

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

RECEIVED

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

EDWARD VINCENT BAYNARD,

APPELLANT

APPELLATE CASE NO. 2024-001912

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in denying appellant's directed verdict motions where the deceased, who was a medically fragile patient, required highly specialized medical care (including insertions of feeding and tracheostomy tubes) that exceeded appellant's clinical capabilities and training, particularly since appellant began his low level aid position at the age eighteen and was classified as "unskilled," had minimal contact with the patient, and performed per instructions from his parents, because all of the above established that appellant's actions evidenced neither malice nor willfulness nor intentional infliction of harm toward the patient.

STATEMENT OF THE CASE

Appellant Edward Vincent Baynard was convicted of murder, unlawful conduct toward a child, and infliction of great bodily injury upon a child per a jury trial held at the October 2024 term of the Cherokee County General Sessions Court before Judge R. Keith Kelly.¹ Appellant was sentenced to imprisonment for an aggregate thirty-year term. Solicitor Barry Barnette and Assistant Solicitor Jennifer Jordan prosecuted the case, and Attorneys Michael Morin, Abigail Gowdy, and Eva Waszak represented appellant at trial.

¹ Appellant was tried jointly with his parents (David and Bobbie Baynard), who were both charged on identical offenses also and found guilty as charged as well.

STANDARD OF REVIEW

A case should be submitted to the jury when the evidence is circumstantial if there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011), quoting State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000). Evidence must constitute positive proof of facts and circumstances which reasonably tend to prove guilt; and unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error. State v. Bostic supra. On appeal of the denial of a directed verdict of acquittal motion, this Court must view the evidence in the light most favorable to the state. State v. Hepburn, 406 S.C. 416, 753 S.E.2d 402, 409 (2013). If the state failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove guilt of the accused, the Court must reverse the lower court's denial of the directed verdict motion. Hepburn, 406 S.C. at 429, 753 S.E.2d at 409.

ARGUMENT

The trial judge erred in denying appellant's directed verdict motions where the deceased, who was a medically fragile patient, required highly specialized medical care (including insertions of feeding and tracheostomy tubes) that exceeded appellant's clinical capabilities and training, particularly since appellant began his low level aid position at the age eighteen and was classified as "unskilled," had minimal contact with the patient, and performed per instructions from his parents, because all of the above established that appellant's actions evidenced neither malice nor willfulness nor intentional infliction of harm toward the patient.

Fourteen-year-old Heather Baynard died on April 11, 2022 at the home of her parents (David and Bobbie Baynard) where she and her brother, i.e., the appellant lived. The cause of death was from sepsis stemming from prolonged pneumonia and urinary tract infections. Tr. 315, lines 11-14. Note that since birth the deceased was nourished through a feeding tube and breathed oxygen via a tracheostomy tube, which her parents inserted and maintained. The deceased accomplished bathroom relief via diaper changes, which her parents conducted.

At trial, the jury heard testimony from Dr. Maraia Parra, who was Heather Baynard's pediatrician. Dr. Parra explained that the deceased was born prematurely and diagnosed with cerebral palsy, chronic lung disease (cystic fibrosis), and a seizure disorder, all of which required incessant specialized medical care. She was totally dependent on her parents for medical care. Tr. 371, l.21 - p. 372, l.1. Also, medications had to be administered to the deceased by her parents. Tr. 376, l. 23. The deceased was wheelchair bound for her medical appointments. Tr. 379, l.5-7. It was clear that the deceased required daily and constant medical care due to her numerous disabilities. Tr. 394, l. 3-12.

Dr. Kelly Rose testified that the deceased's condition of deterioration occurred over multiple weeks, and that the existence of bacteria and filth in the home environment contributed to her overall physical demise. Tr. 315, lines 11-14; Tr. 297, l. 9 – p. 314, l.4. Dr. Rose's testimony before the jury was a summary similar to her proffered testimony. Tr. 337, l.5 - p. 346, l.21.

Melissa Patton, who was the Home Care contact responsible for hiring appellant (as selected by the parents) as a personal care aid for the deceased, testified at trial. Patton stated that aids are equipped with tests, handouts, pamphlets, videos, and power points on medical care training. Tr. 225, lines 7-20; Tr 231, lines 5 – 23. Appellant was eighteen years old when he e-signed for this respite employment on September 14, 2020, and received four hours of training. Tr. 269, lines 2-23; Tr. 276, lines 5-9; Tr 244, lines 3-4; Tr. 222, lines 20-23; Appellant was given a handbook and numbers to call if necessary. Tr. 232, l.25 – p. 233, l.2. At that time, appellant had never been employed on a job and had no driver's license. Tr. 267, l. 25 – p. 268, l. 4. Appellant was classified as an "unskilled" aid. Tr. 223, lines 7-10; Tr. 263, lines 7-11.

Appellant was a mere aid only, who worked according to directions given to him by the designated responsible caregivers (who were his and the deceased's parents), all of whom lived in the same house together. Tr. 253, l. 16 – p. 254, l.3. Appellant in his capacity as an aid was considered "unskilled" because he could not meet the medical needs of the deceased and simply aided the parents who were in charge. Tr. 252, l.2 -p. 253, l. 11; Tr. 255, lines 10-11; Tr. 238, lines 4-7; Tr. 243, lines 9-10; Tr. 235, l. 8 – p. 238, l. 7. Appellant was not even allowed to move the deceased. Tr. 260, lines 6-9.

