STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
Honorable Roger M. Young, Sr., Circuit Court Judge
Appellate Case No. 2021-000990

THE STATE,

Respondent,

vs.

DAVID ANTONIO LITTLE, JR.,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

"The trial judge erred in finding appellant competent to stand trial following a pretrial Blair hearing where prior to the hearing and throughout the trial there were at least 85 instances of appellant's disruptive outbursts toward the trial judge and witnesses (some of which were non-sensical and others which included profanity), and where appellant was removed from the courtroom three times due to his constant interruptions (including singing) during trial, and where trial counsel objected to the state's competency finding because clearly appellant was not competent to stand." (footnote omitted).

COUNTER-STATEMENT OF ISSUE ON APPEAL

Although Appellant unquestionably engaged in rude and vexatious behavior throughout his trial, the trial judge committed no error by finding Appellant was competent to stand trial because the evidence and testimony presented to him demonstrated Appellant was legally competent as opposed to incompetent and was intentionally engaging in inappropriate behavior by choice in a deliberate attempt to disrupt the proceedings so he would not be held accountable for his crimes.

STATEMENT OF THE CASE

In March of 2021, Appellant David Antonio Little, Jr. was arrested after he suddenly and violently attacked multiple law enforcement officers at the Chesterfield County Detention Center.[1] In June of 2021, the Chesterfield County Grand Jury indicted Appellant for three counts of assault while resisting arrest. On July 26, 2021, a jury trial was commenced in the Chesterfield County Court of General Sessions with the Honorable Roger M. Young, Sr., circuit court judge, presiding. At the conclusion of the two-day trial, the jury convicted Appellant as indicted. Following the verdict, the trial judge sentenced Appellant to three concurrent ten-year terms of imprisonment for his offenses. Appellant then timely filed a notice of appeal.

[1] At that time, Appellant was being held at the detention center due to an earlier arrest for murder. Records for David Antonio Little, Jr., Chesterfield County Fourth Judicial Circuit Public Index, https://publicindex.sccourts.org/chesterfield/publicindex/.

STATEMENT OF FACTS

Around noon on March 9, 2021, Appellant, who was then an inmate at the Chesterfield County Detention Center, became agitated and non-compliant in the detention center's booking area during his one-hour period of recreational time outside his cell. (R. pp. 105-109; p. 117; pp. 123-124; p. 145; p. 147). Ultimately, due to Appellant's agitated and non-compliant behavior, one of the detention officers at the facility covertly requested help getting Appellant—who was unrestrained at the time—back to his cell, and several officers from the Chesterfield County Sheriff's Office responded to assist. (R. pp. 107-111; p. 117; pp. 125-127; pp. 129-130; pp. 145-147; pp. 155-156; State's Ex. # 1 (Jail Recording); State's Ex. # 2 (Body Cam Recording)).

Upon arriving in the booking area, the assisting officers approached Appellant and attempted to physically escort him back to his cell as had been requested. (R. p. 111; p. 130; p. 132; p. 147; p. 153; State's Ex. # 1; State's Ex. # 2). However, within seconds of the officers beginning to do so, Appellant suddenly pulled away and violently sucker punched one of the officers—Captain Spence Vaughn—just above his eye, which left the captain temporarily stunned.[2] (R. p. 131; p. 135; pp. 156-157; State's Ex. # 1; State's Ex. # 2). Appellant then turned his attention to the other nearby officers—Lieutenant Marc Weiss and Corporal Clay Sikes—and began striking them as they scrambled to get him under control. (R. p. 131; p. 158; State's Ex. # 1; State's Ex. # 2). During the ensuing melee, Appellant fell to the ground, and, when he did, the officers—through their combined efforts—were able to subdue him despite his vigorous attempts to resist. (R. pp. 131-133; pp. 139-140; pp. 143-144; pp. 148-149; pp. 157-158; State's Ex. # 1; State's Ex. # 2).

[2] Later on during trial, Captain Vaughn indicated the blow to his eye from Appellant was the hardest he had ever been hit. (R. p. 148).

As a result of Appellant's sudden attack, Captain Vaughn suffered facial injuries that required stitches, and both of the other assaulted officers also suffered some injuries. (R. p. 134; p. 142; pp. 149-150; p. 160). Meanwhile, Appellant was arrested for the attack, and he was subsequently indicted for several counts of assault while resisting arrest. (R. pp. 139-140; p. 148; p. 158; pp. 217-218; pp. 220-223; pp. 225-228; pp. 230-231).

