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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Thomas A. Russo, Circuit Court Judge
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHELLIE LAVETTE DAVIS,

APPELLANT

APPELLATE CASE NO. 2018-000366

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying battered spouse classification despite finding a history of domestic abuse, in multiple formats, occurring on both sides of the marital relationship following appellant's conviction for the murder of her husband?

STATEMENT OF THE CASE

In May of 2011, appellant Shellie Davis was indicted by a Lexington County Grand Jury on one count of murder of her husband, Jermaine Davis. R.* Indictment. She proceeded to trial before the Honorable Thomas A. Russo and a jury from April 21 - 25, 2014. Aimee J. Zmroczek and M. Wade Downtin represented Ms. Davis, and C. Dayton Riddle, III and Shannon A. Davis appeared on behalf of the state. Ms. Zmroczek filed a written notice, pursuant to S.C. Code Ann. § 17-23-170(E), which indicated her intent to offer evidence of battered spouse syndrome at trial.

Following the five-day trial, the jury found Shellie Davis guilty as indicted. Tr. 915, l. 19 – 916, l. 2. Sentencing was deferred to the following week. On April 30, 2014, Judge Russo convened a sentencing hearing. Judge Russo ultimately denied Ms. Zmroczek’s request to convey “battered spouse” status upon Shellie Davis in accordance with S.C. Code Ann. § 16-25-90 and sentenced appellant to thirty (30) years’ incarceration. R.* Sentence Sheet. Judge Russo did not issue a written order of his findings. Ms. Zmroczek filed a post-trial motion to request a hearing to reconsider Judge Russo’s finding regarding battered spouse syndrome on May 8, 2014. R. * Motion to Reconsider. For unknown reasons, the Order denying this motion was not filed until February 7, 2018. R. * Order denying Reconsideration.

Following receipt of that order, a Notice of Appeal was filed with the South Carolina Court of Appeals on February 28, 2018. Appellant filed a petition with this Court on December 6, 2018, seeking an order remanding the case for reconstruction since a transcript of the April 30, 2014, hearing could not be obtained. This Court granted the petition and the matter was remanded to the lower court to reconstruct the record. R. * Order dated 1/24/2019.

Upon remand, Judge Walton J. McLeod, IV held that the record could not be reconstructed so as to allow appellate review. R. * McLeod Order 11/5/2021. Appellant Davis then filed a

motion before this Court to vacate her sentence and remand for a new sentencing hearing. By written order filed January 14, 2022, this Court remanded the case to the lower court solely for a determination of appellant Davis’s status as an abused spouse pursuant for potential early parole eligibility under S.C. Code Ann. § 16-25-90 (2004 as amended). R. * 2022 Remand Order.

On July 29 – 30, 2024, an evidentiary hearing was held before the Honorable Walton J. McLeod, IV, pursuant to the remand order. Robert McNair and Whitney Taylor appeared on behalf of the state, and Gary Johnson and Taylor Gilliam appeared on behalf of appellant Shellie Davis.¹ DV Tr. 1. Judge McLeod issued an order denying classification under S.C. Code Ann. § 16-25-90 (2004 as amended) dated January 24, 2025. R. * Order.

To bring the matter back before this Court, a new notice of appeal was filed with this Court on behalf of appellant Shellie Davis. This brief follows.

¹ The evidentiary hearing from July 29-30, 2024, is being designated as “DV Tr.” for reference during initial briefing to differentiate between the original trial transcript and the battered spouse determination hearing.

STATEMENT OF FACTS

On the morning of September 22, 2010, appellant Shellie Davis admitted she shot and killed her husband, Jermaine Davis at his apartment. Tr. 385, ll. 6 – 23. The state’s theory and portrayal of Shellie Davis during trial was of a scorned wife who refused to accept that her husband was leaving. In the words of the state’s star witness to this theory, Arletta Carr, Shellie Davis asserted that if she could not be with Jermaine, no one would. Tr. 222, l. 20 – 223, l. 22.

Shellie Davis testified in her own defense, relaying years of domestic violence of varying degrees at the hands of Jermaine Davis. On September 22, 2010, she traveled to Jermaine’s temporary residence, an apartment away from the family home, with the intent to end her own life. Tr. 692, ll. 3 – 22.² Shellie Davis told the jury she fired the weapon in fear of Jermaine Davis due to the level of his anger and their prior history. Tr. 694, l. 18 – 695, l. 25. Not sure that the single shot had actually hit Jermaine, Shellie Davis fled the apartment. Tr. 696, ll. 1 – 19. She was suicidal and quit her job and drove to Charlotte to visit a lifelong friend, Naeka Collins. Tr. 698, ll. 2 – 15; 703, ll. 2 – 22. Once there, Shellie Davis walked away from the home and shot herself in the head with the same handgun that killed Jermaine. Tr. 778, l. 4 – 779, l. 22.

