be a little. There may be some. The best example being somebody firing off a gun … and I don't think it meets the test for long-term domestic abuse."

R. 261, ll. 11-25.

***Discussion***

Appellant Amy showed by a preponderance of the evidence that she qualified for one-quarter parole eligibility pursuant to S.C. Code Ann. § 16-25-90. See State v. Grooms, 343 S.C. 248, 540 S.E.2d 99 (2000). A defendant who presents "credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member" is entitled to be considered for parole after serving one-fourth of their sentence. S.C. Code Ann. § 16-25-90. Pursuant to S.C. Code Ann. § 16-25-20, it is un unlawful to cause physical harm or injury or offer or attempt to cause physical harm or injury, to a person's own household member. "Household member" is defined as "a male and female who are cohabiting or formerly have cohabited." S.C. Code. Ann. § 16-25-10. There is nothing in the domestic violence statute that requires a male and female who are living together to be living together as a romantic couple, or openly as a couple. The only required element is cohabitation.

The basic principles of statutory construction as applied to criminal statutes have been clearly and repeatedly set forth by the courts of this state. When the terms of the statute are clear and unambiguous, the court must apply them according to their literal meaning. Furthermore, in construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991) (citations omitted).

The record shows that Amy and Sprouse were a male and female that were cohabitating. The two first shared a residence in 2012 for a few months before Amy and her family moved out. Amy and her family moved back in with Sprouse in 2014 and stayed with him until his death in 2017. Based on these facts Amy and Sprouse met the definition of "household members" articulated in S.C. Code. Ann. § 16-25-10.

The trial court focused its ruling on the nature of the relationship between Amy and Sprouse, noting that for the majority of the relationship the two were engaged in an illicit affair. The court stated that the only time the couple was living in a "open relationship" as a couple was in the seven months preceding Sprouse's death. Relying on a footnote in State v. Hawes, 411 S.C. 188, 767 S.E.2d 707, 709 n.2 (2015), the court found that seven months was not a "long" relationship such that Amy could not establish "long-term" domestic abuse.

In State v. Hawes, *supra*, the South Carolina Supreme Court addressed the failure of the trial court to exercise discretion when it found Hawes qualified for one-fourth parole eligibility after he pled guilty to voluntary manslaughter for the killing of his estranged wife. In the 3-2 opinion, the Court stated in footnote two that "The legislative history of section 16–25–90 indicates that the statute was intended to confer early parole eligibility only to *long-term victims* of *repeated abuse* at the hands of a household member." Id. (emphasis added). The Court came to this conclusion by noting the legislative history indicated that 16-25-90 was enacted alongside the defense of battered spouse syndrome. However, the legislative history also indicates that 16-25-90 was meant to confer parole eligibility on an inmate "who has presented evidence of criminal domestic violence *in connection with their offense*." See Act No. 7, 1995 S.C. Acts 58-59 (emphasis added).

Cases that have addressed S.C. Code Ann. § 16-25-90 have never defined what qualifies as a "history" of domestic violence. Even in Hawes, *supra*, the Supreme Court did not define what it meant by "long-term." Presumably, the terms have not been clarified because they need to be decided on a case by case basis. Constant emotional and physical abuse suffered for a seven-month period would surely be considered long term abuse by the victim.

Importantly, the combined testimony of the witnesses during the hearing showed that Amy suffered abuse for longer than the seven-month period that the trial court focused on. While the physical violence seemed to occur, or at least escalate, during the months preceding Sprouse's death, the emotional abuse had existed for years. Sprouse supplied Amy with drugs, threatened to kick her and her children out leaving them homeless, threatened to beat Amy up, threatened to harm her and her children if she ever left, and always kept close tabs on Amy's whereabouts. While this was not physical abuse, it was nonetheless abuse that qualified under the domestic violence statute and should have been considered by the trial court.

To be eligible for parole after serving a quarter of her sentence Amy had to show that the relationship between her and Sprouse fell under the domestic violence statute and that there was a history of domestic violence. Amy and Sprouse qualified as household members under S.C. Code Ann. § 16-25-10. Finding that the two were not in an "open relationship" allowed the court to narrow the question of a "history" of domestic violence to a seven-month period instead of the multiple year period it should have considered. This was improper.

The trial court abused its discretion by adding a requirement of an "open" or "romantic" relationship to the domestic violence statute. The trial court further abused its discretion when it found that even though Amy and Sprouse were living together, they were not living together as a couple at the time of the shooting nor had they lived together as a couple long enough to qualify as a long term relationship that could qualify for consideration under S.C. Code Ann. § 16-25-90.

These rulings ignored the plain meaning of the definition of "household member" used in the domestic violence statute, which, when properly applied showed that Amy and Sprouse had lived together for several years and were living together at the time of his death. See State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991) (In construing a statute, words must be given

their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation); S.C. Code Ann. § 16-25-10. The trial court's findings were based on an incorrect application of the definition of "household member" which allowed the court to truncate a multi-year, tumultuous relationship into a seven-month time frame. This was an error of law.

## CONCLUSION

For the foregoing reasons, this court should reverse the trial court and find that Amy is eligible for early parole pursuant to section 16-25-90 of the South Carolina Code.

s/Jessica M. Saxon
Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of October, 2020.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 20014, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 14, 2020

s/Jessica M. Saxon
Jessica M. Saxon
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Spartanburg County

Honorable Lee S. Alford, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

APPELLANT

---

CERTIFICATE OF SERVICE

---

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the final brief of appellant has been served upon opposing counsel this 14th, day of October, 2020 by sending to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS).

s/Jessica M. Saxon
Jessica M. Saxon
Appellate Defender
ATTORNEY FOR APPELLANT

RECEIVED
Oct 13 2020
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

---

APPEAL FROM SPARTANBURG COUNTY
The Honorable Lee S. Alford, Circuit Court Judge

---

THE STATE,.....RESPONDENT

v.