Prior to Appellant's trial on those charges, Dr. Matthew Gaskins, a board-certified forensic psychiatrist and expert in forensic psychiatry, was directed to conduct a court-ordered evaluation to determine whether Appellant was competent to stand trial.[3] (R. pp. 42-44; p. 209). As part of his evaluation, Dr. Gaskins interviewed Appellant and reviewed a number of other sources of information, including letters and documents that were believed to have been authored by Appellant. (R. p. 210). At some points during the interview, Appellant provided appropriate answers to the questions posed. (R. p. 213). However, at other times, Appellant expressed beliefs consistent with the beliefs of those who subscribe to the Moorish Sovereign Citizen belief system, including beliefs the United States government is a corporation, each person is born as a "debt man," and the country is actually "Al Morocco." (R. p. 59; pp. 211-212; pp. 214-216). Additionally, Appellant directed racist comments towards Dr. Gaskins and expressed disdain for what he referred to as "pale people." (R. p. 215). Furthermore, Appellant became irritable, uncooperative, and hostile when discussing his pending charges, legal terms, and legal procedures. (R. p. 213). Ultimately, just over an hour into the interview, Appellant terminated it because Dr. Gaskins refused to provide personal information, such as his social security number. (R. pp. 59-60; p. 210; pp. 215-216). Nevertheless, based on the evaluation he was able to complete, Dr. Gaskins determined Appellant was competent to stand trial, and he further

[3] Apparently, the competency evaluation was ordered because defense counsel had "questions" about Appellant's behavior. (R. p. 209).

concluded any difficulties Appellant would have working with his defense counsel would be the result of Appellant's personality and chosen belief system as opposed to the result of any mental illness. (R. p. 57; p. 209; p. 214; p. 216).

Following the evaluation, Appellant was brought to trial. (R. p. 5; p. 15). At the outset of the trial, Appellant confirmed he was ready, and he then proceeded to direct a number of vexatious comments at the trial judge. (R. pp. 5-6). Amongst his comments, Appellant made references to "the lien on [his] name," accused the trial judge of being a "banking representative," proclaimed "[n]o white man c[ould] tell [him] nothing," asserted the trial judge was an "unnaturalized" citizen of the country and not a "Moor," identified the country as "Al Morocco" and a corporation, stated he was not a "Thirteenth Amendment citizen," and identified himself as a variety of different things, including a "free man," a "private man," a "Moors American National," and a "Asiatics Indigenous Native." (R. pp. 8-12). At the end of Appellant's rant, the trial judge warned Appellant he would not be permitted to remain in the courtroom if his behavior continued, and Appellant indicated he wanted to stay. (R. pp. 12-13). However, Appellant followed that with a bizarre comment about the trial judge "hav[ing] to break trees," and the trial judge again cautioned Appellant. (R. pp. 13-14). Appellant then questioned whether the trial judge was "the boss" while further questioning who made him so and—according to the court reporter—was "rambl[ing] on." (R. p. 14).

At that point, the prospective jurors entered the courtroom, and the jury selection process was conducted. (R. pp. 15-35). While that process was being carried out, Appellant seemed to demonstrate an ability to control his behavior and did not do anything to interrupt or disrupt the proceedings. (R. pp. 16-35; p. 50).

Once a jury was selected, the solicitor noted an in camera competency hearing still needed to be held, and the trial judge initiated one in response.[4] (R. pp. 38-40). During that hearing, Dr. Gaskins began testifying about the results of his evaluation of Appellant and opined Appellant had the requisite capacity to stand trial. (R. p. 44).

However, while Dr. Gaskins was in the midst of his testimony, Appellant started engaging in disruptive behavior, and the trial judge directed him to stand. (R. p. 47). In response, Appellant asked the trial judge to ask him nicely, indicated he could not be ordered to do "nothing," and—without the trial judge even mentioning contempt—asserted he was not in contempt and could not be held in contempt by the trial judge. (R. p. 47). Appellant then accused the trial judge of playing "fucking games" and stated he would stand and sit as he pleased. (R. p. 48). Following that, the trial judge again warned Appellant he would not be permitted to remain in the courtroom if his behavior continued, and Appellant responded by using profane language and making more racist statements. (R. p. 49). At that point, the trial judge noted Appellant had demonstrated a capacity to act appropriately for more than an hour that morning and again cautioned Appellant he would be removed if his inappropriate behavior continued. (R. p. 50). Appellant then referenced the common law and demanded some sort of "handwritten policy," and the trial judge extended one more opportunity for Appellant to alter his behavior. (R. p. 51). In response to the offer, Appellant stated he would be quiet "[j]ust for right [then]." (R. p. 51).