As noted below, witnesses painted a picture of a difficult marriage with significant financial hardships, including a pending foreclosure of the family home, when Jermaine Davis moved out. Tr. 312, l. 20 – 313, l. 4. Shellie Davis and Jermaine Davis were married in 1997 and raised five children (the oldest child was not Jermaine’s biological son). Tr. 664, l. 25 – 665, l. 5. While originally living in Maryland, Jermaine moved the family to South Carolina. Tr. 668, l. 24

² Jermaine Davis moved into the apartment a few months before the fatal shooting, just before his sister Michone Mansfield moved to the Columbia area and moved into the family home with Shellie Davis, the Davis children, Mansfield’s husband, and their four children. Tr. 307, l. 25 – 308, l. 9.

– 670, l. 8. The marriage was spotted with physical violence, though that violence did occur less often in South Carolina due to Jermaine’s job and working hours. Tr. 668, l. 9 – 671, l. 21.

The issue presented to this Court centers on the impact of this violence on Shellie Davis’s sentence.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown. State v. Laney, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006). “An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” State v. Black, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012) (*quoting* State v. Jennings, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)). When a matter presents a mixed question of law and fact, this Court will “review the trial court's factual findings for any evidentiary support, but the ultimate legal conclusion . . . is a question of law subject to *de novo* review.” State v. Frasier, 437 S.C. 625, 633–34, 879 S.E.2d 762, 766 (2022).

ARGUMENT

The trial court erred in denying battered spouse classification despite finding a history of domestic abuse, in multiple formats, occurring on both sides of the marital relationship.

A. Law governing battered spouse determinations.

In 1992, the South Carolina Supreme Court offered an abbreviated overview of battered woman's syndrome:

A battered woman is a woman who repeatedly is subjected to any forceful physical or psychological behavior by a man in order to coerce her to do something he wants her to do without any concern for her rights. The battered woman's syndrome is identified by a series of common characteristics that appear in women who are abused for an extended period of time by the dominant male figure in their lives. These characteristics include fear, hyper-suggestibility, isolation, guilt, and emotional dependency, which culminate in a woman's belief that she should not and cannot escape her batterer. A battered woman believes that her batterer is capable of killing her.

The battered woman's syndrome results from the cyclical nature of the relationship between the battered woman and the man who abuses her. In the first phase of the cycle, tension increases between the woman and her partner, and minor abuse occurs. In the second phase, the violence escalates and the battering takes place. In the third phase, which occurs after the battering, there may be a temporary lull in the physical abuse inflicted on the woman, at which time the woman forgives the batterer. During the third phase, the batterer may feel contrite and loving, and may promise the woman that the violence will never happen again. As the relationship progresses, however, the tension building before battering becomes more common, and the batterer's feelings of loving contrition decline.

A battered woman suffers from 'learned helplessness' as the 'repeated batterings, like electrical shocks, diminish the woman's motivation to respond.' This stems from the battered woman's belief that her batterer is more powerful than he actually is, and her fear of retaliation if she summons help. As a result, she ceases trying to escape even when the opportunity to do so is present.

Robinson v. State, 308 S.C. 74, 76-77, 417 S.E.2d 88, 90 (1992) (internal citations omitted).

To address this fact, our General Assembly enacted legislation providing an opportunity for a battered spouse to seek “early parole eligibility to long term victims of repeated abuse at the hands of a household member.” State v. Hawes, 411 S.C. 188, 190 n.2, 767 S.E.2d 708, 708 n.2 (2015). Section 16-25-90³ provides:

[A]n inmate who was convicted of ... an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to ... an offense against the household member ... presented credible evidence of a history of criminal domestic violence, as provided in [s]ection 16-25-20, suffered at the hands of the household member.

Under S.C. Code Ann. § 16-25-20: “[i]t is unlawful to: (1) cause physical harm or injury to a person’s own household member, (2) offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.”⁴ “Household member” includes “a spouse;” and “persons who have a child in common.” S.C. Code Ann. § 16-25-10.

The history of criminal domestic violence must be proven by a preponderance of the evidence. State v. Grooms, 343 S.C. 248, 254, 540 S.E.2d 99, 102 (2000). “[T]he defendant must persuade the judge by presenting proof which leads the trier of fact to find that the existence of the contested fact is more probable than its nonexistence. Id. at 253-54, 540 S.E.2d at 101-02 (citing McCormick on Evidence § 339 (5th ed. 1999)). “The circuit court must make specific findings in ruling on parole eligibility or ineligibility under § 16-25-90.” State v. Blackwell-Selim, 392 S.C. 1, 707 S.E.2d 426 (2011).