AMY N. TAYLOR,.....APPELLANT

---

# FINAL BRIEF OF RESPONDENT

Appellate Case No. 2019-001117

---

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

BARRY BARNETTE
Solicitor Seventh Judicial Circuit

TOMMY EVANS, JR.
Assistant Attorney General
S.C. Bar No. 65282
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

### CASES



### STATUTES

## APPELLANT'S STATEMENT ON APPEAL

Whether the trial court abused its discretion in denying Appellant Amy Taylor one-fourth parole eligibility where she proved by a preponderance of the evidence she suffered a history of criminal domestic violence at the hands of a household member, her live-in boyfriend, where the court erroneously ruled that the change in her live-in relationship with the decedent from being a cohabitating sexual relationship to a cohabitating caregiver relationship as the decedent grew more infirm, but still violent, disqualified appellant from showing a "long-term" history of domestic violence sufficient to satisfy the standard required by S.C. Code Ann. §16-25-90?

## RESPONDENT'S COUNTER STATEMENT ON APPEAL

Did the trial court err in the denial of a ruling that the Appellant suffered a history of criminal domestic violence, thereby, denying the Appellant an opportunity of being granted parole upon the service of one-fourth of her sentence?

## STATEMENT OF THE CASE

On March 4, 2017, Amy Taylor (Appellant), shot her live-in boyfriend James Sprouse (victim) three times as he lay in the bed sleeping. Mr. Sprouse was shot twice in the back and once in the side. (R. p. 55 lines 24 – p. 56 line 4) As he lay dying the Appellant called her daughter Destiny Lyda (Destiny). She informed her that she shot the victim in self-defense. Destiny repeatedly begged the Appellant to call the police immediately. Destiny thought that because if it was self-defense it would be better for her mother if she notified the police. (R. p. 36 line 17 – p. 39 line 13) The Appellant informed Destiny that she was going to call the police. (R. p. 39 line 18) However, the Appellant never called for assistance and allowed the victim to lay dying from ten to twenty-five minutes. (R. p. 56 lines 5-7)

Destiny was later picked up from school by her boyfriend Anthony Fowler (Anthony) and he brought her back to the incident location. When they arrived the Appellant informed them that she did call the police and they told her that the coroner was busy. They would not be able to retrieve the body until later, and that she should wrap it into a tarp and place it into the woods. (R. p. 3 lines 12-16) The Appellant, Destiny and Anthony was found on a video recording buying tarp, bungee cord, and duct tape. (R. p. 29 lines 12-19)

The victim was wrapped into a tarp and taped together with duct tape. The body was then placed into the woods. They took the mattress and placed into the back yard with a "peppa pig" pillow used by the Appellant to muffle the gun sound. (R. p. 14 lines 3-12, R. p. 15 line 21) During the cleaning up and hiding of evidence Anthony called his father. He told him that his girlfriend's mother had shot her boyfriend and there is blood everywhere. (R. p. 3 lines 10-12) He asked his father to call the police. His father called the Spartanburg County Sheriff's Department. They responded to the scene to do a welfare visit.

Once they arrived they spoke to the Appellant who told them that the victim was at his mother's house. (R. p. 6 lines 12-14) They asked to go inside and the Appellant gave the officers consent to enter. Once inside sheriff deputies observed fresh spackling on the walls and a box spring on its side in the bedroom. (R. p. 8 lines 17-22) There was also what appeared to be blood on the floor, cleaning supplies, and trash bags with bedding inside. (R. p. 8 line 23 – p. 9 line 2) They also checked around the house and found a mattress with blood all over it in the back yard. (R. p. 14 lines 3-12) The Appellant, Destiny, and Anthony was then brought in for questioning.

While being questioned the Appellant first informed them that she had a miscarriage which explained the blood all over the mattress. She informed the authorities that after she miscarried they got into an argument and the victim left for his mother's house. (R. p. 16 lines 4-7) After being confronted by what was said by Anthony and Destiny, Appellant decided to change her story.

She then told the authorities that while in the bathroom the victim came at her with a gun pointed at her behind a pillow. The Appellant stated that he fired but because he did not have on his glasses he shot himself then almost dropped the gun, she grabbed the gun and shot him in the shoulder. (R. p. 24 line 8-15) She then told them that after he died she rolled him in a tarp, put him in the back of a truck and drove him down on the back of the property. (R. p. 24 lines 21-25) She told them she acted alone, but when confronted with other statements she finally confessed that she was assisted by Anthony and Destiny. (R. p. 25 lines 1-8) She was arrested and charged with the offense of murder and possession of a weapon during the commission of a violent crime. Anthony and Destiny were charged with accessory after the fact of a murder.

The authorities found the body wrapped in a tarp taped with duct tape. (R. p. 11 lines 16-18) The body was taken by the coroner and once unwrapped it was believed that the victim was

shot five times.[1] (R. p. 26 lines 5-13) Officers also obtained all of their cell phones including that of the victim's mother. (R. p. 27 lines 15-22, p. 28 lines 4-7)

On June 24, 2019, the case was called for trial before the Honorable Lee S. Alford. Prosecuting the case for the seventh circuit solicitor's office was assistant solicitors Eddie James Hunter and Hope Coleman-Hicks, representing the Appellant was Beverly Jones of the seventh circuit public defender's office.