Upon Appellant agreeing to remain quiet for at least some period of time, Dr. Gaskins resumed his testimony and explained why he believed Appellant was competent to stand trial. (R. pp. 52-57). More specifically, Dr. Gaskins noted Appellant behaved appropriately at some

[4] At the outset of that hearing, Appellant—according to the court reporter—was "rambling at the defense table." (R. p. 41).

points during the interview, appropriately identified defense counsel, correctly described the charges he was facing in a factually-accurate and rational manner, correctly identified his victims, and referenced a plea bargain he had entered in an earlier case during a discussion of his past arrest history. (R. pp. 52-54). In addition to that, Dr. Gaskins noted Appellant used rhetoric associated with the Sovereign Citizen Movement, which he explained was a belief system founded upon a belief that federal and state governments were illegitimate and did not have the ability to dictate what a person could do. (R. pp. 55-56; pp. 58-59). Dr. Gaskins further indicated Appellant demonstrated an understanding of the various roles of the people involved in the criminal justice system even without being asked. (R. pp. 58-59).

As Dr. Gaskins continued to testify, Appellant interrupted and accused the expert of "[m]aking up bull shit." (R. p. 60). In response, the trial judge had Appellant removed from the courtroom, and, according to the court reporter, Appellant was "rambling" as he was led away. (R. p. 60).

Once Appellant was gone, Dr. Gaskins continued his testimony and explained Appellant's sovereign citizen rhetoric was associated with a chosen belief system held by others, which meant it was something different from delusion. (R. pp. 61-63). As a result, Dr. Gaskins explained Appellant was not incapable of assisting defense counsel due to mental illness and any failure on Appellant's part to assist his defense counsel would be by choice and due to his racist beliefs as opposed to due to lack of actual capacity or capability to assist. (R. p. 63). Furthermore, Dr. Gaskins indicated Appellant appeared to have anti-social personality disorder, which he explained was a personality disorder based on engagement in a pattern of behavior characterized by a violation of and disregard for the rights of others. (R. pp. 64-65). Importantly though, Dr. Gaskins noted such a diagnosis would not standing alone render Appellant

incompetent, and he indicated he was not aware of anyone with a personality disorder being found to be incompetent solely based on the disorder. (R. p. 65).

At the conclusion of Dr. Gaskins's testimony, the trial judge instructed defense counsel to speak with Appellant, inform him of the doctor's opinion on the competency issue, and see if he wanted to personally present anything on the matter or otherwise participate with the trial. (R. pp. 66-67). The trial judge further noted he believed Appellant was competent to stand trial based on what had been presented so far. (R. p. 67). Defense counsel then left the courtroom to speak with Appellant as instructed. (R. p. 67).

Thereafter, following a short recess, defense counsel returned to the courtroom, indicated Appellant was unlikely to cooperate, and stated Appellant did not appear to be receptive to answering questions about his competency. (R. p. 67). Beyond that, defense counsel asserted she did not personally think Appellant had the ability to assist her with the defense, but she also candidly affirmed she understood Dr. Gaskins's opinion was any inability to assist was by choice on Appellant's part. (R. p. 68). Nevertheless, defense counsel indicated she did not personally think Appellant was able to control his behavior, and she alleged he had been talking, mumbling, and singing when the jury was being selected. (R. pp. 68-69).

Shortly after that, defense counsel sought to offer Appellant as a witness during the competency hearing, and Appellant was brought back into the courtroom. (R. p. 70). When he returned, he refused to swear on the Bible and, based on that, was asked to affirm he would tell the truth during his testimony. (R. p. 71). In response, Appellant asserted he tells the truth all the time, including when he lies "like . . . Mark Zuckerberg." (R. p. 71). Appellant was then asked to raise his right hand, he responded by raising both his hands, and he made a remark about not being shot since his hands were raised. (R. p. 71). Appellant followed that by repeatedly

questioning whether Dr. Gaskins had been sworn and had promised to tell the truth. (R. pp. 71-72). Appellant was then asked if he personally promised to tell the truth, and Appellant responded: "I promise to state my opinions and I will state facts and I will let you know when I speak an opinion and I will let you know when I am speaking a fact." (R. p. 72). At that point, the trial judge reminded Appellant he had been charged with three serious offenses potentially exposing him to thirty years of incarceration, explained to Appellant he was trying to ensure Appellant received a fair trial, alerted Appellant of the competency issue, advised him of his right to testify, indicated the trial would go forward if Appellant was found to be competent, and noted Appellant would be sent to the Department of Mental Health until his competency was restored if he was found to be incompetent.[5] (R. pp. 72-74). Appellant replied to those remarks by indicating he would "show [his] ass for real." (R. p. 74). Following that, the trial judge asked Appellant if he wished to participate with the proceedings, and Appellant responded affirmatively while remarking: "Let's play." (R. p. 74).