³ S.C. Code

⁴ Domestic violence in the second degree and domestic violence in the third degree can be enhanced if the offense is committed in the presence of a minor or if the offense is committed against a pregnant person. S.C. Code Ann. § 16-25-20.

B. The lower court's findings.

In its order, the lower court discussed the evidence presented during the two day evidentiary hearing as well as the evidence from the original trial. R.* Order. The lower court found that the evidence presented established a “tumultuous” marriage with “scattered” domestic abuse, on both sides. Order p. 9. As discussed herein, the record supports the lower court’s factual finding of domestic abuse and a tumultuous marriage. However, the trial court’s holding that “scattered” domestic abuse over a long period of time was an insufficient to support qualification under S.C. Code Ann. § 16-25-90 is an error of law requiring reversal.

C. The evidence of domestic abuse.

The lower court’s finding of fact that the Davis marriage was “tumultuous” with events of domestic abuse on both sides is well supported in the Record.

During the remanded evidentiary hearing on this issue, Ms. Wanda Hundley (appellant’s sister) testified virtually from Maryland. DV Tr. 80, l. 15 – 81, l. 3. Ms. Hundley related an incident in Maryland involving Mr. Davis’s physical violence towards Shellie Davis:

He had her against the wall with his hand around her neck, and she was pregnant at the time. And I said take your hands from around my sister’s neck. And at the time in her room, as I can remember, was an ironing board, and the iron was sitting on top of the ironing board. And I said you should take that iron and hit him with it, because then I told Jermaine you have no business putting your hands on my sister. You had her around her neck. She’s pregnant.

DV Tr. 82, ll. 10 – 17.

Ms. Hundley related hearing violent interactions over the phone after appellant Shellie Davis left Maryland with Jermaine Davis and moved to South Carolina.

And, you know, we were just talking and just talking. So she told me – you know, she was just talking. So I heard Jermaine come in the house, and she told me, you know, he you know, Jermaine is here. So, oh, okay. So we’re just talking. So I guess he – I don’t

know what was said. So she was like, let me – hold on. So I said, okay, hold on, on the phone.

So I'm listening. I hear this scream. Then I heard some glass shattering. And all I can remember was Shellie, Shellie, I kept calling her name, Shellie, and pick up the phone, pick up the phone. So she came to the phone and she was let me call you back, let me call you back. She was – and I said what happened? What's wrong? Because I heard the glass. And she, like, dropped the phone. So I was – I was just – again, I was shocked because I was in shock because I didn't know what happened to my sister. I don't know, you know, with the glass. I heard her scream, and I just heard the glass shatter. So I was shocked and I was trying to at the time call her back. I couldn't get through. Nobody answered the phone.

DV Tr. 84, l. 12 – 85, l. 6.

Ms. Hundley also personally observed Shellie Davis with significant bruises on her leg and back just prior to the crime at the funeral of her grandmother in Maryland. DV Tr. 89, l. 4 – 24. These bruises were seen by several witnesses who also testified during the original trial, noted *infra*.

Ms. Deirdre Angela Davis-Washington testified in person during the original trial and at the evidentiary hearing on this issue. She indicated a long-standing friendship with appellant Shellie Davis from their time living in Maryland. That friendship continued from a distance when the Davis family moved to South Carolina. DV Tr. 92, ll. 14 – 22. While Ms. Washington did not observe the direct physical violence as seen by Ms. Hundley, she noted the abusive nature of the Davis marriage:

Abusive, as in if we're talking about physical abuse, I did not observe him physically abusing her directly, but if we're talking about emotional abuse or, you know, mental abuse, then, yes, I definitely have observed that in our relations where I've said to myself, you know, that, okay, that's not necessarily right, but I have observed that directly.

DV Tr. 95, ll. 11 – 17. She noted Jermaine Davis was “controlling” and “manipulative” and that whatever “Jermaine said is what Shellie believed. And even if it was outlandish, he still -- you know, she still believed that.” DV Tr. 95, ll. 19 – 22.

This controlling behavior directly impacted Shellie Davis’s personality:

Q. And did you see a big change in Shellie Davis's personality when they left Maryland and moved to South Carolina?

A: Oh, I saw the change in her personality before they left Maryland to go to South Carolina. Absolutely.

Q: What type of changes did you observe in her?

A: She was definitely -- I felt like she had become timid. I felt like she was almost, like, childlike, where she then became this personality where she had to get permission to do certain things. And I understand the concept of being married myself, and so I understand the concept of talking to your mate, you know, about something that you're going to do, but it just felt like she needed to have permission in order to be able to do certain things. It just -- you know, it wasn't that free spirited, you know, personality anymore. It just seems like, you know, again, that she was a little timid. It had become that way.

