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Dec 15 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Steven H. John, Circuit Court Judge
Appellate Case Tracking No. 2021-000677
Opinion No. 2023-UP-399

State of South Carolina,

Respondent,

vs.

Donnielle K. Matthews,

Appellant.

PETITION FOR REHEARING

Through an unpublished decision issued on December 13, 2023, this Court reversed Appellant Donnielle K. Matthews’s conviction for voluntary manslaughter. State v. Matthews, Op. No. 2023-UP-399 (S.C. Ct. App. filed Dec. 13, 2023). In doing so, this Court concluded—upon expressly “[v]iewing the evidence *in a light most favorable to Matthews*”—the trial judge reversibly erred by instructing the jury on the lesser-included offense of voluntary manslaughter. (emphasis added). Pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, Respondent (“the State”) respectfully petitions for rehearing because this Court misconstrued the applicable law and applied the wrong standard when evaluating whether the evidence presented during trial supported a voluntary manslaughter instruction in Matthews’s.

As previously noted, this Court expressly indicated it viewed the evidence “in a light most favorable to Matthews” before concluding there was no evidence presented from which the jury could reasonably infer Matthews acted in the sudden heat of passion. And, in so doing, this Court cited to our Supreme Court’s decision in State v. Niles, 412 S.C. 515, 772 S.E.2d 877 (2015), for

the proposition: “When determining whether the evidence requires a charge on voluntary manslaughter, the court must view the facts in the light most favorable to the defendant.”

Critically though, the proper standard for evaluating whether a jury charge—on voluntary manslaughter or anything else—is warranted by the evidence does *not* involve an evaluation of the evidence in favor of one side or the other but, instead, simply involves looking to whether there is *any evidence* to support the requested charge. See State v. Drafts, 288 S.C. 30, 32, 340 S.E.2d 784, 785 (1986) (“A trial judge is required to charge a jury on a lesser included offense if there is evidence from which it could be inferred that a defendant committed the lesser offense rather than the greater.”); State v. Condrey, 349 S.C. 184, 194, 562 S.E.2d 320, 325 (Ct. App. 2002) (“A trial court has a duty to give a requested instruction that correctly states the law applicable to the issues and which is supported by the evidence. If *any evidence* exists to support a charge, it should be given.” (emphasis added)). And, in the specific context of voluntary manslaughter, our Supreme Court has emphasized: “To warrant a court’s eliminating the offense of manslaughter, it should very clearly appear that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter.” State v. Lowry, 315 S.C. 396, 399, 434 S.E.2d 272, 274 (1993).

In applying a different standard and viewing the evidence in a light most favorable to Matthews’s on appeal, this Court appeared to rely on the language it identified from Niles suggesting such a review of the evidence in a light most favorable to the defendant was the proper analysis that should be applied. However though, Niles—and all the cases the Niles relied upon—involved a situation in which *the defendant* was the moving party seeking a voluntary manslaughter and the defendant’s request was denied. See Niles, 412 S.C. at 518, 772 S.E.2d at 878 (evaluating whether the trial judge erred by refusing Niles’s request for a voluntary manslaughter jury instruction). Conversely, in this case, *the State* was the moving party, which

makes it the exact opposite situation addressed by the Supreme Court in Niles and, thus, meant a different analysis was warranted. See State v. Wharton, 381 S.C. 209, 216, 672 S.E.2d 786, 789 (2009) (“To warrant the court in eliminating the offense of manslaughter it should very clearly appear that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter.”).

Accordingly, this Court erroneously applied an incorrect standard on appeal by viewing the evidence solely in a light most favorable to Matthews when determining whether a voluntary manslaughter instruction was supported by the evidence presented during trial. And, when the proper analysis is conducted, the trial judge—for all the reasons previously discussed in the State’s brief and during trial—properly instructed the jury on voluntary manslaughter and left it to the jury to resolve the factual disputes raised by the evidence. See State v. Gardner, 219 S.C. 97, 104, 64 S.E.2d 130, 134 (1951) (“[T]o warrant the Court in eliminating the offense of manslaughter, it should *very clearly appear that there is no evidence whatsoever* tending to reduce the crime from murder to manslaughter.” (emphasis added)). For all the foregoing reasons coupled with the reasons articulated in the State’s brief, the State respectfully asks this Court to reconsider the matter pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, vacate its prior opinion, and issue a new opinion affirming the decision of trial judge after correctly finding the trial court did not abuse its discretion or otherwise err by instructing the jury on the lesser-included offense of voluntary manslaughter.

Respectfully submitted,

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State of South Carolina,

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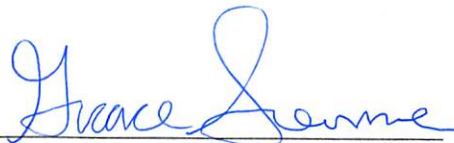
Donnielle K. Matthews,

Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify that I have served the State's Petition for Rehearing on Lara M. Caudy, Esquire, counsel of record for the Appellant, by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.
This 15th day of December, 2023.



Grace Sommer
Legal Assistant

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Grace Sommer

From: Grace Sommer
Sent: Friday, December 15, 2023 2:23 PM
To: Lara Caudy (lcaudy@sccid.sc.gov)
Cc: hbryant@sccid.sc.gov; Ambree Muller
Subject: The State v. Donnielle K. Matthews (2021-000677)
Attachments: MATTHEWS Donnielle - State's Pet. for Rehearing (03460588xD2C78).PDF; MATTHEWS Donnielle - Substitution of Counsel Letter (03460581xD2C78).PDF

Good Afternoon Ms. Caudy,

Attached please find a substitution of counsel letter and the State's Petition for Rehearing in The State v. Donnielle K. Matthews (2021-000677). This petition will be filed today with the Court of Appeals via the AIS OneDrive System.

If you will, please confirm receipt of this email.

Thank you,

Grace Sommer, Legal Assistant
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