During trial the solicitors entered into evidence video from Fred's discount store of the Appellant along with her co-defendants purchasing a tarp, bungee cord and duct tape. Ms. Lindsey McGraw a computer forensics investigator for the Spartanburg County Sheriff's Department also testified as to the contents of the Appellant's phone. Investigator McGraw testified that while searching the Appellant's phone she found searches for, "Does lime help decompose dead animals?"; "What can you pour on dead animals to hurry up to make them disappear?"; "A handgun when red is showing on the side, does it mean it's on safety or off?"; "Undetectable poisons in autopsy"; "What is a way you can poison someone without it being traceable in blood stream?"; and, on a message board the question, "What do I do with a dead body?" (R. p. 30 line 10 – p. 34 line 13)

There were also text messages from the Appellant to her daughter Destiny that stated that they needed to clean up and put the bed stuff in a bag. (R. 35 lines 8-13) The Appellant texted Destiny telling her that the shooting was in self-defense. Destiny told her to call the police, because if she waits it will look worse. The Appellant told her that she did call the police, but never did. The Appellant also lied to Destiny and Anthony that the police told her that the coroner could not

[1] It was initially thought that the victim was shot 5 times it was later discovered that he was only shot 3 times, twice in the back and once in the side. The other wounds were exit wounds.

come until night so they needed to move the body. So both Destiny and Anthony ended up being accomplices by helping her wrap up and move the body.

After five days of testimony the Appellant decided to plead guilty. She later appeared before the trial judge pleading to one count of murder and one count of possession of a firearm during the commission of a violent crime. Upon the conclusion of this appearance the court sentenced the Appellant to a forty-five year period of incarceration. (R. p. 59 line 24 – p. 60 line 3) After the trial court sentenced the Appellant, she decided to make a motion before the court for a determination of long term domestic abuse in order to obtain parole eligibility.

During this mitigation hearing the Appellant testified that she was only fourteen when she first met the victim, who was twenty years her elder. (R. p. 102 lines 14-15, p. 103 line 2) She met him while he was working with her first husband at a garage. (R. p. 102 line 16-18) She had a daughter from her first husband, then later got divorced and married another individual Kenny Taylor (Kenny) with whom she had two more children. They fell upon hard times so they ultimately moved the entire family into the house of the victim and his wife. (R. p. 104 lines 21-24) They lived in the house for a short period of time then moved out, only to return in 2014. (R. p. 106 line 24 – p. 107 line 1) During their time staying at the house the Appellant and the victim started an affair. After two months living at the house Kenny moved out. (R. p. 107 lines 14-17)The victim's wife later moved out in 2016. (R. p. 108 lines 3-4) The Appellant and victim's relationship then became more open.

During the mitigation hearing the Appellant testified as to the abuse she suffered at the hands of the victim. She testified that the first occasion occurred when he threw her up against a wall in 2016. Later he hit her in the face with the back of his hand, knocking her off a table in the garage. (R. p. 117 line 23-24) She testified that this caused her to have a broken tooth and a bruised

face. She testified that in August of 2016 he hit her while they were in the bedroom. (R. p. 120 lines 14-17) The victim purposely dropped a safe on her foot breaking several of her toes. (R. p. 121 lines 10-19) She testified that he had a temper and constantly threatened to shoot her and the kids if they moved out. He also threatened to shoot Kenny and other individuals. She stated that the day before the incident, he shot in the air above her head, and that night he was pacing mumbling to himself about killing her and the kids. (R. p. 127 line 14 – p. 129 line 2) So the next day as he was in the bed she thought he rolled over to reach for his gun, she grabbed it first and shot him. (R. 130 line 7-13) On cross-examination the Appellant admitted that since the first incident in 2016 she never called the police, never told any authority figure at her kid's school about the abuse she was going though. (R. p. 132 lines 2-14) She also admitted to all of the previous untruths she told to the police after being arrested, and the fact she never told the police about these incidents of abuse even when they asked her. She also admitted to being addicted to Oxycodone and Percocet taking the victim's medication on a regular basis. The Appellant testified that the victim was not a well man near the end, suffering from COPD and heart problems, he was hospitalized at least 3 times in February before the murder.

A neighbor by the name of Virginia Lee Teague testified that she knew the Appellant for about ten years before the incident. (R. p. 62 line 3) They were not friends but more of acquaintances. (R. p. 63 lines 10-12) She sold the Appellant her prescription pills. (R. p. 63 lines 13-22) She testified that she once saw the Appellant with a broken toe and bruising on the face.(R. p. 64 lines 12-13) About a week or two before the alleged murder she stated that the Appellant told her that, "if she end up dead you know who did it." (R. p. 65 lines 6-7) But she also testified that the victim seemed like a nice guy, that she never saw anything to believe that he would have done anything ugly. (R. p. 72 lines 4-9)

During the mitigation hearing, Dr. Lois Veronen, a clinical psychologist who specializes in the impact of violence or traumatic events on the functioning of women testified on the behalf of the Appellant. She testified that due to the abuse, she shot the victim while in a high state of fear and anxiety for herself and her children. (R. p. 175 line 23 – p. 176 line 2) Dr. Veronen testified that the Appellant met the criteria for substance abuse disorder, major depressant disorder and post-traumatic stress disorder. (R. 205 lines 7-9) On cross-examination Dr. Veronen admitted that the only person she interviewed was the Appellant. (R. p. 182 lines 3-15) The doctor's determination came just from her examination of the Appellant, who has told numerous lies preceding this hearing.

Both of the Appellant's daughters testified. First was the Appellant's nineteen year old daughter Destiny Lyda. She testified that her boyfriend Anthony Fowler was staying in a camper in the yard. (R. p. 74 lines 17-19) She also said that the victim would threaten to kick them out so they would have nowhere to stay. The victim would brag about his guns, and would threaten to shoot people. (R. p. 80 lines 19- 21) She also testified that once she saw the Appellant getting into the shower with bruises on her breast and side. The Appellant told her that they came from falling against a table, and did not want to talk about it. (R. p. 83 lines 19-24) She said that she never personally saw him hit the Appellant but heard them talking about it. (R. p. 94 lines 9-10)

The solicitor called to the stand the Appellant's fourteen year old daughter Kelsey Taylor. She testified that she had seen the victim angry but never took it out on her mother, nor had she ever seen the victim hit or verbally abuse the Appellant. (R. p. 209 lines 7-18) She did testify that she saw what appeared to be bruises on her mother. However, she thought they were not real because after she got out of the shower they were gone. (R. p. 210 line 20 – p. 211 line 1) She thought that her mother in the past frequently in the past faked injuries by putting makeup on her

body to look like injuries because she is an attention seeker. (R. p. 213 line 23 – 214 line 3) She stated that while the Appellant was taking them to school she confessed to killing the victim to her older sister using code language but she understood what they were talking about. (R. p. 212 lines 1-13) In three years living with the victim she never saw any violence perpetrated against her mother. (R. p. 212 lines 14-17)

At the conclusion of this hearing the trial court was not convinced of the Appellant's testimony. Despite the fact that shots were fired in the house the day before the incident there was no evidence produced revealing that the victim was shooting at the Appellant. There were no 911 calls, no police record of any prior abuse, and the police was never called to the residence. The court doubted her credibility due to the numerous untruths made to the police during this entire incident. The court determined that the Appellant basically had no credibility.

