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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from Chesterfield County
Honorable Roger M. Young, Sr., Circuit Court Judge
Appellate Case No. 2024-000219

THE STATE,

Respondent,

vs.

DAVID ANTONIO LITTLE, JR.,

Petitioner.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF ISSUE ON CERTIORARI

“Did the Court of Appeals err in upholding the trial judge’s ruling that petitioner was mentally competent to stand trial where there was no evidentiary proof to support such a ruling because a cumulative review of the record as a whole, which included 85 instances of petitioner’s disruptive behaviors at trial, his removal from courtroom on 3 occasions, and his clear misunderstanding of the legal process, all clearly establish that petitioner was not mentally competent to stand trial?”

COUNTER-STATEMENT OF ISSUE ON CERTIORARI

Did the Court of Appeals somehow err by concluding the trial judge committed no error by finding Little was competent to stand trial when—although Little unquestionably engaged in rude and vexatious behavior throughout his trial—the evidence and testimony presented to him demonstrated Little 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

Procedural History

In March of 2021, Petitioner 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 Little 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 Little as indicted. Following the verdict, the trial judge sentenced Little to three concurrent ten-year terms of imprisonment for his offenses. Little then timely filed and perfected an appeal.

On appeal, the Court of Appeals—following briefing—issued an unpublished decision unanimously affirming Little’s convictions. State v. Little, Op. No. 2024-UP-033 (S.C. Ct. App. filed Jan. 31, 2024). Thereafter, Little timely filed a petition for rehearing, and that petition was denied. Little then filed a petition for a writ of certiorari in the Supreme Court.

Factual History

Around noon on March 9, 2021, Little, 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 Little’s agitated and non-compliant behavior, one of the detention officers at the facility covertly requested help getting Little—who was unrestrained at the time—back to his cell, and several officers from the Chesterfield County Sheriff’s Office

¹ At that time, Little 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/>.

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 Little 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, Little 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). Little 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, Little 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).

As a result of Little'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, Little 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 Little'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

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

to determine whether Little was competent to stand trial.³ (R. pp. 42-44; p. 209). As part of his evaluation, Dr. Gaskins interviewed Little and reviewed a number of other sources of information, including letters and documents that were believed to have been authored by Little. (R. p. 210). At some points during the interview, Little provided appropriate answers to the questions posed. (R. p. 213). However, at other times, Little 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, Little directed racist comments towards Dr. Gaskins and expressed disdain for what he referred to as “pale people.” (R. p. 215). Furthermore, Little 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, Little 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 Little was competent to stand trial, and he further concluded any difficulties Little would have working with his defense counsel would be the result of Little’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, Little was brought to trial. (R. p. 5; p. 15). At the outset of the trial, Little 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, Little 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

³ Apparently, the competency evaluation was ordered because defense counsel had “questions” about Little’s behavior. (R. p. 209).

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 Little’s rant, the trial judge warned Little he would not be permitted to remain in the courtroom if his behavior continued, and Little indicated he wanted to stay. (R. pp. 12-13). However, Little followed that with a bizarre comment about the trial judge “hav[ing] to break trees,” and the trial judge again cautioned Little. (R. pp. 13-14). Little 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, Little 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 Little and opined Little had the requisite capacity to stand trial. (R. p. 44).

However, while Dr. Gaskins was in the midst of his testimony, Little started engaging in disruptive behavior, and the trial judge directed him to stand. (R. p. 47). In response, Little 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). Little then accused the trial judge of

⁴ At the outset of that hearing, Little—according to the court reporter—was “rambling at the defense table.” (R. p. 41).

playing “fucking games” and stated he would stand and sit as he pleased. (R. p. 48). Following that, the trial judge again warned Little he would not be permitted to remain in the courtroom if his behavior continued, and Little responded by using profane language and making more racist statements. (R. p. 49). At that point, the trial judge noted Little had demonstrated a capacity to act appropriately for more than an hour that morning and again cautioned Little he would be removed if his inappropriate behavior continued. (R. p. 50). Little then referenced the common law and demanded some sort of “handwritten policy,” and the trial judge extended one more opportunity for Little to alter his behavior. (R. p. 51). In response to the offer, Little stated he would be quiet “[j]ust for right [then].” (R. p. 51).

Upon Little agreeing to remain quiet for at least some period of time, Dr. Gaskins resumed his testimony and explained why he believed Little was competent to stand trial. (R. pp. 52-57). More specifically, Dr. Gaskins noted Little behaved appropriately at some 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 Little 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 Little 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, Little interrupted and accused the expert of “[m]aking up bull shit.” (R. p. 60). In response, the trial judge had Little removed from the

courtroom, and, according to the court reporter, Little was “rambling” as he was led away. (R. p. 60).

Once Little was gone, Dr. Gaskins continued his testimony and explained Little’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 Little was not incapable of assisting defense counsel due to mental illness and any failure on Little’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 Little 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 Little 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 Little, 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 Little 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 Little as instructed. (R. p. 67).

