STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to the Court of Appeals
Appeal from Lexington County
Honorable R. Knox McMahon, Circuit Court Judge
Appellate Case No. 2011-194608

THE STATE,

Respondent,

vs.

BEULAH RUTH BUTLER,

Petitioner.

BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

In July of 2006, Petitioner Beulah Ruth Butler was arrested after law enforcement officers responding to an emergency call discovered a mortally-wounded man on the floor of Butler's apartment. In November of 2007, the Lexington County grand jury indicted Butler for voluntary manslaughter and possession of a firearm or knife during the commission of a violent crime. On February 25, 2008, a jury trial was commenced in the Lexington County court of general sessions with the Honorable R. Knox McMahon, circuit court judge, presiding. At the conclusion of trial, Butler was convicted as indicted. Following the verdict, the trial judge sentenced Butler to concurrent terms of imprisonment of nine years for voluntary manslaughter and five years for possession of a firearm or knife during the commission of a violent crime. The trial judge further ruled Butler was entitled to parole eligibility after serving one quarter of her sentence after finding Butler presented credible evidence regarding a history of criminal domestic violence. Butler then timely filed and perfected an appeal.

Subsequently, in an unpublished opinion, the Court of Appeals unanimously affirmed Butler's conviction. State v. Butler, Op. No. 2011-UP-127 (S.C. Ct. App. filed March 28, 2011). Butler petitioned the Court of Appeals for rehearing, and the petition was denied. Butler then filed a petition for a writ of certiorari in the Supreme Court, and the petition was granted on February 22, 2013.

STATEMENT OF FACTS

Shortly before 1:00 a.m. on the morning of July 23, 2006, Officer Salvatore Castellano of the West Columbia Police Department was on patrol when he encountered Petitioner Beulah Ruth Butler at a gas station convenience store where she was buying cigarettes. (R. pp. 3-4). Butler joked with the officer that he did not look busy and she could give him something to do. (R. p. 5). The officer laughed with Butler and then watched as she exited the store and got into a van waiting outside. (R. p. 5). As he continued to watch, Officer Castellano saw a man in the passenger seat of the van who appeared to be upset and looked like he was "fussing" at Butler. (R. pp. 5-6). However, the officer never observed the man strike or hit her. (R. p. 6).

Subsequently, at around 1:30 a.m., Doris Robinson, the mother of the victim, Tarquinius Lenard Russell ("Victim"), received a call from her son, who was crying, mumbling, and sounded frustrated. (R. pp. 10-11). During the call, Robinson heard Butler arguing and bickering with Victim in the background. (R. pp. 11-12). As the call continued, Robinson overheard Butler state in a nasty voice: "Every time something come up, you got to call your momma." (R. pp. 12-13). Robinson then asked Victim to come home before hearing Butler state: "That's your momma. You talk to her." (R. p. 14). Unexpectedly, the phone then went dead, and Robinson was unable to reach Victim when she attempted to call back. (R. pp. 14-15). Robinson never spoke with Victim again. (R. p. 15).

At around 2:00 a.m., Annette Haltiwanger, one of Butler's neighbors and friends, was preparing to go to sleep when she heard a noise outside. (R. pp. 22-23). Haltiwanger went to her door to investigate the noise and heard Butler say: "Why?" (R. p. 24). Believing a domestic violence incident was occurring, Haltiwanger called 911.

(R. p. 24). Haltiwanger then approached Butler's apartment and looked inside the door.[1] (R. pp. 25-26). She observed the interior of the apartment in disarray and saw Butler sitting on the floor holding Victim's hand while he laid on the floor mumbling. (R. pp. 26-27). Haltiwanger then called 911 to report Victim was injured. (R. p. 27).

Shortly after Haltiwanger called 911, Lieutenant Robert Sharpe and Corporal John Reese of the West Columbia Police Department arrived on the scene and heard a woman screaming inside of the apartment. (R. p. 38; p. 40; p. 42; p. 52). The officers entered Butler's home and observed the interior of the apartment in disarray. (R. pp. 42-43; p. 54). They discovered Victim lying on the floor against the wall with Butler holding him and crying. (R. p. 43; p. 74). Victim appeared to be in grave condition with a stab wound to his right chest, prompting the officers to request medical support. (R. p. 43; p. 64). Lieutenant Sharpe then asked Butler if she stabbed Victim. (R. p. 44). Butler initially responded she did not know before stating: "He rolled over on the knife." (R. p. 44; p. 56). Butler then revealed that the knife involved in the incident was in the kitchen. (R. p. 56). Corporal Reese handcuffed Butler, placed her into a patrol car, and located the knife in the kitchen sink. (R. pp. 57-59). Shortly thereafter, medical personnel arrived on the scene and transported Victim to the hospital. (R. p. 67).

At approximately 2:25 a.m., Investigator Charles Bramlett of the West Columbia Police Department arrived at Butler's apartment. (R. pp. 75-76). While on the scene, he advised Butler of her rights and asked her what happened. (R. p. 76; p. 78; p. 90). Butler informed the officer she and Victim were at a bar earlier in the evening, she received a call from another man, and Victim became angry. (R. p. 79). After they arrived home

[1] During trial, Haltiwanger testified she actually entered Butler's apartment. (R. p. 26). However, Butler denied Haltiwanger ever entered the apartment after the stabbing, and the law enforcement officers who responded to the scene testified they discovered Haltiwanger standing outside of the apartment upon their arrival. (R. p. 42; p. 52; p. 605).

from the bar, Butler stated they began physically fighting. (R. p. 84). After that, Butler claimed they got into bed and Victim choked her until she passed out. (R. p. 79). When she woke up, Butler stated Victim had trashed the living room, she went into the kitchen and got a knife, Victim jumped over the couch onto the knife, and she then put the knife into the kitchen sink. (R. p. 79). Butler also claimed Victim hit her in the head with a V.C.R. (R. p. 79). While speaking with Butler, Investigator Bramlett observed a small scratch on the right side of Butler's collarbone, two small cuts on her left knee, and two small cuts on her left thigh. (R. p. 86; p. 168). The scratch mark on Butler's collarbone was below her neck and across her chest. (R. p. 168). Additionally, Butler had a minor injury to her lip. (R. pp. 167-168).