The trial court went on to address the fact that the Appellant had resources battered spouses typically do not have. The Appellant had access to an automobile and was collecting one-thousand eight hundred ($1,800.00) dollars per month in child support and alimony. The Appellant's ex-husband visited the kids regularly, and could have kept the two youngest kids until she found a new residence.

The court decided that according to Section 16-25-90 of the South Carolina Code of Laws, the defendant is required to produce credible evidence of a history of criminal domestic violence. There also must be some evidence of "long term" abuse which he ruled did not exist. In the opinion of the trial court they became household members when the victim wife left in August 2016. There was no "long term" abuse when they had only been household members for a few months. The trial court found that the standard is credible evidence, and there exists no credible evidence of domestic violence at the hands of the victim. So the trial court decided to deny the Appellant's

motion to allow the Appellant parole eligibility due to the existence of long term domestic abuse. The court did however, upon the Appellant's motion, reduce the sentence from forty-five to thirty-five years.

At the conclusion of this hearing the Appellant decided to file a timely notice of appeal before this court. Within this appeal the Appellant argues that the trial court abused discretion when they denied her the one-fourth parole eligibility. It is the opinion of the Appellant that she proved she suffered a history of abuse at the hands of the victim. She argues the trial court erroneously changed her live-in relationship from a cohabitating sexual relationship to a cohabitating caregiver relationship, disqualifying the Appellant from showing a "long term" history of domestic violence sufficient to satisfy the requirements of section 16-25-90 of the South Carolina Code of Laws.

The Respondent argues that the trial court was justified in the final decision, denying parole eligibility for the Appellant. Pursuant to South Carolina law the decision of the trial court cannot be overturned by this court unless the Appellant can reveal the decision was made in an abuse of discretion. The Appellant must provide substantial evidence of any "long term" history of domestic violence. That history was just not shown. The trial court was correct in their determination that the Appellant failed to reveal she suffered "long term" domestic abuse at the hands of the victim. The decision of the trial court did not relate to the Appellant being a caregiver, but it had to do with the fact she failed to reveal any evidence of abuse. The only evidence that was revealed was through her testimony. The trial court has the authority to weigh testimony and make a determination as to the credibility of one witness over another. The court made it clear that since the Appellant lied numerous times to law enforcement, she was not credible. Therefore, the trial

court made the decision that this abuse did not exist and she was not entitled to parole eligibility. The brief of the Respondent supporting these arguments follows.

## STANDARD OF REVIEW

In criminal cases the appellate court sits to review errors of law only. *State v. Wilson,* 345 S.C. 1, 5, 545 S.E.2d 827 (2001). In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Blackwell-Selim,* 392 S.C. 1, 3, 707 S.E.2d 426, 427 (2011) An inmate who was convicted of, or pled guilty to, or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, nolo contendere to, or was convicted of an offense against the household member, or in post-conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member. S.C. Code Ann. §16-25-90 (2018). A household member means: (a) a spouse; (b) a former spouse; (c) persons who have a child in common; (d) a male and female who are cohabiting or formerly cohabited. S.C. Code Ann. §16-25-10 (2018).

## ARGUMENTS

1. **The trial court did not err in making the determination that the Appellant failed to present sufficient evidence of long-term domestic abuse to be granted parole eligibility.**

The Appellant argues that the trial court erred in determining that she was not eligible for parole eligibility upon the service of one-fourth of her sentence due to a history of domestic violence. Pursuant to South Carolina law a person who claims that they were a victim of a history of domestic violence suffered at the hands of a household member shall become eligible for parole upon the service of one-fourth of their sentence. This must be proved by a preponderance of the

evidence.[2] A preponderance of the evidence is evidence which convinces as to its truth. *Gorecki v. Gorecki,* 387 S.C. 626, 633, 693 S.E.2d 419, 422 (2010). The Appellant is of the belief that she presented sufficient evidence to prove she suffered a history of spousal abuse. However, that determination can only be made by the trial court, which cannot be reversed by this court unless it is not supported by the evidence. The Appellate Court does not re-evaluate the facts based on its own view of the evidence but simply determines whether the trial court's ruling is supported by evidence. *State v. Saltz,* 346 S.C. 114, 121, 551 S.E.2d 240, 244 (2001). Prior to his decision the trial court made a complete reasoning as to why he did not believe the Appellant. He ruled that she failed to prove by a preponderance of the evidence that there exist history of domestic abuse suffered at the hands of the victim. After the review of the entire record this Court should find that the decision by the trial court was not erroneous. The trial court considered all of the evidence submitted by both parties and applied the relevant law. Therefore, this court should uphold the decision of the trial court. The Appellant Court is bound by the trial courts factual findings unless clearly erroneous. *State v. Preslar,* 364 S.C. 466, 472, 613 S.E.2d 381, 384 (Ct. App. 2005).

