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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable H. Steven DeBerry IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DRISCOLL RIGGINS, JR.

APPELLANT

APPELLATE CASE NO. 2023-000868

INITIAL BRIEF OF APPELLANT

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STATEMENT OF THE CASE

Appellant Driscoll Riggins, Jr., was indicted for murder, possession of a weapon during a violent crime, and unlawful possession of a firearm by a Horry County grand jury on August 18, 2021. R. *. He was tried before the Honorable Steven DeBerry and a jury on May 15 – 19, 2023. R. *. At trial, appellant was represented by Caitlyn Caldwell and Ricky Todd. George DeBusk and Dylan Bagnal represented the state.

By consent of all parties, the evidence concerning appellant's immunity and right to stand his ground under S.C. Code Ann. § 16-11-440 (2006) was taken during the jury trial. Tr. 58, ll. 11 - 22. Under this agreement, Judge DeBerry denied appellant immunity at the close of the evidence, finding appellant was not without fault in bringing on the difficulty. Tr. 529, ll. 3 – 9.

On May 19, 2023, the jury convicted appellant of voluntary manslaughter, as a lesser included offense to the murder charge, and guilty of the possession of a weapon during the commission of a violent crime charge. Tr. 624, ll. 7 - 24. Following the verdict, appellant plead guilty to the unlawful possession charge. Tr. 625, l. 18 – 627, l. 22. Judge DeBerry sentenced appellant to twenty-five years in prison for voluntary manslaughter, five years in prison for possession of a weapon during the commission of a violent crime, and 720 days in prison for the unlawful possession charge. Tr. 638, ll. 4 - 21.

This appeal follows.

STATEMENT OF THE FACTS

Appellant and Durance McCray had a long history of animosity. They grew up together, but the relationship deteriorated. Tr.439, ll. 2 – 20. McCray's involvement with the killing of two of appellant's close friends was a significant factor in their conflict. Tr. 440, ll. 4 – 25. McCray actively celebrated the deaths, taunted appellant, and made threats that a similar fate was in store for appellant. Tr. 441, l. 7 – 444, l. 9; Defendant's Exhibits 10, 11. McCray was involved in a drive by shooting incident in which appellant was shot in the leg. Tr. 449, l. 3 – 450, l. 13. The state admitted McCray and appellant had a long-standing grievance and acknowledged McCray was a "bad guy." Tr. 71, ll. 6 – 17. Based on these facts, the trial court ruled appellant was rightfully afraid of McCray and that appellant had a reasonable belief an incident with McCray would endanger appellant's life. Tr. 528, l. 21 – 529, l. 2.

Captain Archie's is a bar located in North Myrtle Beach that is surrounded by water with a single point of access across a narrow strip of land. Tr. 67, ll. 15 – 19; 93, l. 17 - 24. Appellant was a new employee of Captain Archie's and worked as a dishwasher in the kitchen area of the bar. Tr. 86, ll. 7 - 20. On May 21, 2021, appellant clocked in at 3:55 p.m. and clocked out at 11:42 p.m. just before closing time for the bar and having worked a full shift. Tr. 89, ll. 12 – 25; 438, ll. 19 – 25. While working, appellant noticed McCray's presence at the bar and took steps to keep himself informed of McCray's location during the evening. Tr. 455, l. 2 – 457, l. 13.

Shortly after McCray left Captain Archie's, appellant clocked out of work for the evening and also left the bar. Tr. 458, l. 8 – 459, l. 24. Since there is a single narrow access road surrounded by water, both appellant and McCray walked in the same direction, with appellant delaying his departure until McCray was well down the road. The portion of the video that captured the interaction in the parking area when the shooting occurred is viewable on channels 1 and 7 from

time stamp 11:42:00 as McCray enters the frame through time stamp 11:43:06 when appellant enters the frame until the fatal encounter at 11:44:06. [1] State's Exhibit 7. McCray and his companion, Jada Phyatt, stopped on the single access road to investigate an unknown person who had crashed their moped into a dumpster. Tr. 248, ll. 2 – 24. McCray's other companion during the evening, Joey Sinclair, pulled up in his vehicle alongside McCray and Phyatt, effectively creating a choke point for any other persons leaving the area. State's Exhibit 7 (channel 7 time stamp 11:42:49 shows Sinclair's vehicle following McCray).