After speaking to Butler, Investigator Bramlett processed the crime scene inside Butler's apartment and located blood splatters in various locations throughout the living room area, including on the carpet, an afghan, the walls, a V.C.R., the baseboards of the walls, a vacuum cleaner, and the back of a television. (R. pp. 178-180; pp. 192-194; p. 196). Investigator Bramlett also located the outline of blood droplets on the knife blade, with the blood appearing to have been wiped off. (R. pp. 195-196). He then collected samples of the blood droplets spread throughout Butler's home. (R. p. 197). Investigator Bramlett noted the apartment was in disarray and located a gouge mark in the ceiling near the television. (R. pp. 172-173; p. 178; p. 184). Additionally, he collected a denim shirt belonging to Butler from a laundry hamper. (R. p. 209). Butler's shirt was stained with blood. (R. pp. 218-219; p. 255).

Meanwhile, Dr. Stephen Fann, an expert trauma surgeon at Palmetto Richland Memorial Hospital, attempted to treat Victim's injuries. (R. pp. 110-114; p. 116). During surgery, Dr. Fann discovered a large wound to Victim's right lateral chest wall

along with cuts to Victim's hands and shoulder. (R. p. 116; p. 124). The wound to Victim's chest was seven to ten inches deep, resulting in penetrating injuries to Victim's heart, right lung, and pulmonary artery. (R. pp. 116-118). During surgery, Victim went into cardiac arrest and received several complete blood transfusions, but Dr. Fann was able to temporarily repair his injuries. (R. p. 119; p. 121). However, Victim later died in the intensive care unit as a result of the stabbing. (R. p. 119; p. 121).

Later that morning, Butler was transported to the West Columbia Police Department. (R. p. 128). While there, Victim Services Officer Coleen Belk escorted Butler to the restroom. (R. p. 129). Butler, who appeared slightly angry and inconvenienced, began praying out loud and asking for divine assistance. (R. pp. 130-131). In response, Officer Belk advised Butler she should pray for Victim while he was in surgery. (R. p. 130). Butler responded that "it was a whole lot of nothing, a mess about nothing[.]" (R. p. 130). Additionally, Butler informed Officer Belk that she did not do anything to Victim and that he fell on the knife when he was coming over the couch. (R. p. 132). As she continued speaking with Butler, Officer Belk asked her if she needed any medical attention, and Butler responded in the negative without complaining of any injuries. (R. p. 131; p. 133). However, Officer Belk observed a small cut on Butler's leg and cuts on Butler's collarbone. (R. pp. 131-133).

At approximately 10:00 a.m., Butler was transported to the Lexington County Detention Center.[2] (R. pp. 143-144; p. 160). While admitting Butler to the detention center, the booking officer did not observe any signs of apparent injuries, pain, bleeding, bruises, cuts, or symptoms suggesting Butler needed emergency medical care. (R. pp.

[2] After Butler was booked into the detention center, the clothes she was wearing at the time of her arrest were retrieved as evidence. (R. p. 160).

149-151; p. 157). Butler also affirmatively stated she did not need any immediate medical attention. (R. p. 150). During a routine medical screening, the booking officer asked Butler if she fainted or suffered a head injury in the preceding seventy-two hours. (R. p. 151). Butler responded that she had not. (R. p. 151).

Later that day, Dr. William Armstrong, a forensic pathologist at Lexington Medical Center and expert in forensic pathology, performed an autopsy on Victim. (R. pp. 377-378; p. 380). During the autopsy, the forensic pathologist discovered a stab wound to Victim's chest along with four other knife wounds to the right side of Victim's body and one other knife wound to the left side of Victim's body. (R. p. 381). Dr. Armstrong located a defensive wound to Victim's left palm consistent with an attempt to block a knife, a superficial stab wound to Victim's neck and shoulder area, two defensive wounds near Victim's shoulder and the middle of his arm, and a defensive wound to Victim's right wrist. (R. pp. 381-382; pp. 384-385). No other significant injuries were discovered, and there were no signs of bruising or scratches or any injuries suggesting Victim grabbed the knife blade. (R. p. 385; p. 394). Dr. Armstrong concluded Victim died from the stab wound to the chest and the death was a homicide.[3] (R. p. 396).

Three days after the incident, Detective David Dove of the West Columbia Police Department met with Butler to photograph and document the progression of her apparent injuries. (R. pp. 259-260; p. 265). Detective Dove noticed Butler's lip appeared to be slightly swollen with a small cut. (R. p .265). He also noticed scratches on Butler's lower neck and upper chest. (R. p. 265). However, Detective Dove did not notice any bruising around Butler's neck. (R. p. 266).

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[3] Dr. Armstrong opined the fatal stab wound to Victim's chest was likely the last wound inflicted because the injury would have rapidly immobilized Victim. (R. p. 395). Notably, he testified the knife likely entered Victim's body between his ribs and would have been difficult to extricate. (R. p. 395; p. 409).