The Appellant argues that the judge erred in his decision due to the fact he determined they were not "household members" until their spouses moved out in 2016. The Respondent will argue that any mistake in this interpretation of the law should be considered irrelevant or harmless. That is due to the fact the couple of instances of abuse the Appellant testified to, occurred while the spouses were still living in the residence and were not believed by the trial court. In response to these allegations of domestic abuse the trial court specifically stated:

> "I'm not convinced of the credibility of that and the truthfulness of it. And the reason is there's no other evidence of it except – and she

[2] A defendant must prove by a preponderance of the evidence a history of domestic violence from the victim in order to be eligible for statutory early parole. *State v. Grooms*, 343 S.C. 248, 540 S.E.2d 99 (2000)

> has told no one about it and no one else knows about it. And the first time anybody's heard about it. And her credibility is certainly in question because she hasn't been truthful about anything, to be honest with you. And so, I discount that. I don't think it should be considered at all. (R. p. 249 lines 15-25)

The trial court has the ability to judge the credibility of a witness. Credibility findings are treated as factual findings, and therefore, the appellate inquiry is limited to reviewing whether the trial court's factual findings are supported by any evidence in the record. *State v. Banda,* 371 S.C. 245, 639 S.E.2d 36, 39 (2006). The determination by the trial court was supported by the record. The Appellant gave three different stories about the incident. She first told the authorities that she had a miscarriage, the victim got angry and drove to his mother's house. (R. p. 16 lines 4-7). Her second story was that she was in the bathroom and the victim came at her with the gun behind the pillow, due to the fact he did not have on his glasses he accidently shot himself. Then she got the gun and shot the victim in the shoulder. (R. p. 20 lines 11-12). During the sentencing hearing the Appellant testified that the victim was mumbling under his breath all night that he was going to kill her. The next morning while he was in the bed, the gun was on the bedroom dresser. He rolled over and she thought he was reaching for the gun so she grabbed the gun and shot him. (R. p. 130 lines 7-9). Not only did she lie to the police, she also lied to her daughter Destiny. After the incident she called Destiny who begged the Appellant to call the police. She informed her that she did call the police, and that they informed her that the coroner could not get there, they had to wrap up the body themselves and take it out to the back and hide it in the woods. Through these lies, her eighteen year daughter along with her daughter's nineteen year old boyfriend were brought into this situation making them accessories.

The trial court rightfully did not take into consideration the initial stories of abuse given by the Appellant that supposedly occurred prior to the time the victim and Appellant spouses moved

out of the house. The incident the Appellant mentioned occurred in 2016 months before the murder. (R. p. 117 lines 23-24) So even though they were household members there exists no evidence of "long term" abuse. In the South Carolina Supreme Court case of *State v. Hawes,* 411 S.C. 188, 767 S.E.2d 707 (2015), the Court decided that, "the legislative history of section 16-25-90 indicates that the statue was intended to confer early parole eligibility only to **long-term** victims of repeated abuse at the hands of a household member." *Hawes,* 411 S.C. at 708, 767 S.E.2d at 190 fn.2 (emphasis added) The trial court rightfully determined that any abuse that had occurred, was within months before the incident. This cannot be considered "long term" so the Appellant cannot be considered for parole.

The Appellant is of the opinion that she proved her case by the preponderance of the evidence. The Appellant is of the belief that they can just produce evidence of some possible abuse at the hands of a household member and she is automatically eligible for parole, that is not the case. In *Grooms* the Supreme Court decided:

> Moreover, we find the legislature did not intend the mere production of evidence to automatically result in earlier parole eligibility. If that were the case, as appellant suggests, then all individuals who are convicted of an offense against household members would be eligible for parole after service of one-fourth of their prison term simply by testifying they suffered a history of criminal domestic violence at the hands of their own victims. Instead, by enacting §16-25-90, the legislature intended a defendant who presents credible evidence of a history of criminal domestic violence, at the hands of her victim…to be eligible for parole after the service of one-fourth of her prison term.

*Grooms,* 343 S.C. at 253, 540 S.E.2d at 101

The Appellant failed to present any evidence corroborating the abuse to which she testified. The trial judge did not find her credible, he certainly has that right. This decision is not an abuse of discretion, it is the ability given to the trial court by the legislature. This determination must be

considered by this court. The appellate court is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Laney,* 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006).

The Circuit Court must make specific findings in ruling on parole eligibility or ineligibility with respect to a defendant's claim that there was a history of domestic violence at the hands of the victim. *State v. Blackwell-Selim,* 392 S.C. 1, 707 S.E.2d 426 (2011). The trial court did make specific findings as to why the Appellant should be denied parole eligibility.

The trial court determined that the Appellant was not credible so it did not believe that initial instances of domestic abuse actually occurred. The court believed that if any abuse occurred, it started when they determined themselves exclusively a couple in 2016, a matter of months prior to the incident date. The Court made the determination that, "we're really dealing with about a seven-month period here. I don't think that's long-term relationship, as intended by the statue." (R. p. 250 lines 15-17). The Appellant argues that they were household members at the time they lived together in 2014. She states that in early 2016 the victim slapped her off a chair in the garage knocking out a tooth. She did not report this, nor are there any hospital records confirming the injuries. The court has expressed their disbelief of this incident due to the Appellant's lack of credibility. During the hearing the trial court plainly stated its disbelief of the Appellant. The trial court stated, "I don't believe anything she said. She told so many stories to the police and made up so much stuff and everything. She's very good at that. But I just can't believe anything she said. She has no credibility with the court whatsoever." (R. p. 259 lines 11-15). The numerous stories about what happened and also lying to her daughter and her boyfriend making them accessories rightfully caused a doubts by the trial court in her story of abuse.

During the hearing, the Appellant testified that she saw the victim while in bed reach for the gun, she then took the gun and shot him. However, the evidence revealed that the victim was

shot twice in the back and once in the side. There was no threat to her as she said on the witness stand. This was also something that was considered by the trial court when he stated, "She picked up the gun and she pumped two shots in his back laying in the bed and one in his side while he was laying in the bed. And then waited for him to bleed out. ... And he could have been picked up and taken to the hospital." (R. p. 258 line 21 – p. 259 line 1).