Appellant was walking towards this choke point, the sole means available to leave the area, when the fatal confrontation occurred. State's Exhibit 7. McCray exchanged words with appellant and threatened that appellant's picture would be on a "t-shirt next" and made a movement towards his waist.[2] Tr. 461, l. 3 - 19. Appellant, well acquainted with McCray's prior history of violence, reacted by pulling his own handgun and firing. Tr. 463, l. 16 – 464, l. 24. McCray called out to Sinclair in the BMW blocking traffic to "get the chopper" so appellant pursued McCray around the front of Sinclair's vehicle and continued firing.[3] Tr. 463, l. 16 – 464, l. 24.

To paint appellant as the initial aggressor in the altercation, the state relied upon the testimony of Phyatt who claimed there was no confrontation between appellant and McCray and that appellant walked up and shot McCray. Tr. 250, l. 23 – 251, l. 25. Despite the video showing

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[1] State's Exhibit 7 is the Captain Archie's video from several camera locations including the parking area introduced at trial that captured the interaction of the participants around the moment of the shooting from distance with small time jumps and is on file with this Court for review.

[2] The reference to "face on a t-shirt" was connected to the prior slaying of appellant's two friends which McCray celebrated through social media posts. Tr. 461, ll. 4 – 7.

[3] "Chopper" was identified by appellant as slang for an assault rifle. Tr. 464, ll. 9 - 13. This interpretation is supported by common slang guides. See *Chopper*, Urban Dictionary, https://www.urbandictionary.com/define.php?term=chopper.

at least ten seconds of interaction between appellant and McCray, Phyatt described the shooting as an ambush with no instigating actions by McCray. Tr. 250, l. 23 – 251, l. 25. Sinclair testified that he did not see when the shooting started, but claimed he did not hear any commotion or shouting before the first shot. Tr. 122, ll. 6 – 13; 123, ll. 1 – 19.

To bolster the idea that appellant was looking to get McCray, the state called Stephanie Cano, another employee of Captain Archie's. Tr. 282, ll. 8 – 16. Cano could not remember anything about her involvement with appellant or McCray, or her interview with investigators the next day, due to memory loss associated with black outs due to heavy alcohol abuse. Tr. 285, ll. 3 - 11. Over objection, a written statement from Cano was introduced into evidence in which she asserted appellant offered to pay her $100 to let him know when McCray left the bar. Tr. 288, l. 23 – 289, l. 15.

During deliberations, the jury asked for clarification on the law of self-defense. Tr. 616, ll. 18 – 21. After being supplied with a copy of the complete jury charge, the jury asked about the definition of "reasonable." Tr. 617, ll. 21 – 23. Without objection from either party, the jury was told they had to reach a decision based on the evidence presented and the law provided in the jury charge. Tr. 618, ll. 11 – 13. The jury then requested testimony be reviewed from two of the investigating officers and asked if the defense attorney could do their own investigation. Tr. 618, ll. 20 - 25. Without objection from either party, the jury was again told they had to reach a decision on the evidence presented and the jury charge, but that testimony could be reviewed either in full or in part. Tr. 621, ll. 1 – 12.

After further deliberation, the jury again asked if the defense attorney could procure their own evidence without the state's approval. Tr. 621, l. 24 – 622, l. 4. The trial court again told the jury they "must reach a verdict based on testimony and evidence and the law you have been

provided." Tr. 622, l. 21 – 23. Deliberations started at 11:45 a.m. and a verdict was returned at 5:36 p.m. Tr. 615, l. 23; 623, l. 6.

ARGUMENTS

I.

The trial court erred in ruling appellant was at fault in bringing on the confrontation with McCray by imposing a duty to retreat on appellant who was acting lawfully by walking down a public street as the only means of travel from his place of employment following a full workday.

Standard of review.

"A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard, which this court reviews under an abuse of discretion standard of review."[4] State v. Curry, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013). "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. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007).

The stand your ground law.

The pertinent part of the Protection of Persons and Property Act (hereinafter the Act) governing appellant's actions is as follows:

> A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

S.C. Code Ann. § 16-11-440 (C)(2006).