At that point, Appellant testified on his own behalf concerning his competency. (R. p. 75). During his testimony, Appellant—while laughing—stated the trial judge's role was to make sure he got a life sentence and further added "they" had been "hangmaning" him and "his people" while "showing favoritism" to "the[ir] people." (R. p. 75). Meanwhile, Appellant indicated a prosecutor's purpose was to find him guilty, but he opined the solicitor personally prosecuting his case was probably "on [his] side" because the solicitor seemed like a good guy. (R. p. 75). Beyond that, Appellant contended the jurors were "just [t]here" and were paid, and he identified their role as being to vote on whether he was guilty. (R. pp. 75-76). However,

[5] Notably, during the trial judge's colloquy with Appellant, Appellant—demonstrating an understanding of the charges he was facing—questioned how he had been charged with three different offenses when he purportedly had only "touched" two different officers. (R. pp. 72-73).

Appellant further remarked the votes were changed around after being cast "like they do with Donald Trump." (R. p. 76). Finally, Appellant indicated defense counsel's role was to lie for him while asserting all lawyers were "[g]ood paid liars," and he further asserted his defense counsel worked for and may have been paid by the government. (R. p. 76). Importantly though, Appellant candidly stated he "might can" and "may" sit quietly during trial, listen, and assist his defense counsel with the defense of his case. (R. p. 77).

After Appellant's testimony was concluded, the trial judge found Appellant was competent to stand trial, could assist his defense counsel if he chose to do so, and was capable of conforming his behavior to the expectations of the court. (R. p. 77). However, the trial judge again warned Appellant he would be removed from the courtroom if he did not behave during trial. (R. pp. 77-78). Following that ruling and admonition, the jury was brought into the courtroom and sworn, and the trial proceeded forward. (R. pp. 80-94).

During the evidentiary phase of the trial, the solicitor presented Sheila Buckman, who was the jail administrator at the Chesterfield County Detention Center, as the first witness for the State's case. (R. pp. 95-96). Through Buckman's testimony, the solicitor sought to admit a recording of the incident into evidence, and the recording was admitted without objection from defense counsel. (R. pp. 98-99). Buckman then identified Appellant in the courtroom as one of the people shown in the recording. (R. p. 99).

At that point, Appellant again began "rambling" at the defense table, and the trial judge excused the jury from the courtroom. (R. pp. 99-100). Once the jurors were gone, the trial judge alerted Appellant he could not engage in disruptive behavior and ordered him removed from the courtroom for the remainder of the day. (R. p. 100). Appellant responded by chastising defense counsel for failing to object and advising the trial judge he wanted to stop her "ineffective

assistance." (R. p. 100). Appellant further indicated the incident purportedly only involved two guys instead of three or four, accused the trial judge of being associated with a bank, and called the trial judge a "fucking cruddy cracker." (R. pp. 100-101). Appellant was then removed from the courtroom, and the jury returned. (R. p. 101).

As the trial continued on, one of the officers present at the detention center on the date of the incident discussed what had occurred that day, and she described Appellant's assault of the other officers. (R. pp. 105-119). The trial was then recessed for the evening. (R. p. 120).

On the following morning, Appellant was permitted to return to the courtroom, and he confirmed he understood he had to be quiet and could not talk while others were testifying. (R. p. 121). The trial then resumed, and the officers Appellant assaulted during the incident recounted their experiences and identified Appellant as the individual who suddenly attacked them while they were simply trying to escort him to a cell. (R. pp. 122-164).

At the conclusion of the officers' testimony, the State rested, the jury exited the courtroom, defense counsel moved for a directed verdict, and the trial judge denied the motion. (R. pp. 164-165). The trial judge then advised Appellant of his right to testify and asked him if he wished to exercise that right. (R. p. 166). In response, Appellant stated he wanted to go home to his family before embarking on yet another rant. (R. pp. 167-173). During the latest one, Appellant asserted he was not under the trial judge's jurisdiction, stated he would "drop [his] balls on this whole world," proclaimed he had won millions of dollars in the lottery and was owed "every penny" due to his status as an "Asiatics Indigenous Native," again accused the trial judge of being "unnaturalized," made references to colonization and "Al Morocco," expressed the view Sharia law should be imposed, sang and rambled, declared the trial was a "mock trial," and called the trial judge a "hybrid European." (R. pp. 167-173).

Following that, the trial judge advised Appellant he was going be removed from the courtroom to give him an opportunity to speak with defense counsel again and noted the trial would be completed if he did not wish to testify. (R. p. 173). Thereafter, Appellant was removed from the courtroom and then returned after a quick recess. (R. p. 173). Once Appellant was back, the trial judge advised him he had determined Appellant waived his right to testify, and Appellant claimed he had not done so. (R. p. 174). Appellant then repeatedly asked if he was free to go, the trial judge assured he was not free to leave, and the trial judge asked Appellant if he could sit quietly during the closing arguments. (R. pp. 174-175). In response, Appellant stated he could do so and would comply on that occasion. (R. p. 175).