Subsequently, forensic testing was performed on samples of Victim's blood and body tissue collected during the autopsy. (R. p. 279; p. 359). No alcohol was detected in Victim's liver, and 0.03 percent weight per volume of ethanol was detected in Victim's brain tissue. (R. pp. 279-280). Further testing revealed the presence of 0.035 percent weight per volume of ethanol in Victim's blood sample and 0.086 percent weight per volume of ethanol in Victim's ocular fluid. (R. p. 359; p. 361). A forensic toxicologist concluded Victim's blood alcohol concentration at the time he was stabbed was potentially 0.17 percent, which he opined would have required Victim to have consumed approximately seven to eleven drinks in an hour. (R. p. 365; pp. 368-369). No illegal drugs were detected in Victim's system. (R. pp. 360-361).

Additionally, Lillie Gallman, an expert forensic D.N.A. analyst with S.L.E.D., analyzed blood samples collected from the crime scene and cuttings taken from the blood stains found on Butler's shirt and the denim shirt taken from Butler's laundry hamper. (R. p. 308; p. 310; pp. 316-317). Gallman determined Victim's blood was located on both of Butler's shirts, the lamp, the knife, the porch of Butler's apartment, the living room carpet, the V.C.R., the bedroom wall, the vacuum cleaner, the kitchen doorframe, and the living room baseboards.[4] (R. pp. 319-323). Gallman further determined Butler's D.N.A. was possibly present on the living room baseboards. (R. p. 322).

Butler was subsequently indicted for voluntary manslaughter and possession of a firearm or knife during the commission of a violent crime, and she proceeded to trial. (R. pp. 814-817). During trial, the officers, medical personnel, and experts involved in the case testified about their responses to the stabbing and the ensuing investigation into

[4] The blood on Butler's porch fell from the gurney as medical personnel removed Victim from Butler's apartment. (R. p. 67).

Victim's death. Thereafter, at the conclusion of the State's case, defense counsel moved for a directed verdict, arguing none of the State's evidence refuted self-defense. (R. pp. 412-413). In response, the solicitor argued the evidence presented during trial refuted self-defense, asserting Butler's own statements indicated Victim was not stabbed in self-defense in light of the fact Butler claimed Victim either rolled on or jumped on the knife. (R. p. 417). After considering the arguments of counsel, the trial judge denied the directed verdict motion, finding there was sufficient evidence to submit the case to the jury and Butler's conflicting statements created an issue of credibility and believability for the jury to resolve. (R. pp. 423-424). The trial judge further stated: "Although I realize under State versus Addison, as [defense counsel] pointed out, the State has the burden of disproving self-defense by proof beyond a reasonable doubt. I'm not applying that standard at this stage as you both know." (R. p. 424).

Subsequently, Butler testified in her own defense.[5] (R. p. 429). Initially, Butler detailed several incidents allegedly occurring in the years leading up to Victim's death in which Victim either slapped her, threw something at her, came after a male friend, pushed her into a wall, or held her down. (R. pp. 438-439; pp. 440-443; pp. 451-454; pp. 457-458; pp. 464-465; p. 466). Butler acknowledged she fought with or struck Victim in a number of the incidents, but she claimed she never hit Victim first.[6] (R. pp. 442-443; pp. 453-454; pp. 464-465; p. 467).

[5] During her testimony, Butler admitted she was previously convicted of a fraudulent check charge in December of 2005. (R. p. 539).

[6] During the incident in which Butler claimed Victim pushed her into the wall, Butler admitted she "messed up" Victim's eye during the altercation. (R. pp. 478-479; p. 532).

Regarding the fatal stabbing of Victim, Butler testified Victim drove her to and picked her up from a hair appointment on the day before the morning of Victim's death.[7] (R. pp. 468-469; p. 473). Later on that evening, Butler stated she went to a bar with Victim where they consumed alcohol and Victim became very intoxicated. (R. pp. 483-485). On the way home, Butler testified she received a call from another man and Victim became angry. (R. pp. 487-488). After arriving home, Butler claimed Victim pushed her in the head and insulted her. (R. p. 488). Butler testified Victim then punched her to the floor and they began fighting.[8] (R. p. 489). Butler claimed she retreated to the bedroom, pretended to call the police, changed out of her denim shirt into a t-shirt, and told Victim to leave. (R. pp. 489-491; p. 493). She testified Victim then came into the bedroom while talking on the phone to his mother and told his mother that Butler was acting crazy. (R. pp. 493-494). After Victim's call ended, Butler testified she continued arguing with Victim and each said negative things about the other's mother. (R. p. 494). Butler claimed Victim then wrapped his fingers around her neck and choked her into unconsciousness on her bed. (R. p. 495). When she regained consciousness, Butler stated she walked to the door of the bedroom and Victim threw a bottle at her. (R. p. 494). Butler testified she then told Victim to leave and he hit her in the face with a V.C.R. (R. pp. 497-498). Butler claimed she headed towards the back door, Victim grabbed her by the shirt, and she grabbed a knife and began swinging it at him. (R. pp. 499-500). She claimed they both then stopped and just started arguing. (R. p. 501). Butler testified she then attempted to move by the couch, Victim climbed over it, she

[7] During trial, the cosmetologist who styled Butler's hair during the hair appointment testified Butler's hair looked slightly out of place on the back side after the incident but did not look like a violent altercation had occurred. (R. pp. 699-700; pp. 706-707).

[8] Butler testified they were fighting "like two men." (R. p. 558).

again moved towards the kitchen, and she started swinging the knife when Victim grabbed her arm. (R. pp. 503-504). Butler stated she cut Victim and he let her go. (R. pp. 506). Butler claimed Victim then grabbed her and attempted to make her cut herself with the knife, which she stated resulted in cuts to her legs. (R. p. 507). Butler testified she then turned around and Victim came down on the knife. (R. pp. 507-508). Butler testified she then helped Victim to the floor and threw the knife into the sink before hearing the voices of her neighbor and police officers. (R. pp. 509-511). Butler denied remembering much of anything else. (R. p. 514).