DV Tr. 96, ll. 6 – 23.⁵ This control extended to Jermaine Davis putting Shellie Davis on a curfew and keeping tabs on her when she was outside his presence. DV Tr. 97, l. 2 – 98, l. 7.

Ms. Washington also witnessed bruising and the physical toll the marriage had on Shellie Davis.

She was sitting down and her pants leg was up, and I looked at the back of her leg, and the back of her leg looked like it was like flesh exposed the bruise was so bad on the back of her leg.

⁵ Both Dr. Whitney Danso and Dr. Catherine Ross emphasized the control dynamic and the importance of having power to the abusive domestic partner, discussed *infra*. This is mirrored in the behavior of Jermaine Davis in his efforts to control and manipulate appellant Shellie Davis. Both Dr. Danso and Dr. Ross also indicated the way abuse dynamics would alter and change the personality and behavior of victims of domestic abuse, as reflected in the changes noted in Shellie Davis’s personality by her friends and family.

And I'm like, what is and I asked her. I said what is that? What happened? And so she proceeded to tell me that the two of them had begun to fight. She mentioned to me that she, you know, was thrown on the bed and that -- and I'm like, Shellie, this is unacceptable.

DV Tr. 100, ll. 3 – 12.

Ms. From Lynesha Howard (appellant's niece who also resides in Maryland) testified virtually over WebEx. DV Tr. 150, ll. 10 – 22. Ms. Howard, as a young child in Maryland, witnessed two separate instances of physical abuse inflicted on appellant Shellie Davis by Jermaine Davis that stuck with her for years.

So as soon as we open up the pizza, Jermaine walks through the -- the front the front door and look at the pizza, and he gets mad. So he proceeds to go back to the bedroom. Shellie then followed -- follows him back to -- to the bedroom. I get up to go wash -- to go wash my hands, you know, before I eat my pizza. On my way to the bathroom, you can see into their bedroom. I saw Jermaine have Shellie jacked up by -- by the collar. And I stood there in - - in shock and -- and, you know, I finally said, is everything okay, and once he noticed me, he -- he let her -- he let her go. Then Shellie told --told me everything -- you know, everything's okay. Everything's fine.

DV Tr. 151, ll. 10 – 22.

The second one, like I said, she always got me and my brother. We did family stuff with -- you know, with her children. So she took us to the beach. The closest beach to us was Sandy Point at that -- at that particular time. So it was, like, an hour away. We finally get -- get to the beach and we're playing. We got our buckets and we got the -- the the little toys to play with making sand castles. So Jermaine has laid out his towel and stuff. He's laying -- he's laying down flat on his back, and we're --we're, like, close by him playing, flicking sand. So when I was flicking the sand, it was an accident. I accident accidentally got sand all over him, and he gets -- you know, gets upset. And I remember Shellie saying, you know, Jermaine, it's just an ace didn't mean you know, it's an accident. She didn't -- she mean to. So she -- when she went over closer to -- to him, he had grabbed -- like, grabbed her by -- by the neck and then, again, once he turned his head and saw that I was looking, he -- he let her go.

DV Tr. 152, ll. 3 – 21.

Dr. Catherine Ross was qualified as an expert in social work and intimate partner violence.

DV Tr. 11, ll. 4 – 23. Dr. Ross testified about the general nature of an abusive domestic partner and its “private” aspect:

There is a private and a public image that abusers present of themselves. They're very insecure and -- but they display behaviors which is very private that the public doesn't see. So women refer to it as Dr. Jekyll and Mr. Hyde.

So the private side, demeaning, berating, a lot of psychological manipulation, gaslighting. They view the women and children, if there are children involved, as property. They're always blaming the woman for anything that goes wrong in the relationship. They use sex as an act of aggression. For some examples of that, they don't feel that their violent behavior should have any negative consequences.

The public image, the nicest guy in the world, would do anything for anyone else. So there's two different personas, and the abuser tries very, very hard to keep that private image private and maintain power and control because intimate partner violence or domestic violence is about power and control.

DV Tr. 12, ll. 4 – 21.

Dr. Ross noted the importance of isolating the abused partner from other support. DV Tr. 14, l. 17 – 15, l. 8. Dr. Ross noted the impact of strangulation as a key indicator of the abuse dynamic. DV Tr. 16, ll. 6 – 12. This cycle of violence leads to physiological and psychiatric illnesses. DV Tr. 16, l. 25 – 17, l. 5. Dr. Ross also noted the attachment the abused victim has to their abuser: “Again, let me go back to the traumatic bonding where I know it sounds strange to someone who's looking from the outside, but because of the traumatic bonding, the abuser and the victim almost make a pact with one another and they claim ownership of each other.” DV Tr. 21, ll. 19 – 24. In addition, victims of domestic partner violence will minimize the traumatic aspects of the relationship:

So if you're thinking about post-trauma, she's constantly re-experiencing the trauma. So everything is seen as a threat at that point. She's trying to avoid as much as possible. So the avoidance comes. She'll minimize what happened in her head. She's got to rationalize why it's necessary for her to remain.