At that point, the solicitor and defense counsel presented their closing arguments to the jury, the trial judge instructed the jury on the applicable law, and the case was submitted to the jury. (R. pp. 176-193). A little less than ninety minutes later, the jurors indicated they had reached a verdict, and Appellant confirmed he understood he was expected not to engage in any outbursts when it was announced. (R. p. 195). The verdict was then announced in the courtroom, and the jury convicted Appellant as indicted. (R. p. 196).

After the verdict had been confirmed, the jury was excused from the courtroom, and the trial judge began the sentencing proceedings. (R. pp. 196-197; pp. 199-200). During those proceedings, Appellant directed a racist comment at the solicitor, and the trial judge promptly had him removed from the courtroom yet another time. (R. pp. 202-203). Once Appellant was gone, the trial judge noted Appellant had been able to control his conduct throughout various points of the trial and he indicated his perception was Appellant's behavior was a choice. (R. pp. 203-205). Appellant was then once again returned to the courtroom, and the trial judge imposed an aggregate ten-year sentence for Appellant's convictions. (R. p. 207).

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). Meanwhile, the matter of whether a defendant is competent to stand trial constitutes a question of fact. United States v. Prigmore, 15 F.4th 768, 776 (6th Cir. 2021). Accordingly, when an issue regarding a competency determination is raised on appeal, "great deference" is afforded to the trial judge due to the fact the trial judge "sits in a better position to ascertain the defendant's faculties," and the trial judge's ruling will be reviewed solely for clear error. State v. Colden, 372 S.C. 428, 441, 641 S.E.2d 912, 920 (Ct. App. 2007); see United States v. Robinson, 404 F.3d 850, 856 (4th Cir. 2005) (explaining competency determinations are reviewed on appeal for clear error); see also State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006) (explaining an appellate court "is bound by the trial court's factual findings unless they are clearly erroneous"). Significantly, "[t]he trial court's determination of competency will be upheld if it has evidentiary support and is not against the preponderance of the evidence." State v. Nance, 320 S.C. 501, 504-505, 466 S.E.2d 349, 351 (1996); see State v. Weik, 356 S.C. 76, 81, 587 S.E.2d 683, 685 (2002) ("The defendant bears the burden of proving his lack of competence by a preponderance of the evidence, and the trial judge's ruling will be upheld on appeal if supported by the evidence and not against its preponderance.").

ARGUMENT

Although Appellant unquestionably engaged in rude and vexatious behavior throughout his trial, the trial judge committed no error by finding Appellant was competent to stand trial because the evidence and testimony presented to him demonstrated Appellant was legally competent as opposed to incompetent and was intentionally engaging in inappropriate behavior by choice in a deliberate attempt to disrupt the proceedings so he would not be held accountable for his crimes.

Appellant—a self-proclaimed sovereign citizen and experienced criminal—contends the trial judge erred by finding him competent to stand trial.[6] As support for that contention, Appellant points to his disruptive outbursts, nonsensical and profane statements, unruly behavior, singing, and rambling while asserting that behavior was evidence he "clearly" lacked legal competency. Thus, in essence, Appellant asserts his awful behavior should be equated with incompetency purely because it was outrageous and then seeks to be rewarded with a reversal of his convictions on appeal for engaging in that awful behavior. While Appellant undeniably behaved in a vexatious and problematic manner throughout trial, the trial judge considered Appellant's behavior along with an unrefuted expert opinion presented to him regarding Appellant's competency, made a factual determination Appellant was competent to stand trial, and concluded Appellant's improper behavior was a deliberate choice on Appellant's part as opposed to an indicator of incompetency. Critically, the trial judge's factual finding in that regard was consistent with and fully supported by the evidence and testimony presented to him, and no contrary evidence—apart from Appellant's embarrassing theatrics—was introduced to undermine that finding. Accordingly, pursuant to the applicable deferential standard of review, the trial judge's factual finding regarding Appellant's competency to stand trial must be affirmed

[6] During the sentencing proceedings, the solicitor recounted Appellant's prior criminal record, which included both state and federal convictions and extended back to 2007. (R. p. 206).

on appeal since it was neither lacking in evidentiary support nor clearly erroneous. Appellant's convictions should be affirmed.