On cross-examination, Butler admitted she lied to the police if she told them Victim rolled on the knife because that statement was not true. (R. pp. 540-541). Critically, Butler vehemently denied stabbing Victim and stated Victim received the stab wound from falling on the knife. (R. p. 542; p. 547). Butler denied Victim was stabbed while she was defending herself and stated the only injury she inflicted on Victim while trying to protect herself was a cut to his wrist. (R. p. 543; p. 545). Butler testified Victim's injuries were accidental and the result of Victim falling on or running into the knife. (R. pp. 543-545; p. 547). Butler further claimed she did not know how Victim received the other stab wounds and injuries and she did not know how Victim's blood got onto the shirt she allegedly changed out of before the stabbing. (R. p. 546; p. 569). Additionally, Butler testified Victim struck her as hard as he could in her face multiple times during the altercation. (R. p. 559).

In addition to Butler's testimony, Dr. Lois Veronen, a clinical psychologist and expert in battered woman syndrome, testified about her evaluation of Butler following

Victim's death.[9] (R. p. 633; p. 636). Based on her evaluation, Dr. Veronen concluded Butler suffered from post-traumatic stress disorder.[10] (R. p. 646). However, Dr. Veronen conceded all of the information in her assessment was self-reported by Butler. (R. p. 659). She further acknowledged her testing of Butler revealed some potential for malingering.[11] (R. p. 670). Notably, Dr. Veronen also revealed Butler reported during testing that sometimes her temper explodes and she completely loses control. (R. p. 671).

At the close of the evidentiary phase of trial, defense counsel renewed his motion for a directed verdict, arguing the State failed to disprove each and every element of self-defense in light of the evidence presented. (R. p. 726). The trial judge again denied the motion, ruling the evidence presented raised a credibility issue for the jury to resolve and was sufficient to support guilty verdicts when viewed in a light most favorable to the State. (R. p. 727). Thereafter, the trial judge agreed to charge the jury on both self-defense and accident. (R. p. 731). Subsequently, at the conclusion of trial, Butler was convicted as indicted. (R. p. 812). The trial judge then sentenced Butler to an aggregate term of imprisonment of nine years but ruled Butler was entitled to early parole eligibility

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[9] Additionally, Butler offered the testimony of several witnesses to establish Victim's violent tendencies. Butler's eight-year-old daughter testified she frequently saw Victim hurt her mother. (R. p. 618). One of Butler's neighbors testified she saw Butler and Victim argue but never saw Victim physically touch Butler. (R. pp. 621-622; p. 626). One of Butler's friends, who considered Butler to be like a daughter to him, testified he heard Victim was abusive but never observed it. (R. pp. 629-630). One of Butler's co-workers testified she witnessed Victim being violent towards Butler in the past. (R. p. 695). However, in rebuttal, the State offered the testimony of two different women with whom Victim fathered children. (R. p. 717; p. 722). Both women testified Victim was peaceful and unaggressive. (R. p. 718; pp. 722-723).

[10] Dr. Catherine Ross, an employee of Sistercare and expert in the treatment of domestic violence victims, also diagnosed Butler as suffering from post-traumatic stress disorder. (R. pp. 674-675; p. 679). However, Dr. Ross admitted her knowledge of what occurred during the incident only consisted of what was reported by Butler. (R. p. 681).

[11] Dr. Veronen defined malingering as "a characteristic in which people are trying to make themselves appear in a particular manner, sort of staging themselves or casting themselves in a particular way." (R. p. 668).

based on the presentation of credible evidence regarding a history of criminal domestic violence. (R. p. 813; Supp. R. p. 1).

Following the trial, Butler appealed her convictions, arguing the trial judge erred in denying her motion for a directed verdict. (App'x. p. 2). However, the Court of Appeals unanimously affirmed Butler's conviction after finding the trial judge committed no error in denying the directed verdict motion. (App'x pp. 1-3). In reaching that conclusion, the Court of Appeals instructed:

> The State produced sufficient evidence showing Butler did not act in self-defense. Specifically, the State produced evidence negating the second element of self-defense that "the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger." The evidence presented included Butler's own statements that she was not acting to defend herself from "imminent danger," but rather that the incident was merely an accident. Butler made statements that the Victim "rolled over on the knife," "fell on the knife," and "jumped over the couch and landed on the knife." Additionally, Butler admitted on cross-examination she did not act in self-defense, but rather the stabbing was an accident. Thus, viewing the evidence in the light most favorable to the State, the evidence supported submitting the case to the jury.

(App'x p. 3) (citation omitted).

ARGUMENT

The Court of Appeals properly affirmed the trial judge's denial of Butler's directed verdict motion because substantial evidence was presented during trial, including Butler's own statements and trial testimony indicating that she was not acting in self-defense when the victim was fatally stabbed, tending to prove Butler's guilt for the indicted offenses and to disprove self-defense beyond a reasonable doubt.

