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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of General Sessions
Robert E. Hood, Circuit Court Judge

Case No. 2018-GS-28-1499
Appellate Case No. 2024-001951

The State,

Respondent,

v.

Stacey M. Catoe,

Appellant.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion in denying Appellant's request to include the laws of appearance, retreat, and prior difficulties between the parties in the jury instructions despite the State's discussion of the law of self-defense in closing argument when the trial judge did not instruct the jury on self-defense?

STATEMENT OF THE CASE

On November 7, 2018, a Kershaw County Grand Jury indicted Appellant Stacey McClintock Catoe for the murder of Brenda Coates (2018-GS-28-1499). R. pp. __ [indictment]. Appellant proceeded to a jury trial before the Honorable Robert E. Hood on October 8-10 and 14-15, 2024. Jack Swerling and George Speedy represented Appellant at trial, and Dale Scott and Michael Bradbury prosecuted the case. The jury found Appellant guilty of murder, and Judge Hood sentenced Appellant to thirty-five (35) years in prison with a credit of two hundred and thirty-two (232) days of time served. R. pp. __ [sentence sheet]. A timely notice of intent to appeal was filed.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). With respect to jury instructions, an appellate court will not reverse the trial court's decision unless the trial court committed an abuse of discretion. *State v. Pittman*, 373 S.C. 527, 570, 647 S.E.2d 144, 166 (2007). An abuse of discretion occurs when the trial court's ruling is based on an error of law or factually is without evidentiary support. *State v. McGowan*, 430 S.C. 373, 379, 845 S.E.2d 503, 505–06 (Ct. App. 2020) (citing *State v. Pittman*, 373 S.C. 527, 570, 647 S.E.2d 144, 166–67 (2007)). If the appellate court does find error in the jury instruction at issue, such errors are subject to harmless error analysis. An appellate court simply

determines whether the [circuit court]'s ruling is supported by any evidence. *State v. Wilson*, 345 S.C. 1, 6, 545 S.E.2d 827, 829 (2001).

FACTS

Appellant and Jody Catoe were married young and had one child, Caitlyn. Tr. pp. 409; 411. They indulged in the normal life of a small town, spending time with family who all lived close by. Tr. 414-415. However, in the years before the death of Brenda Coates, Jody and Appellant's marriage deteriorated. Tr. pp. 417-418. Testimony revealed that both of the Catoes liked to drink; however, Jody's drinking was often accompanied by violence—to include prior instances of discharging a firearm both inside the Catoe's home and in public. Tr. pp. 608-611. Jody kept his gun close by and was known to holster it in his back right pocket. Tr. p. 186. Over the years, Appellant grew to fear her husband's drinking and his temper, and their only child Caitlyn testified that Jody was the instigator of their fights. Tr. 608-611. Jody called Appellant terrible names; had fired his gun into the walls of their kitchen and bathroom; and humiliated Appellant in public. *Id.* Jody was also known to stray in his marriage and eventually moved into a camper known as the "Stab House," an apparent euphemism for the location where Jody brought his paramours. Tr. p. 209, lines 22-25.

Then, on June 17, 2018, Appellant got in her car to look for her husband Jody and his known paramour Brenda Coates. Tr. p. 458. Appellant testified that she tried to get pictures of them together for purposes of divorce proceedings, and after seeing pictures of Jody and Brenda partying on a boat that day, Appellant believed that she would finally be able to obtain evidence for her divorce. Tr. p. 455. Appellant had previously told Brenda that she wanted Brenda to take Jody so he would leave Appellant and her daughter alone. Obtaining a divorce would mean freedom from Jody's abuse.

Appellant passed Brenda and Jody driving. Appellant testified that she turned her car around

and followed them, keen on photographing the two alone in the dark on a deserted road. Tr. p. 455, lines 12-16. Appellant pulled up to the car where Brenda had parked and saw Jody standing outside or partially in Brenda's car. Tr. p. 460, lines 13-25. Appellant testified to the exchange of words; a mutual "what the fuck are you doing here?" Then, Appellant saw Jody reach towards his back right pocket—the pocket that she knew he carried his pistol in. *Id.* She testified that terror overtook her; she dropped her phone that was ready to take photos of Jody and Brenda and instinctively reached for her own gun in the console. *Id.*

Appellant was candid about the confusion and jumbled memories of what happened next. She remembered reaching for her gun to protect herself from what appeared was about to be a gunshot from Jody, and then she remembered the gun going off. *Id.* She remembered being frightened and disoriented, trying to protect herself from what she feared would be another series of gunshots from Jody. Jody told law enforcement agents in all three of his interviews following the shooting death of Brenda Coates that Appellant did not mean to shoot her. Tr. p. 224, lines 18-22.

ARGUMENT

By rejecting Appellant's proposed jury instructions regarding appearance, retreat, and prior difficulties, the trial Court abused its discretion by creating jury confusion between the State's discussion of the law of self-defense and the trial Court's decision not to charge self-defense.