With the evidence presented, the trial court also thought this to be a premeditated murder. During trial, Investigator Lindsay McGraw, a computer forensics investigator for the Spartanburg Sheriff's Department, testified as to certain searches found in the Appellant's phone. In her phone Investigator McGraw found searches including, "Does lime help decompose dead animals?", "What can you pour on dead animals to hurry up to make them disappear?", "On a handgun when red is showing on the side, does it mean it's on safety or off?" , "Undetectable poisons in autopsy" , "What is a way you can poison someone without it being traceable in blood stream?" , and "What do I do with a dead body?" These searches led the trial court to believe that this murder was premeditated. When reciting the reasons for his decision the trial court stated:

> "Now, on this – but she was, to a certain extent, this killing is premeditated and in my opinion done with malice because she searched – I don't know why she couldn't realize with that phone, that they were going to be able to check it. I guess she didn't think that far ahead. She was trying to find a way to kill him without it being detected. She wanted to get poison. How do I – how can I get poison, what poison can I get to kill somebody so it can't be detected by a coroner or somebody? So that was premeditated. She was looking to kill him." (R. p. 257 line 19 – p. 258 line 4).

The trial court also questioned the fact there were no report of injuries, no police record, nor calls to 911. When questioned by the police initially she even told them she was not abused. (R. p. 255 line 3-8).

During the sentencing hearing the Appellant did call to the stand Ms. Virginia Lee Teague, a neighbor of the Appellant. She considered herself not a friend but an acquaintance, who the Appellant would contact to buy prescription pills. (R. p. 63 lines 10-22). She testified that she once saw the Appellant with a broken toe and what looked to be a slap to the face. (R. p. 64 lines 12-13) The Appellant once told her that, "If I end up dead you know who did it." (R. p. 65 lines 6-7). However, Ms. Teague also testified that the victim seemed like a nice guy, and she never saw anything to believe that he would have done anything ugly. (R. p. 72 lines 4-9).

The court also spoke about the Appellant daughters, both of whom testified, one for the Appellant, and the other for the state. The Appellant's nineteen year old daughter Destiny testified that she saw bruises and her mother told her she got them from bumping into a table. (R. p. 83 lines 19-24). Her fourteen year old daughter Kelsey Taylor (Kelsey) testified for the state. She stated that she saw the bruises but she thought they were fake because once she got out of the shower they were not there anymore. (R. p. 210 line 20 – p. 211 line 1) She also testified that she considered the victim like a grandfather and he was the only male figure in her life. (R. p. 208 lines 18-22). Kelsey testified that the Appellant had a past of frequently faking injuries because she is an attention seeker. (R. p. 213 line 23 – p. 214 line 3). The trial court decided that the Appellant and Kelsey were fighting so he did take that into consideration when determining her credibility. (R. p. 251 lines 20-25).

During her mitigation hearing the Appellant also called to the stand Dr. Lois Veronen, specialist in the impact of violence or traumatic events on the functioning of women. The court notice that she tried to say that there was a cycle of abuse but she couldn't do it. The trial court stated:

> "And I think Dr. Veronen tried to say, tried to get into a cycle of abuse, but she couldn't do it. I mean, I didn't see a cycle of abuse. I

> just didn't see it. And even though she kind of hinted at it, she didn't establish any kind of cycle of abuse." (R. p. 251 lines 15-19).

Dr. Veronen thought that the Appellant had a personality disorder. Which the trial court thought is "a person who tries to call attention to themselves, have some fantasies so it fits with her". (R. p. 254 lines 3-6). This description also fits the testimony of Kelsey regarding the Appellant faking injuries in order to gain attention.

The trial court found other aspects that led him to believe that the Appellant is not entitled parole eligibility. First, the trial court mentioned that he thought that this murder was premediated. The trial court also mentioned that the Appellant was making more money than the victim so she was not dependent on him like most long time battered spouses. She also had access to a car which she used to take the kids to school and run errands. The two younger kids belonged to the Appellant's second husband who would visit the children; so she could have asked him to take the kids once she left until she found a place to stay. (R. p. 256 lines 7-20). The trial court also addressed the testimony of the Appellant that the victim was angry and threatened to kick them out the house. He thought that the victim was frustrated because Destiny and Anthony were both of working age and could have assisted with the household finances. The victim was living on a fix income and all of these people were putting a strain on the household finances. And finally the trial court stated that the Appellant had charges filed against her first husband who was arrested and convicted of criminal domestic violence. The trial court stated:

> "She knows what to do if she was getting abused. She didn't do it. There is no record of it. And that would certainly be corroboration and make her testimony much more credible than it is." (R. p. 261 lines 1-4).

The trial court finally issued his reasoning for the denial of the Appellant's motion granting parole eligibility. The trial court ruled:

> "So I know why the statute is there, and I think it's there for a good purpose. And if you look at the legislative history and intent, it was designed to help people who were victims of long-term repeated abuse at the hands of a household member.
>
> And I don't find credible evidence of any long-term domestic abuse by a partner who was able to put them in the home. I just don't find it. There maybe a little. There maybe some. The best example being somebody firing off a gun. There's a question about how that was done.
>
> It looks like he hit the safe in there, which was metal and it wouldn't – one of them when through. The rest of them bounced the wall and ricocheted out. There was none in the ceiling. Certainly that would be evidence of, of domestic violence and cause somebody, somebody some fear. I would agree with that part of it. But that's the only credible part that – in what she's presented. And I don't think it meets the test for long-term domestic abuse.
>
> For that reason, I'm gonna deny your motion for early parole. And I think I've had time to dwell on it well enough to know. I've exercised all the discretion I have. (R. p. 261 line 5 – p. 262 line 4).

The court made specific findings on the record as to why he thought that she did not suffer long-term abuse. Although long-term abuse is not based on a specific timeline, that is a matter that should be determined by the trial court. The trial court specifically maintained that he did not believe the Appellant. That to him she did not have any credibility.