Butler contends the Court of Appeals erred in affirming the trial judge's ruling denying her directed verdict motion on the issue of self-defense. Butler maintains she was entitled to a directed verdict because the State allegedly failed to disprove self-defense beyond a reasonable doubt. To the contrary, when viewing the evidence in a light most favorable to the State as required without consideration of the weight of the evidence, the evidence presented during trial established Butler's guilt for each element of the indicted offenses beyond a reasonable doubt. Furthermore, again viewing the evidence in a light most favorable to the State as required, the evidence presented during trial, which included Butler's own statements and testimony indicating that she did not stab Victim in self-defense, tended to disprove self-defense beyond a reasonable doubt. Specifically, the State disproved that Butler was acting self-defense through evidence and testimony that included: (1) direct evidence of Butler's statements after the stabbing claiming that she **did not** stab the victim; (2) Butler's testimony during trial indicating that she did not stab the victim and did not act in self-defense; (3) evidence of the victim's defensive wounds, which were inconsistent with Butler's accounts of the stabbing; (4) testimony regarding Butler's efforts to conceal evidence after the stabbing; and (5) evidence of Butler's physical condition after the stabbing, which was inconsistent with her account of the incident. Accordingly, self-defense was not established as a matter of law, and the trial judge properly denied Butler's directed verdict motion and

submitted the case to the jury to allow it to resolve any factual disputes raised by the evidence. The Court of Appeals correctly affirmed the trial judge's ruling. Therefore, the ruling of the Court of Appeals and Butler's convictions should be affirmed.

When presented with a motion for a directed verdict, the trial judge is concerned with the existence or non-existence of evidence and not its weight. State v. Long, 325 S.C. 59, 62, 480 S.E.2d 62, 63 (1997). The trial judge should deny a directed verdict motion and submit the case to the jury if there is any substantial evidence reasonably tending to prove the guilt of the accused or from which guilt may be fairly or logically deduced. State v. Robinson, 310 S.C. 535, 538, 426 S.E.2d 317, 319 (1992). On appeal from the denial of a directed verdict motion, the appellate court must view the evidence and all reasonable inferences in the light most favorable to the State. State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must affirm the trial judge's ruling. State v. Cherry, 361 S.C. 588, 593-594, 606 S.E.2d 475, 478 (2004). The appellate court may only reverse the trial judge's denial of a directed verdict motion if there is no evidence supporting the trial judge's ruling. State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002). "[U]nless there is a total failure of evidence tending to establish the charge laid in the indictment, the trial judge's ruling upon a motion for a directed verdict must stand absent an error of law." State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986).

When a defendant raises a claim of self-defense, the State is required to disprove self-defense beyond a reasonable doubt. State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011); see State v. Wiggins, 330 S.C. 538, 544, 500 S.E.2d 489, 492-493 (1998) ("[C]urrent law requires the State to disprove self-defense, once raised by the defendant,

beyond a reasonable doubt."). The State's burden of disproving self-defense is satisfied when the State disproves any one of the elements of self-defense by proof beyond a reasonable doubt. State v. Bixby, 388 S.C. 528, 554, 698 S.E.2d 572, 586 (2010). In making a determination as to whether the State met its burden of disproving self-defense, an appellate court should apply the traditional standard of review applied when reviewing the denial of any other directed verdict motion and affirm if there is any direct or substantial circumstantial evidence viewed in a light most favorable to the State reasonably tending to prove the guilt of the accused or from which guilt could be fairly or logically deduced. See Long, 325 S.C. at 62, 480 S.E.2d at 63 (applying the traditional directed verdict standard of review when considering whether Long was entitled to the grant of a directed verdict based on his claim that self-defense was established as a matter of law); see, e.g., Saxton v. State, 804 S.W.2d 910, 914 (Tex. Crim. App. 1991) ("In resolving the sufficiency of the evidence issue, we look not to whether the State presented evidence which refuted appellant's self-defense testimony, but rather we determine whether after viewing all the evidence in the light most favorable to the prosecution, any rational trier of fact would have found the essential elements of murder beyond a reasonable doubt and also have found against appellant on the self-defense issue beyond a reasonable doubt.").

Four elements must be present to establish the defense of self-defense in South Carolina. State v. Bryant, 336 S.C. 340, 344, 520 S.E.2d 319, 321 (1999). Those required elements are: (1) the defendant must be without fault in bringing on the difficulty; (2) the defendant must either have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury or have actually been in imminent danger; (3) if the defense is based on the belief of imminent danger, the belief

must have been the same as one that would have been entertained by a reasonably prudent person of ordinary firmness and courage in the same situation; if the defendant was in actual imminent danger, the circumstances must have been such that would warrant a person of ordinary prudence, firmness, and courage to strike the fatal blow in order to prevent serious bodily injury or loss of life; and (4) there was no other probable means of avoiding the danger than to act as the defendant did in the situation. State v. Goodson, 312 S.C. 278, 280, 440 S.E.2d 370, 372 (1994) (citing State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1982)). "It is an axiomatic principle of law that the defense has not been established if any one element is disproven." Bixby, 388 S.C. at 554, 698 S.E.2d at 586.

In the case sub judice, when viewing the evidence in a light most favorable to the State as required, the evidence presented during trial, if accepted by the jury, established Butler's guilt beyond a reasonable doubt for voluntary manslaughter and possession of a firearm or knife during the commission of a violent crime and disproved self-defense beyond a reasonable doubt. For those reasons, the Court of Appeals correctly affirmed the trial judge's denial of Butler's directed verdict motion.

Initially, based on the evidence presented during trial, the jury could reasonably, fairly, and logically have found Butler guilty of the indicted offenses. Turning to the trial evidence, Victim's injuries established Victim was forcefully stabbed in the chest, with the knife traveling seven to ten inches into his body, and the stab wound directly resulted in his death. In addition to the fatal wound, Victim had numerous other injuries to his body, including multiple knife wounds and defensive wounds to the palm of his hand, his shoulder, and his arm. The defensive stab wound to Victim's palm established Victim was being attacked and attempted to block a knife attack prior to his death.