DV. Tr. 23, ll. 16 – 21.

Dr. Whitney Danso was qualified as an expert in clinical psychology and domestic trauma.

DV. Tr. 28, ll. 11 – 16. Dr. Danso evaluated appellant Shellie Davis more than a decade after the crime. DV. Tr. 29, ll. 7 – 12. Dr. Danso focused on changes in Shellie Davis's personality from the beginning of her marriage with Jermaine and living in Maryland:

So there were mentions of changes in her behavior and how Ms. Davis presented before -- before she left or what she was like prior to her marriage with Mr. Davis while she was living in Maryland and how that changed when she moved to South Carolina. There was a progressive change in her presentation.

She was originally described by people who knew her early in her life as being very, very warm, very kind of optimistic and positive kind of outlook and, over time, they watched that change. In that 2010 period, there was a significant -- those symptoms became even more noticeable, but those that had known her over a long period of time had watched that become a progressive pattern.

DV Tr. 30, ll. 1 – 12.

Dr. Danso reinforced the private and "intimate" nature of intimate partner violence. DV Tr. 30, ll. 13 – 18. The abusive nature of the relationship is both physical and psychological. DV Tr. 30, l. 19 – 31, l. 5. Dr. Danso emphasized the cyclical nature of the abuse, the impact moving from family support in Maryland to South Carolina, and how the presence of the young children of the marriage would have impacted Shellie Davis and reinforced a feeling of being trapped in the relationship. DV Tr. 31, l. 6 – 32, l. 25.

So there's the psychological piece to abuse that reinforces the victim's need for the abuser. In these situations, the -- the victim is

frequently told that they are worthless, they have no value, and that they are responsible for their -- the abuse that they experience.

Over time, they begin to believe that, just as Dr. Ross testified. They start to see themselves in the image of the abuser. And that change in their perspective of themselves, at least because they start to believe it, they start to believe that they have no option, no other option than to continue to rely on the abuser.

There's also the piece of loving the abuser. These relationships are maintained also with those positive interactions. And so because you have that -- that piece of being negative, being told that you're awful while also being told how much you're loved, it almost feels like a gift that this abuser loves you because you are so awful, and so it perpetuates those cycles.

DV Tr. 33, ll. 2 – 19.

Dr. Danso emphasized the controlling nature of the marriage:

Q: And did you see evidence of that in the relationship between Mr. Davis and Ms. Davis?

A: Yes. Ms. Davis reported regularly being yelled and screamed at, being called names. There was significant financial control that she reported. She was often left without resources. Her paychecks were regularly taken from her. Her movement was monitored.

One of the things that really struck me in my interviews with her is she talked about Mr. Davis almost playing this game of phone tag with her, and that if she was not home at a certain time to answer the phone, she would be punished for it, like physically hurt. And so she was running to do errands quickly in order to catch the phone to make sure that she did not anger him.

And she was regularly humiliated in front of other people, and she was regularly blamed for the abuse that she experienced. He told her that if she was a good wife or if he could get control of her, then none of this would be a problem. She wouldn't have to be abused.

DV Tr. 35, l. 14 – 36, l. 7.

This abuse was at times punctuated with violence:

Q: And some of the nature of the physical violence that you observed through your evaluation of the record and the witness

testimony and Ms. Davis, what were some of the nature – the aspects of the physical violence that occurred?

A: So, as I mentioned, she describes being slammed against hard objects, being grabbed, being slapped, being punched. There are affidavits of her being jacked up is the description by her -- around her neck, strangled, being drug up the stairs, and she describes being raped on a number of occasions.

DV Tr. 36, ll. 8 – 17.

Dr. Danso summarized here opinion on the length of the Davis marriage, not the events surrounding the crime in 2010:

Q: Because the State wants to concentrate on 2010 , and I don ' t blame them because that issue has already been decided for the purposes of this hearing, that Ms . Davis did, in fact, murder her husband, but you ' re looking at this relationship as it progresses over 13 years; correct?

A: Yes.

Q: And in terms of impacts, does she even seem thankful when Jermaine cheats on her?

A: Yes. She writes: I never thought I would think this, but I 'm glad we went, quote , through it and survived. Looked at it as strengthening the relationship.

