STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF GENERAL SESSIONS FOR THE FIFTH JUDICIAL CIRCUIT
State of South Carolina v. Jerod Goodwin, Defendant.	Warrant Nos.: 2021A4011200692, 2021A4011200693, 2021A4011200694 Indictment Nos.: 2022GS4003132, 2022GS4003133, 2022GS4003134 **ORDER DENYING MOTION FOR NEW TRIAL**

This matter comes before the Court upon "Motion for New Trial," which was filed by Defendant on January 2, 2024. In the motion, Defendant asks that this Court order that a new trial be held, setting aside the jury's verdict on December 21, 2023. Having fully considered Defendant's motion as well as Defendant's "Memorandum on *State v. Sellers* in Support of Motion for New Trial" (which was filed on January 22, 2024), Defendant's "Motion for New Trial" is DENIED.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Defendant Jerod Goodwin was charged with murder, possession of a weapon during the commission of a violent crime, and use of vehicle without permission. The charges arose from a shooting incident that occurred in the early morning hours of August 15, 2021, when Defendant; the victim, Genesis Williams ("Victim"); and their friend ("Witness") were on their way to Witness's house. Witness drove Victim's vehicle; Victim was in the back seat; and Defendant in the front passenger's seat.

Upon arrival near Witness's home, he stopped and exited the vehicle. Victim, who had been arguing with Defendant during the ride, told Defendant to get out of the car. When Defendant refused, Victim also exited the vehicle and began grabbing Defendant's clothes in an attempt to

forcefully remove him. Defendant then took a gun from the waistband of his pants and shot Victim -three times. He left Victim lying in the roadway injured and fled in Victim's car without rendering aid or calling for medical assistance.

After three months of searching for Defendant, the Fugitive Task Force unit of the Richland County Sheriff's Department (RCSD) apprehended him. He was tried by a jury from December 18 to December 21, 2023, at which time he testified that he acted in self-defense. The jury found him guilty as charged, and the Court sentenced Defendant to serve thirty years in the South Carolina Department of Corrections.

I. Shackling

Defendant's first argument is that he suffered prejudice by being shackled during trial. According to Defendant, the prejudice was compounded by the prosecution's urging that he demonstrate to the jury how the victim was shot. While Defendant contends that he is entitled to a new trial on this basis, the Court disagrees.

At the commencement of the trial, Defendant – who remained detained at the Richland County Detention Center – asked that the Court order RCSD to remove all shackles from his person during the pendency of trial. The Court conferred with RCSD regarding its policies and procedures, heard arguments from the prosecution, and conducted a visual assessment to determine whether shackles would be visible to jurors. Ultimately, the Court determined that jurors would be unable to see the shackles on Defendant's legs and that Defendant's clothing and position while seated were sufficient to mask the handcuff on Defendant's left wrist.

Defendant testified in his own defense. He stated that during the altercation between him and Victim, Victim "waist checked" him by reaching for the gun in Defendant's waistband. Defendant also testified that Victim was angry that evening and that he was "one hundred percent

positive" that Victim was carrying a weapon. He stated that upon arrival near Witness's home, there was a physical struggle which resulted in Victim being shot. During cross-examination the prosecution asked Defendant to demonstrate how the shooting occurred. Defense counsel objected, and the Court sustained the objection. Later, in the State's closing argument, the prosecution argued that Defendant was unable to demonstrate the chain of events because his story was implausible. The Court denied Defendant's subsequent motion for a mistrial.

"The law has long forbidden routing use of *visible* shackles during [a jury trial]; it permits a State to shackle a criminal defendant only in the presence of a special need." *State v. Heyward*, 441 S.C. 484, 491-91, 895 S.E.2d 658, 662 (2023) (quoting *Deck v. Missouri*, 544 U.S. 622, 626 (2005)) (emphasis added). While visible shackling undermines a defendant's presumption of innocence, it may be done where there is a particular need – a matter left to the trial judge's discretion. *Deck*, 544 U.S. at 630; *State v. Tucker*, 320 S.C. 206, 209, 464 S.E.2d 105, 107 (1995). "The trial judge is to balance the prejudicial effect of shackling with the considerations of courtroom decorum and security. *Id.* (citing *Illinois v. Allen*, 397 U.S. 337 (1970). "If the court finds restraints are necessary, it must make every reasonable effort to ensure the restraints are not visible to the jury." *Heyward*, 441 S.C. at 493, 895 S.E.2d at 663 (citing *Deck*, 544 U.S. at 629).

