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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Bamberg County
The Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

Respondent,

v.

DEAN TROY STEVENS,

Appellant.

Appellate Case No. 2024-000648

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

On August 18, 2020, appellant Dean Troy Stevens, Jr. murdered Jeremy Craddock in Bamberg County. Appellant was arrested for Craddock's murder on September 18, 2020, after SLED completed its investigation. In November of 2021, the Bamberg County Grand Jury indicted appellant for Craddock's murder and possession of a weapon during a violent crime. (Ind. #s 2021-GS-05-182 & 183). Appellant proceeded to a jury trial from April 8-10, 2024, before Circuit Court Judge Courtney Clyburn-Pope. David W. Miller and Tyler Sanderlin, Assistant Solicitors, prosecuted the case. Grant Smalldone, Esquire, represented appellant. At the conclusion of the trial on April 10, 2024, the jury found appellant guilty of murder and the weapon charge. Judge Clyburn-Pope sentenced appellant to 40 years for Craddock's murder and 5 years concurrent on the gun charge.[1] Appellant directly appeals to this Court raising only 1 issue. This is the Initial Brief of Respondent.

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[1] Appellant had an extensive criminal record including distribution of methamphetamine, unlawful exposure of a child to methamphetamine, and forgery less than $10,000 in 2013; disorderly conduct in 2015; possession of a stolen vehicle, possession of a stolen pistol, possession of drugs, 2nd offense, and possession of a firearm by a convicted felon (based on a prior ABHAN) in 2018. (Tr. pp. 211-12). Appellant's attorney argued for a minimum sentence of 30 years on the murder charge arguing the killing of the victim in this case stemmed in large part from appellant's addiction to methamphetamine. (Tr. pp. 214-17). The trial judge chose instead to impose a 40-year sentence.

RESPONDENT'S STATEMENT OF FACTS

On the night of August 18, 2020, between 2:00 a.m. and 3:00 a.m., in Bamberg County, appellant Dean Troy Stevens ("Stevens") murdered Jeremy Craddock by shooting Craddock with a handgun. The murder occurred on a dirt road, Memorial Church Road, in Olar. The murder occurred inside the vehicle owned by the victim Jeremy Craddock. The following morning, still on August 18, 2020, after daylight, a citizen was driving on Memorial Church Road and spotted the victim's car. At this time, the car had been burned, and there was a severely burned body in driver's seat behind the steering wheel. The citizen notified the Bamberg Sheriff's Office who notified SLED. SLED's arson team and homicide detectives responded to investigate the suspicious fire and death. (Tr. pp. 69-70; 99; 91-92; 102; 128-30; 140-45; 132-33; 151; State's Ex. 6; State's Ex. 13; Tr. pp. 107; 110-112; 117-118; 120; 122).

The burned body was identified as that of Jeremy Craddock. It was determined that Craddock died from a gunshot wound to the chest. A fired bullet projectile/fired bullet jacket was found behind the victim's body inside the burned car. Also found were parts of a gun [the victim's]- a slide, a barrel, and a magazine. The slide and the barrel were joined together and found underneath the victim in the springs of the front driver's seat. The magazine was found in the back seat. Importantly, a fired .380 caliber shell casing was found outside the passenger side of the car on the ground. This fired casing was not damaged by the fire. SLED arson investigators determined the fire to the victim's car was intentionally set with some type of open flame and available combustible materials. (Tr. pp. 69-70; 99; 91-92; 102; 128-30; 140-45; 132-33; 151; State's Ex. 6; State's Ex. 13; Tr. pp. 107; 110-112; 117-118; 120; 122).

The SLED homicide detective assigned to the case, agent Jeff Croft, interviewed approximately 20 people who were believed to be connected to or have information about the victim's death. The information they provided led agent Croft to interview appellant Stevens in relation to the victim's murder. Stevens eventually gave a statement in which he admitted he was in the victim's car as a passenger to "beat up" the victim. After Stevens hit the victim in the head, the victim reached for his gun which was under his leg, and Stevens shot the victim with Stevens' own gun. Stevens admitted he shot the victim with a .380 caliber pistol. Stevens then admitted he fled the scene on foot. Stevens admitted that he eventually threw parts of the murder weapon in Lake Warren in Hampton County. (Tr. pp. 102; 107; 110;112; 117-120; 122; State's Ex. 6).

After confessing to the crime, Stevens then led law enforcement to Lake Warren in Hampton County where he assisted police in locating the slide of a Glock 42 semi-automatic pistol. The slide was recovered by a dive team from the lake. The slide contained a serial number. The gun that went with the slide had been given to Stevens' girlfriend by her father, a Beaufort County sheriff's deputy, who testified at trial to purchasing the gun and giving it to his daughter as a birthday present. Stevens admitted in his statement to police that he stole the gun from his girlfriend's car some time before the murder. (State's Ex. 6; Tr. 128-30; 140-45; 132-33; 151).

A SLED firearms examiner pieced together what is called a "Frankenstein" pistol with the recovered slide from the lake and other parts at SLED's laboratory and determined that the fired .380 shell casing found at the crime scene outside the victim's car on the ground on the passenger side was fired by the gun associated with the recovered slide. (Tr. 141-45; 151, ll. 3-6; State's Ex. 7 & 12).