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4 By consent of both parties, the trial judge elected to conduct the immunity hearing in conjuncture with the jury trial and ruled on the immunity claim at the close of the evidence before submitting the case to the jury. Tr. 58, ll. 2 – 23.

As noted by our Supreme Court, "a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity. This includes all elements of self-defense, save the duty to retreat." State v. Curry, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013).

There are "four elements that must be established to justify the use of deadly force" in connection with a stand your ground immunity claim. State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011). The elements are:

> (1) The defendant was without fault in bringing on the difficulty; (2) The defendant ... actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger; (3) If the defense is based upon the defendant's actual belief of imminent danger, a reasonable prudent man of ordinary firmness and courage would have entertained the same belief ...; and (4) The defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

Id. The fourth element is excused by the Act. *See* Curry 406 S.C. n. 4, 752 S.E.2d n. 4.

The trial court's ruling improperly mixed a duty to retreat requirement in the without fault in bringing on the difficulty element.

At the conclusion of the evidence presented at trial, the trial court ruled that appellant had a reasonable fear for his own life due to the actions of McCray. Tr. 528, l. 21 – 529, l. 2. Despite this ruling, the trial court rejected immunity because appellant was "not without fault" in bringing about the confrontation, since appellant did not "have to leave the establishment at that point in time." Tr. 529, ll. 3 – 9. This finding was an error of law, since it improperly incorporated the duty to retreat element of self-defense onto the immunity protections provided by the Act.

Appellant delayed leaving Captain Archie's until after McCray left. While the state argued this action was evidence of appellant's desire to create a confrontation, the video evidence

demonstrates that appellant was walking well behind McCray (there is almost a full minute between McCray leaving Captain Archie's and entering the video frame and appellant's first appearance). State's Exhibit 7 (Channels 1 and 7, time stamps 11:42:00 and 11:43:00). At the time appellant enters the frame, his ground view of McCray would have been from a considerable distance and blocked by parked cars. State's Exhibit 7 (Channels 1 and 7, time stamp 11:43:00). The fatal encounter occurred solely based upon McCray's actions in lingering at the narrow choke point on the public right of way that is the sole means of ingress and egress from Captain Archie's. State's Exhibit 7 (Channels 1 and 7, time stamp 11:43:00).

The video shows McCray and his girlfriend stopping at a very narrow choke point that is further blocked by the vehicle driven by Sinclair, McCray's other companion. State's Exhibit 7 (Channels 1 and 7, time stamp 11:42:00 – 11:43:27). Appellant's delayed departure from Captain Archie's of approximately sixty seconds allowed McCray to vacate the immediate area but for his stopping to investigate an accident involving a moped at this choke point. State's Exhibit 7 (Channels 1 and 7, time stamp 11:42:00 – 11:43:27).

Appellant approached the same choke point, as it was the sole means of leaving the area. State's Exhibit 7 (Channels 1 and 7, time stamp 11:43:00 - 11:43:52). While the video does not show the shooting in detail, the first shots were fired between time stamp 11:44:03 and 11:44:06 based upon the reaction of people in the video. State's Exhibit 7 (Channels 1 and 7). There are approximately 10 seconds of video interaction between appellant and McCray's group before the first shot is fired.

The trial court's ruling would have required appellant to turn around and go back towards Captain Archie's or clairvoyantly know to delay his departure an unknown additional amount of

time to allow McCray greater opportunity to depart the area.[5] This requirement would add an element to S.C. Code Ann. § 16-11-440 which our legislature has specifically rejected: a duty to retreat. Allowing the concept of "without fault" in bringing on the difficulty to backdoor a duty to retreat would circumvent the legislative intent behind the Act. In the present case, appellant can be seen on video walking down a public right of way that is the sole means of ingress and egress from his place of employment. State's Exhibit 7. He is seen on video leaving his place of employment a full minute after McCray and after working a full shift at the establishment. Tr. 458, ll. 8 – 24. Captain Archie's also typically closed around midnight. Tr. 92, ll. 11 – 23.