In this case, no visible shackles were employed. The Court made every effort to ensure that Defendant's shackles were not visible to jurors, including conducting its own visual assessment and ensuring that Defendant walked to the witness stand outside of the jury's presence. The Court also considered the fact that Defendant fled from the scene on the night of the incident and that he remained "on the run" for three months without capture. Ultimately, the Court determined that, where shackles could not be seen by the jury, security interests outweighed any prejudicial effect to Defendant.

In addition, each time that the prosecutor suggested that Defendant do a physical demonstration, the Court sustained defense counsel's objection. No curative instruction was given to the jury because defense counsel argued that no curative instruction would be sufficient. Finally, the Court found that because jurors were unaware of the reason Defendant wasn't required to demonstrate his action and because the State argued that a reasonable demonstration was impossible, no manifest necessity existed for the granting of a mistrial. *See, e.g., State v. Rowlands*, 343 S.C. 454, 539 S.E.2d 717 (Ct. App. 2000) ("a mistrial is proper only where it is dictated by 'manifest necessity' or 'the ends of public justice.'"). Therefore, Defendant's motion for a new trial based upon alleged improper shackling is denied.

II. Voluntary Manslaughter

Defendant next argues that the Court erred in declining his request to allow the jury to consider whether he was guilty of voluntary manslaughter instead of murder. He contends that there was evidence at trial that would support a jury charge on voluntary manslaughter, entitling him to that charge upon his request. The Court disagrees.

"The law to be charged must be determined from the evidence presented at trial." *State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512 (2000) (citing *State v. Lee*, 298 S.C. 362, 380 S.E.2d 834 (1989)).

> "A trial judge must charge a lesser included offense if there is any evidence from which the jury could infer the defendant committed the lesser rather than the greater offense." *State v. White*, 361 S.C. 407, 412, 605 S.E.2d 540, 542 (2004). "To justify charging the lesser crime, the evidence presented must allow a *rational* inference the defendant was guilty only of the lesser offense." *State v. Geiger*, 370 S.C. 600, 607, 635 S.E.2d 669, 673 (Ct. App. 2006) (emphasis added).

State v. Sims, 426 S.C. 115, 130, 825 S.E.2d 731, 738 (Ct. App. 2019). Voluntary manslaughter is a lesser-included offense of murder. *Id.* at 131, 825 S.E.2d at 739.

"Voluntary manslaughter is the unlawful killing of a human being in a sudden heat of passion upon sufficient legal provocation." *State v. Starnes*, 388 S.C. 590, 596, 388 S.E.2d 590, 608 (citing *State v. Wharton*, 381 S.C. 209, 214, 672 S.E.2d 786, 788 (2009)). While an individual's fear resulting from an attack can constitute sufficient legal provocation in this context, the analysis does not end there. *Sims*, 426 S.C. at 132, 825 S.E.2d at 740 (citations omitted). "A person may act in a deliberate, controlled manner, notwithstanding the fact that he is afraid or in fear." *Starnes*, 388 S.C. at 599, 698 S.E.2d at 609. Where an assailant claims to have been in fear, yet there is no evidence that the assailant was out of control as a result of that fear or that his fear resulted in an uncontrollable impulse to do violence, a charge on voluntary manslaughter is not appropriate. *See, e.g., id.*

In this case, Defendant testified that he shot Victim because he was in fear for his life. He also testified that he felt justified in shooting Victim because of Victim's "bad reputation" and Defendant's "one hundred percent positive" belief that Victim was carrying a black gun in his waistband on the day of the incident. According to Defendant, he watched Victim pacing outside the vehicle getting angrier and angrier before he grabbed at Defendant, causing Defendant to shoot him. He testified that he aimed the pistol at Victim's lower body in an effort to shoot him without killing him. Further, Witness testified that Defendant twice said, "You think I'm playing?" before shooting Victim. While that testimony could support a self-defense theory, it does not support a charge of voluntary manslaughter. Viewing the evidence in the light most favorable to Defendant, a jury could conclude that Defendant was, in fact, in fear; but there is no evidence that he acted on an uncontrollable impulse. Instead, it appears that Defendant had sufficient time to coolly reflect, so much so that he was able to aim his weapon towards Victim's lower body. Therefore,

Defendant's motion for a new trial on the grounds that the jury wasn't allowed to consider voluntary manslaughter is denied.

III. "State of Mind" Evidence

Defendant's third argument is that he is entitled to a new trial because the Court prohibited him from introducing Victim's Facebook posts into evidence. Defendant contends that the Facebook posts were essential to prove Victim's state of mind and lend credence to Defendant's testimony that Victim reached for Defendant's weapon on the night of the incident. The Court disagrees.