Fundamentally, a person must be mentally competent in order to be validly tried for and convicted of a criminal offense. State v. Bellardino, 429 S.C. 563, 567, 841 S.E.2d 621, 623 (2020); see Drope v. Missouri, 420 U.S. 162, 171 (1975) ("[A] person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to trial."). A person is considered to be competent to stand trial if that person has: (1) a rational and factual understanding of the proceedings; and (2) sufficient present *capacity or ability* to consult with and cooperate with defense counsel. Dusky v. United States, 362 U.S. 402, 402 (1960); see State v. Bell, 293 S.C. 391, 396, 360 S.E.2d 706, 708-709 (1987) ("[T]he test of mental competence does not focus on whether a defendant in fact cooperates with his counsel; the question is whether he has sufficient mental capacity to do so if he so chooses."). Generally speaking, all individuals are presumptively competent to stand trial, and, in South Carolina, the defendant bears the burden of establishing incompetency by a preponderance of the evidence in order to be deemed incompetent. State v. Reed, 332 S.C. 35, 39, 503 S.E.2d 747, 749 (1998); see also Medina v. California, 505 U.S. 437, 452-453 (1992) (recognizing it is constitutionally permissible to presume competency and place the burden of establishing incompetency on the defendant); Eaddy v. Dorn, 289 S.C. 356, 359, 345 S.E.2d 513, 515 (Ct. App. 1986) ("Our Supreme Court has held where a person has not been adjudicated incompetent and is not insane so as to warrant confinement in an institution, persons dealing with him have a right to rely on the presumption of mental competency unless they have actual notice otherwise.").

In the case sub judice, the trial judge—when confronted with the issue of Appellant's competency—was presented with and considered evidence and testimony from an expert forensic psychiatrist, who conducted a court-ordered evaluation of Appellant and concluded Appellant met the requisite legal standard for being competent to stand trial. See United States v. Lebrón, 76 F.3d 29, 32 (1st Cir. 1996) ("If a psychiatrist has determined that a defendant is competent, a court is not required to hold a further evidentiary hearing absent extenuating circumstances."). In addition to that, the trial judge observed Appellant's behavior, which was frequently disruptive and obnoxious but which *also* occasionally showed Appellant both understood the proceedings and was—when he so desired—capable of conforming his behavior such that he had a *capacity* to assist with his defense if he wanted to do so. See State v. Johnson, 413 S.C. 458, 468, 776 S.E.2d 367, 372 (2015) (explaining a trial judge who actually heard and saw witnesses is in a better position to evaluate things such as credibility and demeanor); State v. Taylor, 427 S.C. 208, 212, 829 S.E.2d 723, 726 (Ct. App. 2019) (recognizing a trial judge is in a "superior position" to observe what is going on in the courtroom); see also Reed, 332 S.C. at 39-40, 503 S.E.2d at 749 ("The test [for competency] is not whether the defendant is actually cooperating with his lawyer, but rather *if he has the mental capacity to do so*." (emphasis added)); cf. United States v. Coleman, 871 F.3d 470, 478 (6th Cir. 2017) ("While [Coleman] lacked the *desire*, he certainly had the *ability* to communicate. [Coleman]'s refusal to discuss the facts of his case with [defense counsel] and further refusal to allow [defense counsel] to make arguments on his behalf, demonstrate an unwillingness to communicate, not an inability to communicate."). In light of what was presented to him coupled with what he was able to personally observe, the experienced trial judge, who exhibited a great deal of patience with Appellant, made a factual finding Appellant was competent to stand trial, and his ruling in that

regard was entirely proper as it was consistent with and supported by the evidence and testimony presented. See State v. Kelly, 331 S.C. 132, 149, 502 S.E.2d 99, 108 (1998) ("The trial court's determination of competency will be upheld if it has evidentiary support and is not against the preponderance of the evidence."); cf. Weik, 356 S.C. at 81, 587 S.E.2d at 685 ("The trial judge determined [Weik] was competent to stand trial based on the opinions of the State's experts, and on his own observations of [Weik]. We find no error.").

In arguing to the contrary, Appellant points on appeal to all the wildly inappropriate things he did during his trial as supposedly clear evidence of his incompetency while noting he had to be repeatedly removed from the courtroom based on his disruptive behavior. However, the fact Appellant engaged in profane and racist rants or attempted to disrupt the proceedings by singing or rambling did *not* support an inescapable conclusion Appellant lacked a factual and rational understanding of the proceedings or a capacity to consult with and cooperate with defense counsel. See United States v. Basham, 789 F.3d 358, 381 (4th Cir. 2015) (explaining bizarre, volatile, or irrational behavior by a defendant does not necessary mean the defendant is incompetent); Lebrón, 76 F.3d at 32 ("Lebrón points to his irrational and outrageous behavior in the courtroom. . . . Such behavior may be uncontrolled, manipulative, *or even theatrical*. It is not determinative of competency. Agitated or violent courtroom antics alone do not mandate a finding by the trial court of reasonable cause [to doubt a defendant's competence]." (emphasis added)); see also United States v. Miller, 531 F.3d 340, 350 (6th Cir. 2008) (recognizing "the bar for incompetency is high"). Instead, such behavior could have simply been a component of an intentional and deliberate effort on Appellant's part to avoid being convicted, and, from his superior vantage point, the trial judge concluded Appellant's behavior was, in fact, just such a deliberate and intentional effort as opposed to being the uncontrollable product of mental illness

or legal incompetency, which was a conclusion fully supported not only by the opinion of an expert forensic psychiatrist but by the fact Appellant even seemed to personally identify what he was doing as "play[ing]" through one of his many remarks. See Indiana v. Edwards, 554 U.S. 164, 177 (2008) ("[T]he trial judge . . . will often prove best able to make more fine-tuned mental capacity decisions, tailored to the individualized circumstances of a particular defendant."); cf. United States v. James, 328 F.3d 953, 956 (7th Cir. 2003) ("That James was obstreperous . . . does not cast doubt on his mental acumen; many a person with no defense would rather play games, and try to goad the judge into error, than face the music politely.").