The trial court's interpretation of the without fault element of self-defense failed to properly consider the elimination of a duty to retreat under S.C. Code Ann. § 16-11-440(C). This is shown by our Supreme Court's example outlined in State v. Glenn, 429 S.C. 108, 838 S.E.2d 491 (2019):

> This absurdity is readily illustrated through this example: A person peaceably jogging through a public municipal park at 8:59 p.m. would be entitled to defend herself from an attacker under the protection of the Act, but should the clock turn to 9:00 p.m., at which time the park "closes" under the municipal code, when she is attacked, then she is categorically barred from immunity under the Act due to her technically not having the "right to be" there. Such an absurd result would undoubtedly thwart the Legislature's intended objective to protect victims of crime.

Id, 429 at 120, 838 S.E.2d at 497.

In the present case, the trial court's logic places appellant in a similar situation to the hypothetical jogger in Glenn based upon the passage of time. Under the lower court's ruling, appellant would have been entitled to use deadly force in the same location and under the same facts if he had simply waited an unknown length of extra time before lawfully walking down the street. Much like the jogger in Glenn, appellant would have been at the whim of the clock in terms

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[5]This was the same argument the solicitor made to the jury; that appellant had a duty to retreat from McCray. "To avoid a fight, you turn around and go back to Captain Archie's. If you are scared, you call the police. . ." Tr. 560, ll. 22 – 24.

of whether he delayed his lawful activity (walking down the public street after getting of work) long enough to divorce himself from McCray's departure from the area.

This situation can be contrasted with other situations in which an accused "creates" the unlawful activity which properly precludes the use of self-defense. *See* State v. Williams, 427 S.C. 246, 250, 830 S.E.2d 904, 906 (2019) (holding "a defendant is not entitled to a charge of self-defense if the evidence supports only the conclusion that he acted 'in violation of law' in a manner 'reasonably calculated to produce [a violent] occasion.'"); State v. Bryant, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999)(finding that one who provokes or initiates an assault cannot assert self-defense unless he withdraws in good faith and announces his intention to retire from the assault); 40 Am. Jur. 2d Homicide § 149 (1999) ("Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a homicide.").

The trial court's ruling that appellant was not "without fault" in bringing about the difficulty because he clocked out from work and walked along the only available route to leave placed a duty to retreat into S.C. Code Ann. § 16-11-440(C) that our legislature never intended. Appellant was "not engaged in an unlawful activity" when he was walking down the street. Appellant was confronted in a place he had a right to be and was under "no duty to retreat" and had "the right to stand his ground and meet force with force." S.C. Code Ann. § 16-11-440(C). Requiring appellant to retreat from McCray, as the trial court's ruling did, ignores the requirements set forth under the Act and requires reversal.

II.

Since appellant was acting lawfully, and in a place he had a right to be, the trial court erred in failing to grant immunity under the Protection of Persons and Property Act based upon the court's finding that appellant was reasonably in fear for his life from the actions of McCray.

The trial court erred in failing to grant immunity and this Court should rule appellant is entitled to immunity based upon the evidence presented and the findings of fact made by the trial court.

In ruling on the immunity issue, the trial court found appellant had a reasonable fear of his life from the actions of McCray. "I recognize the fact, that there was quite a history between these two individuals between the [appellant] and Mr. McCray, that that history was violent. Certainly [appellant] seemed to have appropriate beliefs that some day some incident might happen that would endanger his life." Tr. 528, ll. 21 – 24.

This ruling accepts the appellant's evidence that he had a reasonable fear for his life from McCray's comments about putting appellant's face on a t-shirt and reaching for his waist. Tr. 461, l. 4 – 464, l. 3. "Once the right to fire in self-defense arises, a defendant is not required to wait until his adversary is on equal terms or until he has fired or aimed his weapon in order to act." State v. Starnes, 340 S.C. 312, 322, 531 S.E.2d 907, 913 (2000).

Further, "a person has the right to act on appearances, even if the person's belief is ultimately mistaken." State v. Dickey, 394, S.C. 491, 501, 716 S.E.2d 97, 101 (2011). A citizen does not have to wait for an aggressor "to get the drop on him." State v. Rash, 182 S.C. 42, 50, 188 S.E. 435, 438 (1936).