At trial, Defendant sought to introduce the following Facebook posts:

- On July 19, 2021, "If feel them acting strange, I'll kill one of my niggaz…"
- On August 5, 2021, "Don't tell me sorry im very unforgiven…"
- On August 8, 2021, "I do not fear being alone, my dear; I fear being in a room full of people I cannot trust. -Brooke Hampton"
- On August 13, 2021, "Done met so many fake friend, say they yo brother but when you touch them you feel the [snake] skin…"

According to Defendant, these Facebook posts are "character evidence, demonstrated through specific instances," which would be admissible under Rule 405(b), SCRE.[1] To support his argument, he relies in part on *State v. Day*, 341 S.C. 410, 535 S.E.2d 431 (2000),

In *Day*, the Supreme Court reversed the trial court's decision to bar the defendant from offering testimony that four months prior to his death, the victim held a shotgun to someone's head for eighteen hours. *Id.* at 420, 535 S.E.2d at 436. The Court found that the prior act of violence was admissible to prove the defendant's reasonable apprehension of violence. *Id.* at 421, 535

[1] Incidentally, if the Court were to accept Defendant's argument on this issue, that would further support the Court's refusal to charge the jury on voluntary manslaughter. This evidence tends to support Defendant's position that he was scared of Victim but rational and calculated in choosing his reaction to being attacked by Victim.

S.E.2d at 437. In that case, the victim's history of acting "very violently" was relevant to the defendant's theory of self-defense, as it supported the defendant's fear that the victim may pull a gun on him. *Id.*

Unlike the evidence in *Day*, the Facebook posts proffered by Defendant do not demonstrate any specific *acts* taken by Victim or Victim's "specific instances of *conduct*." Rather, the Facebook posts contain Victim's nebulous thoughts about betrayal that are not directed at anyone in particular. Instead, the Court permitted Defendant to testify about his fear of Victim and Victim's reputation for violence and all other manner of victim's state of mind on the evening in question. Therefore, Defendant's motion for a new trial based on the exclusion of certain "state of mind" evidence is denied.

IV. Lieutenant Dauway

Defendant also argues that he is entitled to a new trial because the Court did not compel Lieutenant Dauway, the lead investigator on this case, to attend trial. Defendant argues that Lt. Dauway was properly served with a subpoena but failed to attend, improperly depriving Defendant of his constitutional rights. The Court disagrees.

In criminal cases in South Carolina,

> A subpoena may be served ... by any other person who is not a party [to the action] and is not less than eighteen years of age.... Service of a subpoena upon an individual may be made by delivering a copy to him personally, or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service.

Rule 13(b), SCRE. This rule is similar, though not identical, to the procedure for civil matters. *See* Rule 45, SCRCP. Although there appears not to be a bright-line rule in criminal matters, when a subpoena in a civil case commands production of documents or tangible things, the subpoena

must be served at least ten days before the time specified for compliance. *Id.* The civil rule also permits the Court to quash a subpoena when it imposes undue burden or expense on the responding party or fails to allow a reasonable time for compliance. *Id.*

In this case, a subpoena was served on Lt. Dauway on December 6, 2023, by substitute service. A copy of the subpoena was left with Jennifer Spurrier at the Richland County Sheriff's Department, where Lt. Dauway is employed. It remains unclear whether Ms. Spurrier qualifies as "an agent authorized by appointment … to receive service."

When trial commenced twelve days later, Lt. Dauway failed to appear or to provide Defendant with the documents requested in the subpoena. When the Court inquired about Lt. Dauway's whereabouts, his coworker indicated that Lt. Dauway was on vacation and had indicated by phone that he was unaware of the existence of the subpoena. The Court determined that although substitute service is permitted in criminal cases, it would be unduly burdensome and unreasonable to command the attendance of a witness on such short notice, particularly where the witness had no reason to know that Defendant's subpoena even existed.[2] Therefore, any prejudice suffered by Defendant occurred as a result of Defendant's failure to communicate or take any other action to ensure that Lt. Dauway was aware that his presence was necessary for trial. Thus, Defendant's motion for a new trial on this basis is denied.

[2] Based on conversations with counsel, it appears to the Court that Defendant assumed that Lt. Dauway would attend trial at the State's request, irrespective of the subpoena. Although Lt. Dauway is listed as number one of thirty-nine potential witnesses for the State, only ten of those witnesses were called and Lt. Dauway was not one of them.

CONCLUSION

The Court does not find error in any of the ways suggested by Defendant. Moreover, there was overwhelming evidence of Defendant's guilt to support his conviction for murder and the jury's rejection of self-defense. For the foregoing reasons,

IT IS, THEREFORE, ORDERED that Defendant's Motion for New Trial is DENIED.

AND IT IS SO ORDERED.

Jocelyn Newman
CIRCUIT COURT JUDGE

February 11, 2025
Columbia, South Carolina.