Although the court may have misinterpreted the law regarding who is considered a "household member," that error should be considered harmless. Error is harmless when it could not reasonably have affected the result of the trial. *State v. Simmons,* 423 S.C. 552, 566, 816 S.E.2d 566, 573 (2018). In order for the trial court to make a determination that the Appellant is entitled to parole eligibility, the Appellant had to prove by a preponderance of the evidence that there was a history of domestic violence from the victim. The trial court made it clear that he did not believe the story given by the Appellant. The trial court has the authority to determine if a witness is

credible. *See, State v. Johnson,* 413 S.C. 458, 468, 776 S.E.2d 367, 372 (2015) He gave valid reasons as to why her credibility was damaged. The trial court based his decision on the Appellants credibility and her being unable to present credible evidence of long term abuse. The error in the determination that she was not a household member until 2016 was not the basis of his decision. Any error in the interpretation of the statute would not have changed the outcome. The Appellant would have been denied parole regardless if she was determined a household member or not.

The Appellant was obligated to reveal long-term abuse at the hands of the victim. The Appellant only revealed stories with no corroboration. With the Appellant's credibility lacking in the opinion of the court there must be more evidence revealing these abuses. The Appellant failed to present any 911 calls, police reports, or records of any injuries. The only testimony regarding the viewing of any injuries was made just months before the incident occurred. The trial court made the determination that any abuse that occurred only months before the murder does not equate to "long-term" abuse. Since the Appellant failed to prove by the preponderance of the evidence that she suffered a history of domestic abuse at the hands of the victim, the decision of the trial court denying parole eligibility was correct. This decision should be affirmed by this court.

## CONCLUSION

The trial court made the proper decisions regarding this matter the Respondent respectfully request this court to affirm the decision of the trial court.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

TOMMY EVANS, JR.
Assistant Attorney General

BARRY BARNETTE
Solicitor Seventh Judicial Circuit
180 Magnolia Street, 3rd Fl.
Spartanburg, South Carolina 29306
(843) 596-2575

BY: *s/ Tommy Evans, Jr.*
Tommy Evans, Jr.
Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

October 13, 2020.

**STATE OF SOUTH CAROLINA**
**IN THE COURT OF APPEALS**

RECEIVED
Oct 13 2020
SC Court of Appeals

---

Appeal from Spartanburg County
The Honorable Lee S. Alford, Circuit Court Judge
Appellate Case No. 2019-001117

---

**THE STATE,**

**Respondent,**

**v.**

**AMY N. TAYLOR,**

**Appellant**

---

## CERTIFICATE OF COMPLIANCE

---

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, Order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 13th day of October, 2020.

*s/Tommy Evans, Jr.*
TOMMY EVANS, JR.
ATTORNEYS FOR RESPONDENT

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

The State, Respondent,

v.

Amy N. Taylor, Appellant.

Appellate Case No. 2019-001117

---

Appeal From Spartanburg County
Lee S. Alford, Circuit Court Judge

---

Unpublished Opinion No. 2022-UP-340
Heard May 12, 2022 – Filed August 17, 2022

---

**AFFIRMED**

---

Appellate Defender Jessica M. Saxon, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy Attorney General W. Jeffrey Young, Deputy Attorney General Donald J. Zelenka, Senior Assistant Deputy Attorney General Melody Jane Brown, and Assistant Attorney General Tommy Evans, Jr., all of Columbia; and Solicitor Barry Joe Barnette, of Spartanburg, all for Respondent.

---

**PER CURIAM:** Following Amy N. Taylor's guilty plea to the murder of her boyfriend, the circuit court found Taylor did not qualify pursuant to section 16-25-90 of the South Carolina Code (2015) for early parole eligibility upon serving one-fourth of her sentence as a victim of domestic violence. Taylor appeals the circuit court's finding she did not qualify, arguing the circuit court abused its discretion because she proved by a preponderance of the evidence she suffered a history of criminal domestic violence at the hands of a household member. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Hawes*, 411 S.C. 188, 190, 767 S.E.2d 707, 708 (2015) ("In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the [circuit] court unless an abuse of discretion is shown." (quoting *State v. Blackwell-Selim*, 392 S.C. 1, 3, 707 S.E.2d 426, 427 (2011) (per curiam))); *id.* at 191, 767 S.E.2d at 708 ("An abuse of discretion occurs when the [circuit] court's ruling is based on an error of law or[] when grounded in factual conclusions, is without evidentiary support." (quoting *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012))); *Blackwell-Selim*, 392 S.C. at 3, 707 S.E.2d at 428 ("Pursuant to [section] 16-25-90, a person who is convicted of or pleads guilty to an offense against a household member[[1]] is eligible for parole after serving one-fourth of his or her prison term if the person presents credible evidence of a history of criminal domestic violence[[2]] . . . suffered at the hands of the household member."); *id.* at 3-4, 707 S.E.2d at 428 ("Such a history must be proven by a preponderance of the evidence."); *id.* at 3, 707 S.E.2d at 427-28 ("The appellate court does not reevaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the [circuit court's] ruling is supported by any evidence."); *id.* at 4, 707 S.E.2d at 428 ("[M]ere production of evidence does not automatically result in earlier parole eligibility; instead, the defendant must persuade the [circuit court] by presenting proof [that] leads the trier of fact to find that the existence of the contested fact is more probable than its nonexistence."); *id.* ("[U]se of the term 'credible evidence' indicates the legislature intended the defendant's evidence to be, in fact, trustworthy, not simply plausible. The defendant must persuade the [circuit court] her evidence is reliable." (citation omitted)); *State v. Johnson*, 413 S.C. 458, 467, 776 S.E.2d 367, 371 (2015)

---

[1] A "[h]ousehold member" includes "a male and female who are cohabiting or formerly have cohabited." S.C. Code Ann. § 16-25-10(3)(d) (Supp. 2021).

[2] To be guilty of criminal domestic violence, a person must "(1) cause physical harm or injury to a person's own household member; or (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril." S.C. Code Ann. § 16-25-20(A) (Supp. 2021).