When a criminal defendant claims that they armed themself in self-defense, but that the actual shooting was accidental, this combination of events can "place the shooting in the context of self-defense." *State v. McCaskill,* 300 S.C. 256, 258, 387 S.E.2d 268, 269 (1990) (quoting *People v. Brooks,* 130 Ill.App.3d 747, 751, 86 Ill. Dec. 90, 94, 474 N.E.2d 1287, 1290 (1985)). In *McCaskill,* the pregnant defendant began fighting with her boyfriend and his estranged wife, and the boyfriend

threatened to beat her up. *Id.* at 257, 387 S.E.2d at 269. The defendant ran into her bedroom to get her gun to protect herself and her fetus, and then returned to the den. The boyfriend jumped on the defendant, at which time the gun fired, killing the wife. *Id.* at 257-258, 270. The trial court refused to instruct the jury that self-defense was applicable *under the defense of accident* to show that the defendant was in lawful possession of her gun, instead clearly distinguishing the defense of self-defense from the defense of accident, which focuses on the defendant's act of shooting the gun rather than possession of the gun. *Id.* at 258, 269. Further, the trial court instructed the jury that the defendant had the right under the self-defense doctrine to shoot someone, but the court failed to charge the jury that the defense of accident *would* apply if the defendant was in lawful possession of the gun. *Id.*

On appeal, the South Carolina Supreme Court held that the trial court erred in failing to instruct the jury that if the defendant was in lawful possession of the gun in her home, the defense of accident would apply, particularly given the evidence that the wife of the defendant's boyfriend had attacked the defendant in the past. *Id.* at 259.

In the instant case, the State and the defense were aware that the Court did not intend to instruct the jury on the law relating to self-defense as the basis of a possible acquittal on that theory. However, during the final argument to the jury, the State went into great detail concerning the elements of self-defense. The State argued that self-defense was not applicable because the Defendant brought on the difficulty. Tr. p. 689. The State argued the Defendant had to be in imminent danger of death or serious bodily harm, and that she was never in imminent danger. Tr. p. 690. The State further argued that a reasonable person of ordinary firmness and courage would not have entertained the same belief. The State also argued that self-defense did not apply because the

Defendant had other means of avoiding the difficulty, such as driving away—essentially, retreat. Tr. p. 691–692.

The Court instructed the jury on the law related to murder and the law of transferred intent. Tr. p. 740–741. The Court instructed the jury on the law relating to accident, including language that "a defendant exercising due care who accidentally harms another while acting in self-defense is acting lawfully." Tr. p. 741. The Court then instructed the jury on the lesser included offense of involuntary manslaughter, stating that "a person acting in self-defense is engaged in a lawful activity." Tr. p. 742.

After the State's closing argument and at the conclusion of the Court's charge to the jury, the defense requested that the Court instruct the jury on: (1) the law of appearance as it related to self-defense, Tr. p. 748; (2) the law regarding no duty to retreat if it would increase the danger to a person. Tr. p. 748; and (3) the consideration of prior difficulties between the parties in the context of self-defense, Tr. p. 748. In South Carolina, it has long been held that a defendant may act on appearances as a reasonable belief in the need to use deadly force. *State v. Fuller*, 297 S.C. 440, 377 S.E.2d 328 (1989). Prior difficulties between the parties may be considered as to the need to use deadly force in self-defense, *State v. Clinkscales*, 231 S.C. 650, 99 S.E.2d 663 (1957), and a person need not retreat where retreat would increase the likelihood of suffering bodily harm or death. *Fuller*, *supra*. These instructions were necessary to clarify the law on issues presented at trial.

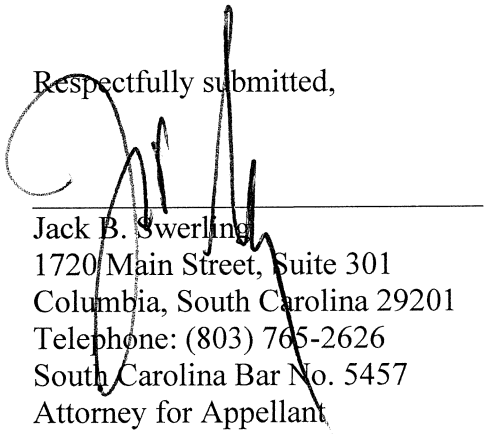
The Court did not charge the elements of self-defense, but the State went into great detail in its closing argument, discussing the elements and the law relating to self-defense. The Court even noted, "My guess is within the next hour we're going to get a question where they want the elements of self-defense." Tr. p. 749.

With the Court not giving instructions on the elements of self-defense and the State arguing the law as to those elements, the Defendant's request for the Court to instruct the jury was appropriate and necessary. The jury was left to consider whether the Defendant lawfully armed herself in self-defense without instruction on the law from the Court and instead was left to rely on the State's declaration of what the law was regarding self-defense. This was error.

CONCLUSION

For the reasons stated, this Court should reverse and remand this case for a new trial.

Respectfully submitted,



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DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant designates the following materials to be included in the record on appeal:

1. Indictment
2. Sentencing Sheet
3. Verdict Form
4. Trial Transcript

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PROOF OF SERVICE

I hereby certify that I am serving the Appellant's Initial Brief and Designation of Matter to be Included in Record on Appeal by email to Assistant Deputy Attorney General Melody Jane Brown, at her AIS email address, mbrown@scag.gov, on May 12th, 2025, as shown by the email by which these documents are being filed.

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