Furthermore, appellant's access was greatly limited because the deceased slept in her parents' bedroom and appeared to be confined there mostly. Appellant could not override the

parents' will regarding medical care for the deceased because they were the supervisors responsible for the deceased's medical care. Tr. 266, 1.21-267, 1.15; Tr. 265, 1.13-22. Tr. 267, line 18-20. Tr. 267, lines 18-20. Appellant's role was merely to assist his parents when they took a break (respite care). Tr. 286, lines 22-23; Tr. 399, 1.16-19. The parents, not appellant, were the caretakers who had the responsibility of administering both the feeding and tracheostomy tubes and handling diaper changes. Tr. 272, 1.1-p. 273, 1.13; Tr. 258, lines 4-10; Tr. 395, 1.10-14; Tr. 399, lines 9-19. The parents were the responsible parties. Tr. 270, lines 1-3. Appellant was unable to and not allowed to operate the tubes or change diapers. Tr. 259, 1.9 – p. 260, 1. 5. Additionally, appellant was not able to assist with bed sores. Tr. 264, lines 11-25.

At the close of the state's case, counsel for appellant moved for directed verdicts on all three offenses charged against him because there was insufficient proof on the required mental states attached to the charges. Tr. 425, 1. 13 – p. 430, 1. 6; Tr. 432, 1. 25 – p.434, 1. 10. The trial judge denied the directed verdict motions. Tr. 438, 1. 24 – p. 440, 1. 17.

Murder is defined as the unlawful killing of another with malice aforethought either express or implied. See S.C. Code Ann. § 16-3-10. Unlawful conduct toward a child is defined as willfully abandoning a child, or causing harm to a child bodily unlawfully or maliciously, or placing the child at unreasonable risk of harm. See S.C. Code Ann. 63-5-70. The definition of malice requires a general intent to kill. State v. Geter, 405 S.C. 139, 912 S.E.2d (2025); State v. King, 422 S.C. 47, 810 S.E.2d 18 (2017). Furthermore, the word “willful” is encompassed in the word “malice” because malice is further defined as the intentional doing of a wrongful act toward another without legal justification or excuse. Joseph v. State, 445 S.C. 139, 571 S.E.2d 280 (2022). In State v. Petsch, 43 S.C. 132, 205 S.E.993 (1894), the Court described malice as a wicked, evil, and depraved heart fatally bent on mischief.

In the case at bar, appellant harbored neither malice nor willfulness to do harm during the time he was an aid to the deceased. Appellant operated on such a limited medical capacity with respect to the deceased's medical care that he could hardly have been acting in a malicious or willful manner while in the presence of the deceased. Appellant was for all practical purposes a mere bystander who lacked any independent decision-making abilities or actions related to the medical care for the deceased and moved solely at the behest of his parents with respect to dispensing medical care. Obviously, appellant was neither mature enough nor well trained or experienced enough to render the advanced medical care that the deceased needed. In other words, in light of fact that appellant's medical care contributions were minimal, it strains credulity to assert that appellant's medical assistance would translate into actions that constituted malice or willfulness toward the deceased thereby rendering him guilty of murder or unlawful conduct towards a child.² Additionally, there was no evidence that appellant inflicted any action upon the deceased that would constitute great bodily injury.³ To inflict means to "force" upon. Golden v. State, 1 S.C. 292 (1870). Appellant was not in charge of the handling the deceased's body, and thus he was not able to and did not inflict any physical harm causing great bodily harm to the deceased in his role as an aid, which was tantamount to a non-existent entity in the home.

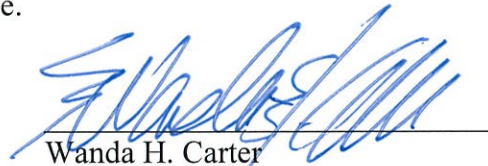
² Under S.C. Code Ann. § 63-5-70, (A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to: (1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or (3) willfully abandon the child.

³ Under S.C. Code Ann. § 16-3-95 (A) It is unlawful to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years. (B) It is unlawful for a child's parent or guardian, person with whom the child's parent or guardian is cohabitating, or any other person responsible for a child's welfare as defined in Section 63-7-20 knowingly to allow another person to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

A case should be submitted to the jury when the evidence is circumstantial if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139,708 S.E.2d 774, 776 (2011), quoting State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)). If the state failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove guilt of the accused, the appellate court must reverse the lower court's denial of the directed verdict motion. State v. Hepburn, 406 S.C, 416, 753 S.E.2d 402 (2013). The trial judge erred in denying appellant's directed verdict motions in the case.

CONCLUSION

Based on the foregoing argument, counsel would request that this Court vacate appellant's convictions and sentences in the case.



Wanda H. Carter
Interim Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of August, 2025.

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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Tr. 90-172; Tr. 180 – 315; Tr 334-349; Tr. 355-529
- (2) Indictments and Sentence Sheets

I certify that this designation contains no matter which is irrelevant to this appeal.



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This 13th day of August, 2025.

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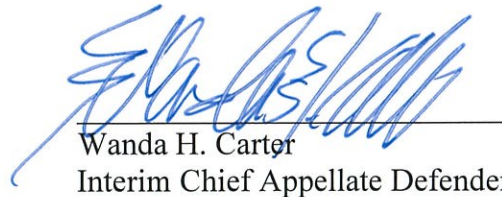
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APPELLATE CASE NO. 2024-001912

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Initial Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 13th day of August, 2025.



Wanda H. Carter
Interim Chief Appellate Defender

ATTORNEY FOR APPELLANT