Q: And again, in your experience , is this type of behavior from a battered spouse unusual that they're actively trying to salvage what is a dangerous, toxic relationship?

A: No, they love their abuser. So there ' s these pieces of the good parts of the relationship that they -- they hold on to. They hope that if they can align with what their abuser wants, that they'll be happy and the abuse will stop.

Q: And does she talk about time heals all wounds type of view of the problems of the marriage?

A: Yes. All pain and hurt eventually will fade and, in this case, I hope the memories do too.

DV Tr. 69, l. 7 – 70, l. 3.

As noted by the lower court, there was voluminous evidence presented during appellant's original trial that touched upon the dynamics of the couple's marriage. Numerous witnesses testified about the physical and emotional changes noted in appellant as the marriage deteriorated and the evidence of physical abuse suffered by appellant Shellie Davis.

Janice Roseman worked with Shellie Davis. She testified at the original trial about Shellie's typical "big smile" Tr. 329, ll. 3 - 6. She noted Shellie's weight loss leading up to the murder. Tr. 329, ll. 13 - 18. She also confirmed Jermaine came to the real estate office a few times to meet with Shellie. Tr. 330, 5 - 13.

Karen Schwartz also worked with Shellie Davis. She testified at the original trial about seeing bruises "all the way around" Shellie's forearms. Tr. 654, ll. 3 - 10. She asked Shellie about the source, relating Shellie was very upset and tearful, and that Jermaine had caused the bruising. Tr. 654, l. 20 - 655 l. 2. She also noted the financial hardships facing the Davis family, noting she had loaned money to Shellie due to the financial strains. Tr. 655, ll. 3 - 18. She also told the solicitor's office about the issues caused by Jermaine, and the state did not request her testimony at trial. Tr. 655, l. 19 - 656, l. 2.

Rana Davis worked with Shellie Davis. She described Shellie as "broken" and "suicidal" and provided Shellie a place to stay some weekends. Tr. 750, ll. 9 - 20. She also described Shellie as changing from "bubbly" to "broken" "hopeless" and "depressed." Tr. 750, l. 21 - 10. She related Shellie felt "controlled" and that there was little Shellie could do but stay in the relationship. Tr. 751, ll. 4 - 14.

Kenyatta Terry-Allen was a resident of Maryland (Shellie Davis's cousin). Tr. 760, ll. 10 - 19. She testified at trial that she saw bruises on Shellie in March of 2010 when Shellie visited Maryland for the funeral of her grandmother, taking pictures of the bruises on her leg and the gash

closer to her ankle. Tr. 760, l. 23 - 761, l. 15. These bruises were from an altercation with Jermaine during which Jermaine threw Shellie across the bed and choked her. Tr. 762, ll. 11 – 24. She also relayed the meaning of the “Eat the cake Anna May” text exchange with Jermaine texting Shellie that message. Tr. 762, l. 25 – 763, l. 5.

Tracee Croker was a friend of Shellie’s since the mid-2000s. She knew of the marital problems and testified about emotional abuse from Jermaine. 764, l. 17 – 765, l. 4; 766, ll. 5 – 767, l. 2. Enola Thornton worked with Shellie and relayed, like Janice Roseman, that Jermaine would stop by the real estate office “usually when we were getting paid on closing days.” Tr. 769, ll. 1 – 16. She related how Shellie loved Jermaine and wanted her marriage to work. Tr. 773, ll. 7 – 15. Naeka Collins, a friend of Shellie’s who lives in Charlotte, N.C., relayed how Shellie described the abusive marriage with Jermaine and appeared “skeletal” just after the crime and before Shellie Davis attempted suicide. 775, l. 25 – 777, l. 20.

Dr. Donna Schwartz-Watts (now Donna Schwartz-Maddox) testified about her evaluation of Shellie Davis. Her testimony focused on the nature of Shellie’s condition following her suicide attempt in Charlotte, N.C. Tr. 788, ll. 2 – 25. She diagnosed Shellie as suffering from major-depression that was recurrent. Tr. 788, l. 20 – 789, l. 5. She noted Shellie was suicidal and took actions on the day of the murder that were consistent with that. Tr. 790, l. 1 – 791, l. 13.

Dr. William Tyson testified generally about battered spouse syndrome but had not treated or evaluated Shellie, though he had reviewed records connected to the case. Tr. 808, l. 16 – 809, l. 12. Dr. Tyson related the impact of different aspects of abuse, including physical and sexual indiscretions, and how the victim accepts blame and attempts to fix the relationship. Tr. 809, l. 15 – 811, l. 19. He related how the relationship with the abuser can become “all-consuming” and that no matter “how unhappy, miserable, depressed, or even unpleasant that they become, they won’t

leave the relationship.” Tr. 813, ll. 3 – 9. The abuser places blame on the victim, and the victim accepts that responsibility for the abuse. Tr. 815, ll. 4 – 14. The abuse is private and has honeymoon phases and the abuser accepts it without reporting. Tr. 815, ll. 15 – 25. “Learned helplessness” plays a role, as over time the victim understands that their own behavior doesn’t matter that traps a victim in the abusive relationship. Tr. 824, l. 6 – 825, l. 5.