Additionally, the evidence from the crime scene established Victim was killed during a physical altercation based on the disarrayed condition of the apartment, which included overturned furniture, damaged property, and a gouge to the ceiling. Butler's neighbor confirmed an altercation occurred prior to Victim's death based on her testimony regarding the loud noises she heard coming from Butler's apartment, and Butler told an officer after her arrest that she and Victim began physically fighting after they arrived home from a bar. Notably, Victim's blood was located in various locations scattered throughout the apartment, including on walls in multiple rooms, and on both the clothing recovered from Butler's laundry hamper and the clothing Butler was wearing at the time of her arrest.

Furthermore, the evidence established Victim and Butler were engaged in a heated argument prior to the fatal stabbing. Victim's mother testified she spoke with Victim shortly before his death and heard Butler arguing with him in the background. Butler subsequently confirmed the accuracy of Victim's mother's testimony and acknowledged she argued with Victim and insulted his mother shortly before he was stabbed to death. Additionally, Butler's neighbor testified she heard what she believed to be a domestic altercation occurring inside of Butler's apartment.

Finally, the knife involved in the stabbing was recovered from Victim's kitchen sink. Notably, someone appeared to have attempted to wipe Victim's blood off of the knife blade prior to the police officer's arrival on the scene. Critically, Butler was the only other person present in the apartment at the time Victim was fatally stabbed with the knife. Coupled with the evidence showing that Victim's blood was recovered from a shirt placed into Butler's laundry hamper, the evidence establishing that Victim's blood was wiped off of the knife he was stabbed with constituted evidence of an effort to

conceal evidence of a crime. See State v. McDowell, 266 S.C. 508, 515, 224 S.E.2d 889, 892 (1976) ("As a general rule, any guilty act, conduct, or statements on the part of the accused are admissible as some evidence of consciousness of guilt.").

Viewing the evidence presented during trial in a light most favorable to the State, the jury could rationally find Butler guilty of each element of the indicted offenses beyond a reasonable doubt. Based on the evidence presented, the jury could reasonably, fairly, and logically conclude Butler intentionally and fatally stabbed Victim with a knife during the physical altercation that followed their heated argument while acting in a sudden heat of passion. See State v. Smith, 391 S.C. 408, 413, 706 S.E.2d 12, 14-15 (2011) ("Voluntary manslaughter is the intentional and unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation. . . . In determining whether the act which caused death was impelled by heat of passion or by malice, all the surrounding circumstances and conditions are to be taken into consideration, including previous relations and conditions connected with the tragedy, as well as those existing at the time of the killing."); Wiggins, 330 S.C. at 549, 500 S.E.2d at 495 (finding a voluntary manslaughter charge was warranted because the testimony established Wiggins and the victim were involved a heated argument and Wiggins testified he was afraid); see also S.C. Code Ann. § 16-23-490 (prohibiting a person from possessing a firearm or displaying a firearm or knife while committing or attempting to commit a violent crime). Accordingly, the trial judge properly denied Butler's directed verdict motion on the voluntary manslaughter and possession of a weapon charges. See, e.g., State v. Gilliam, 296 S.C. 395, 396, 373 S.E.2d 596, 597 (1988) ("Both self-defense and the lesser included offense of voluntary manslaughter should be submitted to the jury if supported by the evidence. The rationale for this rule is that the jury may fail to find all the

elements of self-defense but could find sufficient legal provocation and heat of passion to conclude the defendant was guilty of voluntary manslaughter." (citations omitted)).

Notwithstanding the fact that the evidence disproved self-defense by tending to prove Butler's guilt for voluntary manslaughter, the evidence presented during trial also disproved that Butler was acting in self-defense beyond a reasonable doubt when viewed in a light most favorable to the State. Most critically, as the Court of Appeals noted, Butler's statements to the law enforcement officer investigating the fatal stabbing and testimony during trial established that she was not acting in self-defense at the time Victim was fatally stabbed. (App'x p. 3). After law enforcement officers arrived at Butler's apartment, Butler initially indicated she did not know how Victim was stabbed. She then alternately claimed Victim rolled onto the knife, jumped onto the knife, and fell onto the knife. Subsequently, during trial, Butler repeatedly and emphatically insisted she **did not** stab Victim. Instead, she claimed Victim was stabbed accidently when he either fell on or ran into the knife. Critically, Butler specifically denied she was defending herself when Victim was stabbed and asserted the only defensive wound she inflicted upon Victim was a cut to his wrist. Thus, Butler's statements and trial testimony established she did not affirmatively act in self-defense by stabbing Victim. See State v. Davis, 309 S.C. 56, 61-62, 419 S.E.2d 820, 824 (Ct. App. 1992) (finding the trial judge properly denied Davis' directed verdict motion and instructing: "[B]ecause Davis and his companions denied he pointed or presented the rifled at the officer, the only question presented to the jury by the defense's version was whether or not he was guilty of pointing and presenting a firearm, not whether he did so in defense of himself, others or property."). Therefore, from the evidence presented, the jury could rationally, reasonably, and logically find Butler was not acting in self-defense because Butler was

allegedly not committing any intentional act, including one undertaken in fear of losing her life or sustaining serious bodily injury, at the time the fatal stab wound was administered. See State v. Belcher, 385 S.C. 597, 608, 685 S.E.2d 802, 808 (2009) ("[S]elf-defense involves an intentional act."). Accordingly, if Butler was not committing an intentional act, she could not have been acting in self-defense. See, e.g., State v. Burriss, 334 S.C. 256, 262, 513 S.E.2d 104, 108 (1999) (finding an accident charge was warranted where Burriss claimed the gun unintentionally went off after he armed himself in self-defense).