Similarly, Appellant points on appeal to his ridiculous references to things like corporations, banks, and Al Morocco as evidence of his lack of competency. However, rather than demonstrating his incompetency or any individualized delusion on his part, Appellant's ludicrous statements in that regard were signs of his adoption of a fringe belief system sadly *shared by others* throughout the country. See James, 328 F.3d at 956 ("One person with a fantastic view may be suspected of delusions; two people with the identical view are just oddballs."); see also People v. Anderson, 465 P.3d 98, 101 n. 4 (Colo. Ct. App. 2020) ("Those who affiliate with 'Sovereign Citizenship' believe in a particular interpretation of the common law and believe they are not subject to governmental statutes, proceedings, or jurisdictions. They believe the individual, a 'flesh and blood' man (denoted in lower case letters) is separate from a legally fictitious commercial entity imposed upon them by issuance of a birth certificate and other official documents (as governmental documents usually denote names in all capital letters). Through this fictitious entity, they believe, the United States governmental perpetrates fraud, making the individual a 'creditor' of the fictitious entity."); Lewis v. State, 532 S.W.3d 423, 430-431 (Tex. App. 2016) ("[Lewis] is one of a loosely-formed group of citizens who

believe that they are sovereign individuals, beyond the reach of any criminal court. These so-called 'sovereign citizens' share a common vernacular and courtroom strategy. Courts across the country have encountered their brand of obstinacy—not consenting to trial, arguing over the proper format and meaning of their names, raising nonsensical challenges to subject matter jurisdiction, making irrelevant references to the Uniform Commercial Code, and referring to themselves as trustees or security interest holders." (footnote omitted)); George F. Parker, Competence to Stand Trial Evaluations of Sovereign Citizens: A Case Series and Primer of Odd Political and Legal Beliefs, 42 J. Am. Acad. Psychiatry & L. 338, 347-348 (2014) ("Since sovereign citizens beliefs are akin to a shared belief system, sovereign citizens can be understood as members of a cultural group. They thus do not qualify for a diagnosis of a psychotic disorder based only on the nature of the shared beliefs. . . . [A] defendant who puts forward sovereign citizen beliefs in court or during a competence assessment is unlikely to lack the capacity to understand the nature and objectives of criminal proceedings or to be unable to assist his attorney."); cf. United States v. Landers, 564 F.3d 1217, 1222 (10th Cir. 2009) ("The fact that other federal prisoners have made the same statements and exhibited the same obstreperous behavior supported the district court's conclusion that Landers is an anti-government protestor rather than mentally incompetent."). Thus, Appellant's wrongheaded belief he was a sovereign citizen not subject to the laws of the state and nation did not demonstrate he was incompetent any more than it shielded him—or anyone else sharing the same misguided belief—from being validly tried for and convicted of a criminal offense in South Carolina. Cf. United States v. DiMartino, 949 F.3d 67, 71-72 (2d Cir. 2020) ("[T]he record supports the conclusion that DiMartino's words and actions reflected his anti-governement political views and legal theories rather than an inability to understand the proceedings against him. . . . The kind of unorthodox

political and legal theories espoused by DiMartino are not presumptive evidence of mental incompetence."); United States v. Gooch, 595 F. App'x 524, 527 (6th Cir. 2014) (rejecting a sovereign-citizen-based incompetency claim and noting "merely believing in fringe views does not mean someone cannot cooperate with his lawyer or understand the judicial proceedings around him"); United States v. Jonassen, 759 F.3d 653, 655 (6th Cir. 2014) ("Although Jonassen asserted bizarre legal theories based on his claim of 'sovereign citizenship,' that alone does not provide a reason to doubt his competence to stand trial, and the record does not otherwise suggest that he lacked the ability to understand the proceedings."); United States v. Brown, 669 F.3d 10, 18 (1st Cir. 2012) ("[T]hese words and behaviors (though often bizarre) did not evidence confusion on Edward's part about the legal proceedings against him, but rather reflected firmly held, idiosyncratic political beliefs punctuated with a suspicion of the judiciary. Moreover, while some of these beliefs reflected a misunderstanding of the law (namely that the district court did not have jurisdiction over him and that it was a commercial court) they do not render Edward incompetent to stand trial."); United States v. Benabe, 654 F.3d 753, 767 (7th Cir. 2011) ("We have repeatedly rejected [criminal defendants'] theories of individual sovereignty, immunity from prosecution, and their ilk. Regardless of an individual's claimed status of descent, be it as a 'sovereign citizen,' a 'secured-party creditor,' or a 'flesh-and-blood human being,' that person is not beyond the jurisdiction of the courts. These theories should be rejected summarily, however they are presented." (citations omitted)); People v. Williams, 138 N.Y.S.3d 690, 693 (N.Y. App. Div. 2020) (rejecting Williams's claim of incompetency and noting, instead of signs of incompetency, the record reflected Williams's behavior was "obstructionist" and "associated with adherents of the sovereign citizen's movement").