During the original trial, Shellie Davis testified about her marriage with Jermaine. They had four biological children together, and she had one child before they first married. Tr. 665, ll. 1 – 5. Jermaine made her feel very special. Tr. 666, ll. 8 – 21. After a short engagement, they were married. Tr. 666, ll. 22 – 25. Jermaine’s behavior changed after marriage. His first outburst of anger occurred in trying to teach Shellie how to drive a manual transmission car when she was pregnant with their first child. Tr. 667, l. 7 – 668, l. 11. He often grabbed and pushed Shellie against walls in anger and used sex as a weapon. Tr. 668, ll. 9 – 16. Shellie described being “hit” in some fashion twice a week in Maryland but less once they moved to South Carolina. Tr. 668, ll. 17 – 23. The move to South Carolina was at Jermaine’s suggestion. Tr. 668, l. 24 – 669, l. 15. The family had financial hardships that spurred some violence on Jermaine’s part, and Shellie blamed herself for not meeting his expectations. Tr. 670, l. 7 – 671, l. 3. The relationship was not always bad, and that included their sexual relationship, which was at times coercive and at times important to both as a way to work on their marriage. Tr. 671, ll. 2 – 21. Forensic evidence collected at the scene supported Shellie Davis’s claim that the sexual relationship was at times violent: some of the blood found on the sheets of Jermaine Davis’s bed was from *Shellie Davis*, supporting her claim of forced intercourse a couple of days before the fatal shooting. Tr. 559, l. 11 – 562, l. 21; 690, l. 10 – 691, l. 24.

Shellie reached out to the police after an incident early in their lives here in South Carolina. Unfortunately, after speaking with Jermaine, law enforcement did not make an arrest and allowed Jermaine to leave for work since they would be apart from one another. Tr. 673, l. 17 – 674, l. 7. Instead, the next police involvement arose from Jermaine calling the police with Shellie being charged, as described by Officer Jesse Moon described *infra*. Tr. 674, l. 10 – 676, l. 21. From these incidents with law enforcement, Shellie learned not to contest Jermaine with authorities. Tr. 676, ll. 14 – 23. In March of 2010, Jermaine physically assaulted Shellie in connection with a disagreement over her grandmother’s funeral in Maryland. Tr. 680, l. 11 – 681, l. 25. This beating resulted in the bruises observed by several witnesses, noted above. Shellie also referred to the specific codewords Jermaine used in connection with his desire that she be submissive and as a veiled threat of physical violence: “Anna May, eat the cake. Eat the damn cake Anna May.” Tr. 684, l. 14 – 686, l. 22. It was at this point that Jermaine left the marital home while Shellie was in Maryland, and the children were left to look after themselves until her return. Tr. 680, l. 22 – 681, l. 6. The text message exchanges from Jermaine after he moved out of the marital home are also instructive. He indicated after calling the house and receiving no answer that “the day will come when you will be without a choice,” and “I know your pretty ass hear me dammit. I’m mad as hell at you. I am drinking right now because of you. You’re the most non-answering person I’ve ever met.” He repeatedly used the Anna May reference. Def. Exhibit 26.

The physical size of the parties is relevant. At his death, Jermaine was 6’1.5” tall and weighed 220 pounds. Tr. 548, ll. 13 – 19. Shellie Davis upon admittance to Atrium in Charlotte was 5’4” tall and weighed 60.7 kg (approximately 134 pounds).

Some of the testimony presented during the original trial and remand hearing portrayed appellant Shellie Davis in a negative light as a controlling and scorned wife who refused to accept

that her marriage was over. This version of the couple's marriage was best summarized by Arletta Carr, who the state called as a witness for both the original trial and the remand hearing. According to Carr, Shellie Davis refused to accept Jermaine was leaving her and made a threat that no other woman could have him. Tr. 222, l. 20 – 223, l. 22; DV 125, l. 6 – 126, l. 8. The state also emphasized a domestic disturbance event at the Davis home in which appellant was found by the responding officer, Jesse Moon, to be the aggressor. DV Tr. 142, ll. 1 - 22.⁶ Under this view of the marriage, Jermaine Davis was non-violent and caring, while appellant was aggressive and jealous.