As explained in State v. Harris, 382 S.C. 107, 114, 674 S.E.2d 532, 536 (Ct. App. 2009), "[The defendant] doesn't have to wait until his assailant gets the drop on him, he has a right to act

under the law of self-preservation and prevent his assailant getting the drop on him; if it is apparent, or reasonably apparent his assailant is taking steps to get the drop on him, he must take steps first to prevent such assailant from getting the drop on him." One does not have to wait until being fired upon to use deadly force. State v. Nichols, 325 S.C. 111, 117-18, 481 S.E.2d 118, 121-22 (1997); *see also* Starnes, 340 S.C. at 322, 531 S.E.2d at 913 (holding that once the right to fire in self-defense arises, a defendant is not required to wait until his adversary is on equal terms or until he has fired or aimed his weapon in order to act).

The video evidence of the encounter shows appellant walking down the public street. The trial court found appellant had a reasonable fear of McCray. McCray's action of reaching towards his waist after threatening to put appellant's face on a t-shirt would have put an ordinary person in reasonable fear for their own life. *See* Dickey, 394 S.C. at 499, 716 S.E.2d at 101. The proximity of Sinclair's vehicle creating a confined space and McCray calling for the "chopper" justified appellant continuing to act in self-defense as McCray rushed around the front of Sinclair's vehicle. Tr. 463, l. 16 – 464, l. 24; State's Exhibit 7 (camera 1 time stamp 11:44:00 – 11:44:20). As our Supreme Court noted in a similar case involving a long simmering dispute that erupted in violence:

> death was in the offing and the appellant, having no duty to retreat and being without fault in *bringing on the last and fatal confrontation*, was warranted in reacting to the situation with force in order to preserve his own life. Once the appellant's right to fire in self-defense arose, *he was not required to wait until his adversary was on equal terms or until he fired or aimed his weapon.*

State v. Hendrix, 270 S.C. 653, 660–61, 244 S.E.2d 503, 507 (1978). It is also the law that "when a person is justified in firing the first shot, he is justified in continuing to shoot until it is apparent that the danger to his life and body has ceased." Id., 270 S.C. at 661, 244 S.E.2d at 507 (quoting 40 C.J.S. *Homicide* 131(b) at 1020 (1944)).

This Court should reverse the lower court and find appellant meets the requirements for immunity under S.C. Code Ann. § 16-11-440(C) and reverse his conviction for voluntary manslaughter.[6]

If this Court does not rule appellant is entitled to immunity under S.C. Code Ann. § 16-11-440(C) based upon the lower court's ruling and the evidence presented due to lack of findings on each of the required elements, a remand would be proper for specific findings of fact on all the elements of immunity under the Act.

"We emphasize that a circuit court, as the designated factfinder in this matter, must provide adequate findings to support its decision so an appellate court can perform its role of reviewing the ruling under an abuse of discretion standard." State v. McCarty, 437 S.C. 355, 374, 878 S.E.2d 902, 912–13 (2022). In McCarty, our Supreme Court ultimately remanded the case since the lower court failed to make specific findings to enable appellate review.

As noted in State v. Glenn, 429 S.C. 108, 838 S.E.2d 491 (2019), this Court may be reluctant to "infer findings of fact which do not appear in the record." Id., 429 S.C. at 123, 838 S.E.2d at 499. As such, if this Court does not find the evidence supports a finding of immunity under S.C. Code Ann. § 16-11-440(C), a remand for a new immunity hearing would be proper to allow specific findings of fact and conclusions of law on the required elements.[7]

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6 This would also negate appellant's conviction for possession of a weapon during the commission of a violent crime under S.C. Code Ann. § 16-23-490 (2010) since it depended upon the guilty verdict for voluntary manslaughter.

7 A full evidentiary hearing would be proper since the evidence submitted before a jury and a judge can be substantially different. *See* State v. McCarty, 437 S.C. 355, 878 S.E.2d 902 (2022).

III.

The lower court erred in admitting the written statement of a witness who could neither recall the events from the statement nor recall providing the statement to law enforcement.

Stephanie Cano testified via remote video feed from Texas. Cano was a former employee of Captain Archie's who was present at the bar on the evening of the shooting. Tr. 282, ll. 8 - 16. Cano indicated a complete lack of memory concerning the events inside Captain Charlies on the night of the shooting. Tr. 285, ll. 3 – 11. The state tried to refresh her memory with a statement she wrote on the day following the shooting. Cano testified:

> Q. So you did make a statement at that time and that is what it says?
>
> A. I read the statement, and I know that is what it says, and I know it is my handwriting. My issue with this is, back then, that – I was telling the detective is that I have black-outs when I drink. So standing here today, I'm not going to confirm my statement back then since I don't technically remember it today.