Particularly in light of the fact Butler insisted she did not stab Victim in self-defense, which was wholly inconsistent with a claim of self-defense, the evidence presented during trial tended to disprove self-defense beyond a reasonable doubt and created a factual issue regarding self-defense that could only appropriately be resolved by the jury. See State v. McDaniel, 68 S.C. 304, 317, 47 S.E. 384, 389 (1904) (explaining that self-defense involves a justified intentional killing while accident involves an unintentional killing). Critically, to the extent Butler's testimony even raised the issue of self-defense, the evidence resulting from the investigation into the killing and the inconsistencies in Butler's testimony and statements raised credibility issues regarding Butler's testimony that could only appropriately be resolved by the jury and, thus, justified the denial of Butler's directed verdict motion. See State v. Jenkins, 222 S.C. 359, 360-361, 72 S.E.2d 829, 829 (1952) ("It is not the function of [the appellate] court to pass upon the weight of the evidence, but only to determine its sufficiency to support the verdict[.]"); see, e.g., United States v. Brown, 53 F.3d 312, 314 (11th Cir. 1995) ("[A] statement by a defendant, if disbelieved by the jury, may be considered as *substantive evidence* of the defendant's guilt." (italics in original)); United States v. Kenny, 645 F.2d

1323, 1346 (9th Cir. 1981) ("When the defendant elects to testify, he runs the risk that if disbelieved, the trier of fact may conclude that the opposite of his testimony is the truth.").

As previously noted, the law enforcement investigation revealed someone had attempted to remove Victim's blood from the knife after the stabbing. Additionally, only Victim's blood was found splattered throughout the apartment, with Butler's D.N.A. only **possibly** located on the baseboards of one of the walls. Similarly, despite her testimony that she changed out of her denim shirt prior to the stabbing, Victim's blood was inexplicably located on the shirt that Butler allegedly changed out of prior to the stabbing. That evidence raised questions regarding the credibility of Butler's testimony, including on the issue of self-defense, and constituted evidence of a conscious effort to hide evidence of a crime. See McDowell, 266 S.C. at 515, 224 S.E.2d at 892 ("As a general rule, any guilty act, conduct, or statements on the part of the accused are admissible as some evidence of consciousness of guilt.").

Furthermore, the evidence regarding Butler's apparent injuries raised a factual issue regarding whether Butler was reasonably in fear for her life at the time Victim was fatally stabbed. Although Butler testified Victim struck her in the head with a V.C.R. and punched her multiple times in the face as hard as he could, Butler's only apparent injury to her head was a small cut to her lip, and, notably, her hair was only slightly out of place in the back after the incident. Additionally, although she claimed Victim wrapped his fingers around her neck and choked her into unconsciousness, Butler had no bruising around her neck and no markings consistent with being choked and, instead, only had a scratch across her collarbone or lower neck. Thus, that evidence refuted Butler's claims that Victim choked her into unconsciousness prior to the stabbing. Likewise, despite her

testimony she was choked into unconsciousness and repeatedly beaten in the head, Butler did not report any injuries after her arrest, did not request medical treatment, and specifically denied fainting or suffering any head injuries in the seventy-two hours before her arrest. Cf. State v. Cook, 86 So. 3d 672, 681 (La. Ct. App. 2012) ("[N]o witness is needed when the physical evidence itself disproves self-defense.").

Finally, Butler's inconsistent testimony and statements on the stabbing itself created a factual issue regarding the credibility of her testimony, including on the issue of self-defense, based on the fact she originally denied knowing how Victim was stabbed and then alternately offering a number of explanations as to how he was **accidently** stabbed, including that Victim rolled on, jumped on, fell on, and ran into the knife. See Town of Hartsville v. Munger, 93 S.C. 527, 529, 77 S.E. 219, 219 (1913) ("**False and conflicting statements** and attempts to run away have always been regarded as some evidence of guilty knowledge and intent." (emphasis added)). Butler even admitted during trial that she lied to law enforcement when she told them Victim rolled onto the knife. See, e.g., Marshall v. State, 85 Md. App. 320, 324, 583 A.2d 1109, 1111 (Md. Ct. Spec. App. 1991) ("Interference with police investigation is recognized as conduct which may evidence a consciousness of guilt."). Accordingly, her inconsistent testimony and denial of intentionally stabbing Victim in the act of defending herself disproved that Butler was acting in self-defense at the time Victim was stabbed. Therefore, the evidence required the submission of the case to the jury.[12] Cf. Wiggins, 330 S.C. at 548, 500 S.E.2d at 495 ("We find the State presented sufficient evidence to create a jury issue

[12] However, despite the fact the trial judge agreed to charge the jury on self-defense, the solicitor correctly noted no evidence presented during trial supported a conclusion Butler intentionally stabbed Victim in self-defense. (R. p. 728).

regarding whether [Wiggins] was acting in self-defense or was guilty of voluntary manslaughter.").

Based on the evidence and testimony presented during trial, the jury could rationally and logically conclude the evidence disproved self-defense beyond a reasonable doubt. As self-defense was not conclusively established as a matter of law, Butler was not entitled to a directed verdict, and the case was properly submitted for the jury to decide. Cf. Long, 325 S.C. at 63, 480 S.E.2d at 63-64 ("While self-defense can be inferred even from the State's version of the evidence, the evidence of self-defense is not conclusive. . . . Accordingly, the trial judge properly refused to direct a verdict in appellant's favor based on self-defense.").