Likewise, Appellant points on appeal to his possible anti-social personality disorder diagnosis as evidence of his incompetency. Importantly though, the fact Appellant may have exhibited—and likely may still exhibit—signs of anti-social personality disorder did *not*—just as Dr. Gaskins explained—establish he was lacking in competency and, instead, simply meant Appellant had historically engaged in a pattern of behavior characterized by a violation of and disregard for the rights of others, which was a meaning that did nothing to answer the question of whether Appellant was legally incompetent. See Lee v. State, 532 S.W.3d 43, 52 (Ark. 2017) ("The mere fact that Lee suffered from a disorder such as antisocial personality disorder, without more, did not render him incompetent to stand trial."); cf. United States v. Patterson, 828 F. App'x 311, 314 (6th Cir. 2020) ("Patterson tries to counter this conclusion [of competency] by highlighting his antisocial personality disorder based on his long-standing pattern of violating the rights of others or the laws and norms of society, and his tendencies towards aggression and deceit. But in making that diagnosis, Dr. Schenk noted that antisocial personality disorder generally does not affect a defendant's competency-related abilities, and Patterson's disorder was no exception. Regrettably, antisocials fill the nation's prisons." (citations and internal quotations omitted)). Moreover, Appellant presented *no* medical evidence whatsoever to support a conclusion contrary to Dr. Gaskins's opinion, and, thus, the trial judge was not presented with any reason to disregard the expert's determinations regarding Appellant's competency. See United States v. Neal, 776 F.3d 645, 655-656 (9th Cir. 2015) ("A defendant must present 'strong' medical evidence of a serious mental disease or defect before a genuine doubt about competency will arise."); United States v. Garza, 751 F.3d 1130, 1135 (9th Cir. 2014) ("[A]n appellant who has absolutely no medical history evidence indicating incompetency will almost certainly fail to upset his conviction."); cf. State v. Breeze, 379 S.C. 538, 545, 665 S.E.2d 247,

251 (Ct. App. 2008) ("Faced with [the officer]'s undisputed testimony the trial court concluded the State had showed that Breeze voluntarily made the statement. Based on [the officer]'s testimony, we cannot conclude the trial court's ruling is unsupported by any evidence.").

Accordingly, while Appellant's odious behavior strongly suggests he wished to avoid being held to account for the crimes he committed at any and all costs, the trial judge's factual finding Appellant was competent to stand trial was in no way erroneous as it was consistent with and fully supported by the evidence and testimony presented during trial, and nothing that occurred during Appellant's trial warranted a conclusion to the contrary. See State v. Lee, 274 S.C. 372, 374, 264 S.E.2d 418, 418-419 (1980) ("[T]he burden of proving that he was not competent to stand trial was upon him, and the burden of proof in such cases is by the preponderance of the evidence."); see also United States v. Alden, 527 F.3d 653, 660 (7th Cir. 2008) ("Simply being a monumental pain in the neck is not a symptom of incompetency; it is usually a symptom of stupidity."). Under such circumstances, no proper basis exists upon which the trial judge's factually-supported competency determination could be disturbed on appeal. See Kelly, 331 S.C. at 149, 502 S.E.2d at 108 ("The trial court's determination of competency will be upheld if it has evidentiary support and is not against the preponderance of the evidence."); cf. Lee, 274 S.C. at 374-374, 264 S.E.2d at 418-419 (affirming the trial judge's finding of competency even though testimony was present "which, if believed, would have warranted a finding that this defendant was not competent to stand trial" and concluding "[w]e cannot say that [the trial judge's] finding that the defendant was capable of standing trial was without evidentiary support or against the preponderance of the evidence"). Appellant's convictions should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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August 22, 2022

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
Honorable Roger M. Young, Sr., Circuit Court Judge
Appellate Case No. 2021-000990

THE STATE,

Respondent,

vs.

DAVID ANTONIO LITTLE, JR.,

Appellant.

CERTIFICATE OF COUNSEL

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

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