Tr. 285, ll. 3 – 11.

The trial court then admitted this written statement into evidence over objection. Tr. 288, l. 23 – 289, l. 15. This was an error of law.

The admission of the written witness statement is governed by Rule 803(5), SCRE, concerning recorded recollections. Rule 803(5), SCRE, allows a statement like Cano's to be "read into evidence" but the document itself is inadmissible unless offered by an adverse party. As noted by our Supreme Court, the adoption of the Rules of Evidence represented a change in approach to this type of recorded recollection. *See* Ellis v. Oliver, 323 S.C. 121, 129, 473 S.E.2d 793, 797 (1996) (noting that "Rule 803(5), SCRE, . . . states that such a memorandum may not be introduced as an exhibit unless offered by the adverse party. As the Comments to Rule 803 point out, this represents a change in South Carolina law.").

State v. Lindsey, 394 S.C. 354, 360, 714 S.E.2d 554, 557 (Ct. App. 2011) found that interview notes being read into evidence and received as an exhibit violated Rule 803(5), SCRE, when the witness did not assert a lack of memory. Here, while the questioning from the solicitor regarding Cano's memory of the statements and use of the statement to refresh her recollection may have been proper, the admission of the actual written statement was not.

Here, the factual dispute presented to the jury was not whether appellant shot McCray, but whether appellant acted in self-defense or as an aggressor. To establish that appellant was the aggressor, the state relied upon this written statement by Cano. Tr. 547, ll. 13 – 16. The state went further in using the written statement to bolster their version of events:

> He also tried to get Stephanie Cano to work for him. He offered a hundred dollars to tell him when he left. She didn't want to testify. Like anyone, she didn't want to get involved here, but she gave a statement to the police the day after this happened, and she said when she wrote the statement, it was the truth.[8] *In that statement, which is in evidence,* she said the dishwasher -and the only one dishwasher that night was Mr. Riggins -- she was offered a hundred dollars to watch a fellow in white T-shirt and tell him when he left.

Tr. 553, ll. 13 – 24 (emphasis added).

The improper admission and use of the written statement to bolster the state's view that appellant was trying to ambush McCray was reversible error requiring a new trial. In a similar case, the Supreme Court of Mississippi found the admission of a similar written statement improper when the declarant could not remember due to a total lack of memory, much like Cano in the present case, as it implicated the Confrontation Clause and rights of the accused to effectively confront the witnesses against them. *See* Goforth v. State, 70 So. 3d 174, 186 (Miss. 2011).

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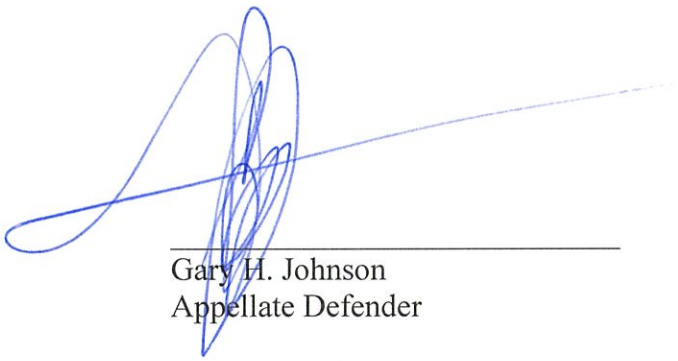
[8]In reality, Cano testified she could not remember the evening in question, or even making the statement, let alone that it was the "truth" when she provided it to investigators. Tr. 285, ll. 3 – 25.

CONCLUSION

By reasons of the foregoing arguments, appellant's conviction should be reversed, and this Court should find appellant was immune from prosecution under the Act and set aside his conviction for voluntary manslaughter and possession of a weapon during the commission of a violent crime. In the alternative, the case should be remanded to the Horry County Court of General Sessions for a new trial and full evidentiary hearing on appellant's stand your ground right.



Gary H. Johnson
Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of January, 2024.