When viewing the evidence presented during trial in a light most favorable to the State without consideration to the weight of the evidence, the evidence, if believed by the jury, proved Butler's guilt for each element of the indicted offenses beyond a reasonable doubt and disproved the required elements of self-defense beyond a reasonable doubt. [13]

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[13] In addition to challenging the denial of directed verdict motion on the basis of the sufficiency of the evidence, Butler also contends the Court of Appeals erred in refusing to consider her argument that the trial judge failed to apply the appropriate test in reviewing the directed verdict motion. (Pet. Br. pp. 11-13). Initially, the trial judge applied the appropriate standard for evaluating the evidence as the trial judge viewed the evidence in a light most favorable to the State without considering the relative weight of the evidence before finding sufficient evidence was presented to warrant submitting the case to the jury. See Long, 325 S.C. at 62, 480 S.E.2d at 63 (applying the traditional directed verdict standard of review when considering whether Long was entitled to the grant of a directed verdict based on his claim that self-defense was established as a matter of law). Furthermore, at the time the trial judge stated he was not applying the standard that the State had to disprove self-defense "at this stage," nothing had been presented to raise the issue of self-defense at that point in the trial. See Wiggins, 330 S.C. at 544, 500 S.E.2d at 492-493 ("[C]urrent law requires the State to disprove self-defense, **once raised by the defendant**, beyond a reasonable doubt." (emphasis added)). For that reason, the trial judge properly refused to grant a directed verdict on the issue of self-defense because the issue had not yet been raised in Butler's case. Regardless, assuming the trial judge somehow erred in his directed verdict analysis, the evidence presented during trial disproved self-defense beyond a reasonable doubt, which meant the decision to deny Butler's directed verdict motion was a proper one. See Weir v. Citicorp Nat'l Servs., Inc., 312 S.C. 511, 517, 435 S.E.2d 865, 868 (1993) ("A correct decision of the trial court on the wrong ground will be affirmed on appeal."); State v. Harry, 321 S.C. 273, 277, 468 S.E.2d 76, 79 (Ct. App. 1996) ("When the defendant presents testimony, he loses the right to have the court review the sufficiency of the evidence based on the state's evidence alone."); see also Sec. & Exch. Comm'n v. Chenery Corp., 318 U.S. 80, 88 (1943) ("[W]e do not disturb the settled rule that, in reviewing the decision of a lower court, it must be affirmed if the result is

Although Butler's testimony potentially established Victim's death was an accident as opposed to an intentional killing, Butler's testimony was not conclusive on the factual issues raised in the case and certainly did not conclusively establish that she acted in self-defense as a matter of law. See State v. Hall, 259 S.C. 529, 532, 193 S.E.2d 269, 270 (1972) ("[I]f the testimony presented a factual issue as to whether appellant killed her husband in self-defense, the motions for a directed verdict were properly denied."); see, e.g., William Shepard McAninch & W. Gaston Fairey, THE CRIMINAL LAW OF SOUTH CAROLINA 674 (4th ed. 2002) ("Uncontradicted evidence tending to establish self-defense does not necessarily entitle the defendant to a directed verdict because there may be issues of credibility for the jury to resolve."). The evidence presented during trial, including Butler's multiple versions of how Victim was stabbed, was not uncontradicted, unrebutted, or beyond dispute. Cf. Dickey, 394 S.C. at 503, 716 S.E.2d at 103 (finding a directed verdict on self-defense was warranted where the evidence of self-defense was "uncontroverted"). Accordingly, the trial judge properly denied Butler's directed verdict motion and submitted the case for the jury to resolve the factual disputes raised by the evidence, including those involving the credibility and believability of the testimony. See State v. Richburg, 250 S.C. 451, 459, 158 S.E.2d 769, 772 (1968) ("[Richburg] contends . . . that the trial judge should have directed a verdict, as a matter of law, of not guilty in favor of the defendant on the plea of self-defense. When the evidence is susceptible of more than one reasonable inference, questions of fact must be submitted to the jury. . . . Among other considerations is the credibility of the witnesses, including that of the appellant himself. When there is reason to discredit a witness because of interest or

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correct 'although the lower court relied upon a wrong ground or gave a wrong reason.' The reason for this rule is obvious. It would be wasteful to send a case back to a lower court to reinstate a decision which it had already made but which the appellate court concluded should properly be based on another ground within the power of the appellate court to formulate." (citations omitted)).

otherwise the judge is not required to take the case from the jury as a matter of law but may **and should** submit the issues, including credibility of the witnesses, to the jury." (emphasis added)). The Court of Appeals properly affirmed Butler's conviction. Therefore, the ruling of the Court of Appeals and Butler's conviction should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the decision of the Court of Appeals and the judgment and conviction of the trial court should be affirmed.

Respectfully submitted,

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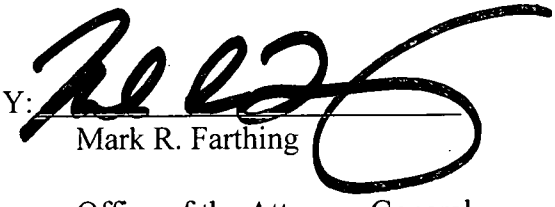
BY: 
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August 23, 2013

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to the Court of Appeals
Appeal from Lexington County
Honorable R. Knox McMahon, Circuit Court Judge
Appellate Case No. 2011-194608

THE STATE,

Respondent,

vs.

BEULAH RUTH BUTLER,

Petitioner.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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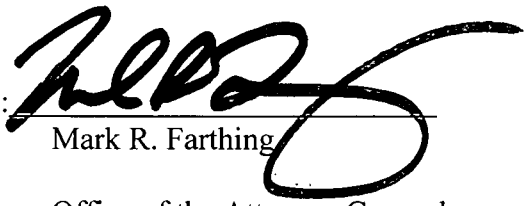
BY: 
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PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Brief of Respondent on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

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I further certify that all parties required by Rule to be served have been served.
This 23rd day of August, 2013.

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