D. The trial court's legal conclusion.

In finding the marriage was tumultuous and punctuated by acts of domestic abuse, the trial court's conclusion that appellant would not qualify for early parole consideration pursuant to S.C. Code Ann. § 16-25-90 is an error of law. The trial court seemed to focus on the fact that the incidents described by the fact witnesses during the remand hearing all occurred years before the shooting death of Jermaine Davis. Order p. 5 - 7. However, our Supreme Court has noted that a "a decade-long tumultuous relationship, which included instances of mutual combat" did not preclude a finding under the statute. State v. Hawes, 411 S.C. 188, 190, 767 S.E.2d 707, 708 (2015). Contrary to the guidance from Hawes, the trial court here seemed to ignore the "older" instances of domestic abuse since they were not congruent with the shooting death of Jermaine Davis. Order pp. 6 - 7. However, as noted above, the record contained numerous witnesses who provided contemporary accounts of the effects of Jermaine Davis's abuse just prior to his shooting

⁶ This testimony was 18 years after a minor domestic disturbance call in which the officer admitted his "very slim" memory and relied extensively upon his written report. DV 143, ll. 12 – 23. Officer Moon had noted the relative size differences of the two combatants: Jermaine Davis was estimated to be 5'11 and weigh 265 pounds. DV 143, l. 20 – 144, l. 25.

death. These witnesses testified regarding bruising and an injury to appellant Shellie Davis's leg that occurred just before a family funeral in Maryland. Tr. 760, l. 23 - 762, l. 24; DV Tr. 89, l. 4 – 24; DV Tr. 100, ll. 3 – 12. Other instances of Shellie Davis being bruised from the abuse were presented during trial, with a witness seeing bruises “all the way around” Shellie's forearms. Tr. 654, ll. 3 – 10. Importantly, none of this evidence or testimony required accepting “only” Shellie Davis's word, as the physical results of the abuse were clearly visible to the witnesses. Certainly, Shellie Davis could have fallen down the stairs or injured herself in some other manner, a trope often heard in domestic violence settings. Coincidentally, this was the excuse Shellie Davis provided to her co-worker who observed bruises over both of Shellie's arms contemporaneously with Jermaine's shooting. Tr. 656, ll. 6 – 14.

Two witnesses testified to seeing Jermaine Davis commit physical battery on Shellie Davis on at least three different occasions. Years later, multiple witnesses confirmed bruising and injuries from separate instances. While the source of the cause of these later injuries (that they were inflicted by Jermaine Davis), was Shellie Davis, the existence of the injuries was undisputed.

The trial court's conclusion that the “aged” incidents of domestic violence did not support a finding under the statute is also at odds with our Supreme Court's acknowledgement of the recurring impact of domestic violence. “A battered woman suffers from ‘learned helplessness’ as the ‘repeated batterings, like electrical shocks, diminish the woman's motivation to respond.’” Robinson v. State, 308 S.C. 74, 77, 417 S.E.2d 88, 90 (1992).

The issue presented to this Court is the trial court's application of the factual finding of a tumultuous marriage with instances of physical violence, some of which was mutual, on a persons qualification for consideration of early parole under S.C. Code Ann. § 16-25-90. Due to the trial court's misinterpretation of the impact of the past instances of violence and the nature of domestic

abuse, the trial court's finding that "insufficient credible evidence" of domestic violence is an error of law. As noted in Hawes, being an "aggressor" at times would not disqualify application of S.C. Code Ann. § 16-25-90. As noted in Robinson, past instances of domestic violence create "learned helplessness" that causes submission to the violence and are no less important than "contemporaneous" events closer in time to the retaliatory event.

CONCLUSION

Based upon the foregoing argument, Shellie Davis respectfully requests that this Court reverse the lower court's erroneous application of S.C. Code Ann. § 16-25-90 and rule it applies to the findings of fact made by the lower court. In the alternative, this Court should reverse the decision of the lower court and remand this matter for clarification on its contrary factual findings and the legal conclusion drawn from those facts.



Gary H. Johnson
Appellate Defender

ATTORNEY FOR APPELLANT

This 15th day of August, 2025.

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Thomas A. Russo, Circuit Court Judge
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

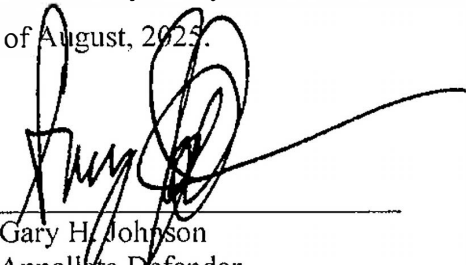
SHELLIE LAVETTE DAVIS,

APPELLANT

APPELLATE CASE NO. 2018-000366

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 Joshua A. Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 15th day of August, 2025.



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