Thereafter, following a short recess, defense counsel returned to the courtroom, indicated Little was unlikely to cooperate, and stated Little 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 Little 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 Little's part. (R. p. 68). Nevertheless, defense counsel indicated she did not personally think Little 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 Little as a witness during the competency hearing, and Little 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, Little asserted he tells the truth all the time, including when he lies "like . . . Mark Zuckerberg." (R. p. 71). Little 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). Little followed that by repeatedly questioning whether Dr. Gaskins had been sworn and had promised to tell the truth. (R. pp. 71-72). Little was then asked if he personally promised to tell the truth, and Little 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 Little he had been charged with three serious offenses potentially exposing him to thirty years of incarceration, explained to Little he was trying to ensure Little received a fair trial, alerted Little of the competency issue, advised him of his right to testify, indicated the trial would go forward if Little was found to be competent, and noted Little 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).

⁵ Notably, during the trial judge's colloquy with Little, Little—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).

Little replied to those remarks by indicating he would “show [his] ass for real.” (R. p. 74).

Following that, the trial judge asked Little if he wished to participate with the proceedings, and Little responded affirmatively while remarking: “Let’s play.” (R. p. 74).

At that point, Little testified on his own behalf concerning his competency. (R. p. 75). During his testimony, Little—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, Little 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, Little 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, Little further remarked the votes were changed around after being cast “like they do with Donald Trump.” (R. p. 76). Finally, Little 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, Little 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 Little’s testimony was concluded, the trial judge found Little 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 Little 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 Little in the courtroom as one of the people shown in the recording. (R. p. 99).

At that point, Little 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 Little he could not engage in disruptive behavior and ordered him removed from the courtroom for the remainder of the day. (R. p. 100). Little responded by chastising defense counsel for failing to object and advising the trial judge he wanted to stop her "ineffective assistance." (R. p. 100). Little 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). Little 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 Little'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, Little 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 Little assaulted during the incident recounted their experiences and identified Little 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 Little of his right to testify and asked him if he wished to exercise that right. (R. p. 166). In response, Little stated he wanted to go home to his family before embarking on yet another rant. (R. pp. 167-173). During the latest one, Little 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 Little he was going to 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, Little was removed from the courtroom and then returned after a quick recess. (R. p. 173). Once Little was back, the trial judge advised him he had determined Little waived his right to testify, and Little claimed he had not done so. (R. p. 174). Little then repeatedly asked if he was free to go, the trial judge assured he was not free to leave, and the trial judge asked Little if he could sit quietly during the closing arguments. (R. pp. 174-175). In response, Little 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 Little 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 Little 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, Little 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 Little was gone, the trial judge noted Little had been able to control his conduct throughout various points of the trial and he indicated his perception was Little's behavior was a choice. (R. pp. 203-205). Little was then once again returned to the courtroom, and the trial judge imposed an aggregate ten-year sentence for Little's convictions. (R. p. 207).

Subsequently, Little appealed. (App. Br. pp. 1-10). On appeal, the Court of Appeals affirmed. State v. Little, Op. No. 2024-UP-033 (S.C. Ct. App. filed Jan. 31, 2024). In doing so, the Court of Appeals concluded the trial judge did not err by finding Little was competent to stand trial because: (1) Little had the ability to consult with his attorney, understood the nature and object of the proceedings, and had a rational and factual understanding of the proceedings against him; (2) the trial judge's competency determination was supported by the trial judge's observations of Little's behavior and expert testimony; and (3) neither Little's fringe belief system, antisocial personality disorder diagnosis, nor hostility toward the trial court rendered him incompetent. Id.

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

The Court of Appeals correctly concluded the trial judge committed no error by finding Little was competent to stand trial because—although Little unquestionably engaged in rude and vexatious behavior throughout his trial—the evidence and testimony presented to him demonstrated Little 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.

Little—a self-proclaimed sovereign citizen and experienced criminal—contends the Court of Appeals reversibly erred by upholding the trial judge’s finding he was, in fact, competent to stand trial.⁶ As support for that contention, Little 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, Little 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 Little undeniably behaved in a vexatious and problematic manner throughout trial, the trial judge considered Little’s behavior along with an unrefuted expert opinion presented to him regarding Little’s competency, made a factual determination Little was competent to stand trial, and concluded Little’s improper behavior was a deliberate choice on Little’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 Little’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 Little’s competency to stand trial had to be affirmed on appeal since it was neither lacking in evidentiary support nor clearly

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

erroneous, and the Court of Appeals correctly did so. Little's petition for a writ of certiorari should be denied.

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 Little’s competency—was presented with and considered evidence and testimony from an expert forensic psychiatrist, who conducted a court-ordered evaluation of Little and concluded Little 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 Little’s behavior, which was frequently disruptive and obnoxious but which *also* occasionally showed Little 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 Little, made a factual finding Little 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, Little points 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 Little engaged in profane and racist rants or attempted to disrupt the proceedings by singing or rambling did *not* support an inescapable conclusion Little 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 Little’s part to avoid being convicted, and, from his superior vantage point, the trial judge concluded Little’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 Little 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, Little points 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, Little’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, Little’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-government 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, Little points to his possible anti-social personality disorder diagnosis as evidence of his incompetency. Importantly though, the fact Little 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 Little 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 Little 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, Little 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 Little’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 Little’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 Little 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 Little’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, the Court of Appeals was required to affirm the trial judge’s factually-supported competency determination on appeal, and it correctly did just that. 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”). Little’s petition for a writ of certiorari should be denied.

CONCLUSION


For all the foregoing reasons, it is respectfully submitted Petitioner’s petition for a writ of certiorari should be denied.

Respectfully submitted,

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