STATE OF SOUTH CAROLINA	)	
County of Colleton	)	IN THE COURT OF APPEALS
William Cornelius Sanders	)	Appellate Case No. 2021-001536
Appellant/Petitioner,	)	
v.	)	
	)	CERTIFICATE OF SERVICE
State of South Carolina	)	
Respondent.	)	
	)	

The undersigned *pro se* Appellant/Petitioner, William C. Sanders, does hereby certify that service of the Appellant's Petition for Rehearing with respect to the above-captioned action was made upon the Respondent, State of South Carolina, by placing a copy of the same in the United States Mail postage prepaid, in a properly addressed envelope, on the date indicate below and addressed as follows:

Fourteenth Judicial Circuit
Office of the Solicitor
Attn: Isaac McDuffie Stone, III
101 Hampton Street
Walterboro, S.C. 29488

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 9th DAY OF May
20 24. Virginia Robinson
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES April 21, 2031

X William C Sanders
William C. Sanders
Pro Se Appellant
5-9-24

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SC Court of Appeals

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County of Colleton	)	IN THE COURT OF APPEALS
William Cornelius Sanders	)	Appellate Case No. 2021-001536
Appellant/Petitioner,	)	
v.	)	
	)	CERTIFICATE OF SERVICE
State of South Carolina	)	
Respondent.	)	
	)	

The undersigned *pro se* Appellant/Petitioner, William C. Sanders, does hereby certify that service of the Appellant's Petition for Rehearing with respect to the above-captioned action was made upon the Respondent, State of South Carolina, by placing a copy of the same in the United States Mail postage prepaid, in a properly addressed envelope, on the date indicate below and addressed as follows:

Office of the Attorney General
Attn: Ambree M. Muller
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SWORN TO AND SUBSCRIBED BEFORE ME
THIS 9th DAY OF May
20 24. Virginia Robinson
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES April 21, 2031

X William C Sanders
William Cornelius Sanders
Pro Se Appellant
5-9-24

STATE OF SOUTH CAROLINA	)	
County of Colleton	)	IN THE COURT OF APPEALS
William Cornelius Sanders	)	Appellate Case No. 2021-001536
Appellant/Petitioner,	)	
v.	)	
	)	APPELLANT'S PETITION
State of South Carolina	)	FOR REHEARING
Respondent.	)	(MEMORANDUM IN SUPPORT)
	)	

The Appellant/Petitioner, William Cornelius Sanders, pursuant to SC R A CT Rule 221, does hereby petition this right-honorable court for a rehearing to address material points either overlooked or misapprehended by the same. In support of said petition, the Appellant offers the following:

STATEMENT OF ISSUE ON APPEAL

Did the trial judge abuse his discretion by admitting evidence that ten days before the shooting, during an argument with the complainant, Appellant's then girlfriend, Appellant displayed a gun, threatened to "bury [her] in this backyard" and repeatedly struck her with an open hand, since such evidence was improper propensity evidence, was not admissible pursuant to Rule 404(b), SCRE, was not part of the res gestae, and any probative value of the evidence was substantially outweighed by the danger of unfair prejudice?

DISCUSSION

This honorable court held that the trial court did *not* abuse its discretion by admitting evidence of the prior bad act. The Court found that there exists probative evidence to support the court's finding that the testimony was admissible under 404(b), to show Appellant's motive and intent. Additionally, the Appellate Court held the testimony was admissible as part of the *res gestae*, opining that it was "integral to the crime and an understanding of the context in which the crime occurred." Finally, the Court finds that the probative value of the challenge evidence was not outweighed by the danger of unfair prejudice to the Appellant. Although cited generally by the Court in this opinion, *State v. Wilson*, 345 S.C. 1, 7, S.E.2d 827, 830 states that "[E] vidence is unfairly prejudicial if it has an undue tendency to suggest a decision on an improper basis, such as an emotional one." The Appellant respectfully disagrees.

The Appellant asserts that the Court, in its wisdom, has misapprehended his position and overlooked "points", with respect to the issue *sub judice*. SCR A CR Rule 221(a) ("Rehearing. ... [A] petition for rehearing shall be in accordance with RULE 240, and shall state with particularity the points supposed to have been

overlooked or misapprehended by the court...[ ]")Appellant asserted, at trial[1] and in his Initial Brief, that his position with respect to the admission of the challenged evidence, was that that the challenged evidence would not only encourage the jury to convict the Appellant of the crime charged on the basis of his perceived propensity to be violent, but that the State was seeking to enter the evidence exactly for that purpose. The Appellant asserts that the Appellate Court's decision did not include an assessment which took into consideration the likelihood that the jury would improperly perceive the challenged evidence to be proof of Sanders' *inclination* toward violence and/or his *propensity* to be the person who "shot Miss Kelly." Tr. 9, ll.5-8. The Appellant contends the court's Opinion (2024-UP-141) does not indicate the consideration of the issue from a perspective which takes into account the prejudicial effect that the propensity evidence would have on the jury. Although the concept of "propensity" has been replete throughout Sanders' opposition and central to the his argument for exclusion of the challenged evidence[2], the Court failed to reference it once in its Opinion. Suffice it say, one omission does not a misapprehension make. The court opined that the trial court did not abuse its discretion when it admitted the challenged evidence. The Court's opinion rested on three points: 1) That the evidence went to "show [Appellant's] motive and intent; 2) That the evidence was part of the res gestae of the crime; and 3) That the prejudicial effect did not outweigh the probative value. The Appellant asserts that the Court misapprehend his argument with regard to propensity when it

[1] The Appellant craves reference to the trial record where trial counsel specifically argued - in the form of a pre-trial motion and contemporaneous objection – that the Defense's position was that the challenged evidence would not only encourage the jury to convict the Appellant of the crime charged on the basis of his perceived propensity to be violent, but that the State was seeking to enter the evidence exactly for that purpose alone.

[2] Foremost in trial counsel's pre-trial argument for exclusion are specific references to the likelihood that propensity evidence would influence the jury to convict Appellant on an improper basis. See, Tr. 8, l. 23 – 9, l. 8; Tr. 13, ll. 5-10; Tr. 13, l. 21 – 14, l. 3; In the Appellant's Initial Brief of Appellant, Appellate Counsel uses the term "propensity" – in context – at least 11 times.

decided that his challenged actions constituted proof of his motive for and intent to murder the victim. The evidence adduced at trial does not support this position and, being that it does not, the assertion that his actions are, *in fact*, the motivation for the shooting "fly in the face" of the Appellants argument that the accusations create an unfair *presumption* that he did. That is the epitome of "insult to injury". Secondly, the State's contention and Court's concurrence that the challenged evidence constitutes parts of the *res gestae*, is simply a misapprehension of the facts, as the State's own evidence and theory of the crime do not support position that the challenged events are necessary to a "full presentation" of the case. The challenged events, by State's own admission, are isolated in time and place. When analyzed from this prospective, the effect of propensity influence would definitely outweigh the minimal, if at all existent, probative value of the supposed res gestae. Finally, the Appellant notes that, if the prejudicial effect of the challenged evidence outweighs the probative value, then the "bad acts" evidence must be excluded, admissibility notwithstanding. Obviously, the Appellant respectfully disagrees with ultimate decision of the Court but, *a multo fortiori*, he asserts that the Opinion does reflect that the specific *basis* upon which the prejudice rests (i.e. propensity) was assessed in the Court's balancing of the competing factors, i.e. prejudice versus probative.

TABLE OF AUTHORITIES

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