("Credibility findings are treated as factual findings, and therefore, the appellate inquiry is limited to reviewing whether the [circuit] court's factual findings are supported by any evidence in the record. . . . [C]redibility determinations are entitled to great deference. (citation omitted)); *Hill v. State*, 377 S.C. 462, 468, 661 S.E.2d 92, 95 (2008) (noting because the circuit court sees and hears the witnesses, it is in a better position to evaluate their credibility and assign comparative weight to their testimonies).

**AFFIRMED.**

**WILLIAMS, C.J., and KONDUROS and VINSON, JJ., concur.**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Spartanburg County

Honorable Lee S. Alford, Circuit Court Judge

---

Opinion No. 2022-UP-340

---

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

PETITIONER

APPELLATE CASE NO. 2019-001117

---

PETITION FOR REHEARING

---

On August 17, 2022, this Court affirmed the trial court's ruling that Petitioner did not qualify for early parole eligibility as a victim of domestic violence pursuant to S.C. Code Ann. § 16-25-90. State v. Taylor, Op. No. 2022-UP-340 (S.C. Ct. App. filed August 17, 2022). Pursuant to Rule 221(a), SCACR, Petitioner respectfully requests this Court rehear the matter considering the significant points overlooked and/or misapprehended by this Court as discussed below.

This Court stated Petitioner's argument on appeal was that the circuit court abused its discretion by denying her parole eligibility because she proved by a preponderance of the

evidence that she suffered a history of abuse at the hands of a household member. Respectfully, while Petitioner avers that she did prove by a preponderance of the evidence that she suffered a history of abuse at the hands of a household member, her argument on appeal was that the circuit court abused its discretion by redefining who qualified as a household member under the domestic violence statute. The ruling by the circuit court was based on an error of law and was not supported by the evidence.

S.C. Code Ann. § 16-25-90 provides, in relevant part, that an inmate who was convicted of an offense against a household member is eligible for parole after serving one-fourth of their prison term when the inmate, at the time they pled guilty, presented credible evidence of a history of criminal domestic violence suffered at the hands of the household member. S.C. Code. Ann. § 16-25-10 defines "Household member" as "a male and female who are cohabiting or formerly have cohabited." To cohabitate simply means to live or exist together. For the purposes of the domestic violence statute, it means a male and female living together. There is nothing in the domestic violence statute that requires a male and female who are living together to be living together as a romantic couple, openly as a couple, or to be in a sexual relationship.

Petitioner and the decedent first cohabited in 2012. R. 105, ll. 14-17. The relevant period that the circuit court should have considered was, at a minimum, from 2012 when they first began cohabitating until decedent's death in March 2017. However, in its ruling the circuit court only considered a seven-month period because that was "the time that they were living **openly together in an actual situation, or like man and wife or two people who were living together as man and wife...**" The circuit court then ruled that a seven-month period was not a long-term relationship as intended by the statute. R. 250, l. 1-R. 251, l. 4.

The circuit court abused its discretion by changing the definition of a household member from a male and female cohabiting to a male and female living together as man and wife in a public relationship. Operating under its new definition of a household member, the circuit court restricted its review of a tumultuous multi-year relationship to a seven-month period. The circuit court then specifically ruled that seven-months was not "long-term" as required by the statute. The ruling was based on a misapplication of the domestic violence law. An error of law occurred that cannot be remedy without a new hearing.

Additionally, the ruling was also not supported by the evidence. The record reflects the couple was in a romantic relationship that began in 2010 and continued until decedent's death in 2017. The combined testimony of the witnesses during the hearing showed that Petitioner suffered abuse for longer than the seven-month period that the circuit court focused on. While the physical violence escalated during the months preceding decedent's death, the abuse had occurred for years. Petitioner testified that the decedent struck her for the first time many years into their relationship. The decedent also supplied Petitioner with drugs, threatened to kick her and her children out leaving them homeless, threatened to beat her up, threatened to harm her and her children if she ever left, threatened to shoot her and others, and always kept close tabs on her whereabouts.

To qualify for parole eligibility under S.C. Code Ann. § 16-25-10, Petitioner had to show a history of domestic abuse. The circuit court precluded Petitioner from making that showing through only considering a seven-month period of Petitioner and decedent's multi-year relationship. At oral argument, members of this Court questioned whether the use of the word "everything" at the end of the circuit court's ruling indicated it considered the time and events outside of the seven-month period. Respectfully, a fair reading of the court's fifteen-page ruling

evinces that the court only considered the seven-month period and one episode of physical abuse that transpired in those seven-months when it ruled on Petitioner's motion for parole eligibility. R. 247-262. When the circuit court stated it considered "everything" it meant everything within the seven-month period it had improperly established.

The ruling in Petitioner's case was predicated on a manifest error of law that was not harmless. Respectfully, Petitioner request this Court rehear matter and find that the circuit court abused its discretion by committing an error of law and by issuing a ruling not supported by the evidence which requires the case to be remanded back to the circuit court for a new hearing pursuant to S.C. Code Ann. § 16-25-90.

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

This 1st day of September, 2022

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Spartanburg County

Honorable Lee S. Alford, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

PETITIONER

APPELLATE CASE NO. 2019-001117

---

CERTIFICATE OF SERVICE

---

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Tommy Evans, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Amy N Taylor, #380688, at Leath Correctional Institution, 2809 Airport Road, Greenwood, SC 29649, this 1st day of September 2022.

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

# The South Carolina Court of Appeals

The State, Respondent,

v.

Amy N. Taylor, Appellant.

Appellate Case No. 2019-001117

---

ORDER

---

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

C.J.

J.

J.

Columbia, South Carolina

cc:
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
Jessica M. Saxon, Esquire
Donald J. Zelenka, Esquire
W. Jeffrey Young, Esquire

Tommy Evans, Jr., Esquire
Barry Joe Barnette, Esquire
The Honorable Lee S. Alford