ARGUMENT

The trial judge did not err in admitting Stevens' statement of September 18, 2020, where the statement was given freely, knowingly, and voluntarily and SLED agent Croft did not make any coercive statements.

What occurred below

Appellant Stevens was first interviewed by investigator Matt Davis with the Barnwell County Sheriff's Office on September 16, 2020. (Tr. p. 6, ln. 13 – p. 7, ll. 1-2). Stevens was in the Barnwell County Detention Center on unrelated charges of Grand Larceny. (Tr. p. 6, ln. 25 – p. 7, ln. 1 Court's Ex. 1/State's Ex. 6).[2] Stevens was also on probation after serving a state prison sentence on another charge. (Court's Ex. 1/State's Ex. 6). According to investigator Davis, he interviewed Stevens because a confidential source contacted him about a Bamberg County investigation, presumably the death of Craddock. (Tr. p. 6, ll. 21-24). This was a brief interview, but it was video-recorded, and Stevens was read his Miranda[3] rights and waived them and spoke with Davis but denied any involvement in Craddock's murder. (Tr. pp. 6-11).

On September 18, 2020, Stevens was interviewed by both investigator Davis and SLED agent Jeff Croft who was actually investigating the murder of Jeremy Craddock in Bamberg County. (Tr. p. 13, ll. 1-5). At the start of the 2nd interview, agent Croft introduced himself to Stevens and stated that he knew that they had met before. (Court's Ex. 1/State's Ex. 6). Stevens reminded the agent that they, Stevens and Croft, used to go to church together. At the beginning

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[2] Court's Exhibit 1 is the unredacted audio/video of the interview of Stevens by SLED agent Croft and investigator Davis on September 18, 2020 [the 2nd interview]. State's Exhibit 6 is the redacted version of the same interview presented before the jury. Judge Clyburn-Pope reviewed Court's Ex. 1, the unredacted audio/video in determining whether the interview of Stevens by Croft and Davis on September 18, 2020, was voluntary. Because of the redactions to this interview, the time-stamps are different on each respective version of the 2nd interview. (See Court's Ex. 1 & State's Ex. 6).

[3] Miranda v. Arizona, 384 U.S. 436 (1966).

of the interview, Croft told Stevens that he did not have to talk to Croft and Davis, and he could stop the interview at any time. Stevens agreed to talk to the investigators. Because Stevens was still in the Barnwell County Detention Center on other charges, Croft read Stevens his Miranda rights and went over a Miranda waiver form with Stevens. The waiver of Miranda rights for this interview is recorded on this video/audio recording and was in writing. (Courts' Ex. 1/State's Ex. 6; State's Ex. 13). Stevens initialed each of his rights on the form indicating he understood each of his Miranda rights and indicated he was waiving those rights and agreeing to talk to the investigators by executing the waiver portion of the form at the bottom. (Court's Ex. 1/State's Ex. 6; State's Ex. 13). Stevens also indicated on the audio/video he was waiving his rights and was willing to talk to the investigators. (Court's Ex. 1/State's Ex. 6). Stevens also indicated to the officers that he was born in 1985, which would have made him approximately 35 years old at the time of the interview; and, he had graduated from high school after 12 years of school. (Court's Ex. 1/State's Ex. 6).

During the initial portion of this interview, Stevens denied any knowledge of the murder or of even knowing the victim. When confronted with the fact that witnesses placed him leaving a home, belonging to an individual named "Falcon," with the victim on the night of the murder, August the 17th/18th, 2020, Stevens admitted he was at the home, and he left the home with the victim in the victim's car with the victim driving. Stephens admitted he intended to "beat up" the victim, but before he could, the victim stated he was going somewhere to sell someone a gun. Stevens admitted before he left Falcon's home with the victim there was a discussion between several individuals about the victim having raped a female in the past, but Stevens claimed he was not really paying attention to the conversation. Stevens claimed he told the victim in the car that he, Stevens, did not want to be involved in the gun sale and asked the victim to take him, Stevens,

to his brother's home first. Stevens claimed a black male in a black car followed Stevens and the victim to a trailer park where Stevens' brother lived. Stevens claimed he did not beat up the victim because the black male was following them in the black car. Stevens claimed when they arrived at his brother's mobile home park, he, Stevens, got out of the victim's car and went into his brother's home and locked the door. According to Stevens, the victim and the black male left the area in separate vehicles. Stevens claimed he did not know what happened to the victim. Stevens said he called Shawn West on the phone, who had told Stevens to beat up the victim, and told Shawn he was unable to beat-up the victim. Stevens claimed he slept at his brother's home and went to work the next day. (Court's Ex. 1/State's Ex. 6).

Agent Croft told Stevens that Stevens' story was the first that police had heard of a black male or of a black vehicle being involved in the case. Croft told Stevens that law enforcement had information Stevens showed up at Falcon's mother's house, which was near the crime-scene, on foot, at 3:30 a.m. to 4:30 a.m. on the August 18th asking for water and for Falcon's mother to call somebody to take him to "Falcon's" house. Croft told Stevens that he, Croft, believed Stevens went to the location where the victim was earlier in the evening [Falcon's house] to whip the victim's ass, no doubt about it, what he did was wrong, but Croft believed things went sideways. (Court's Ex. 1/State's Ex. 6, 26:48). The agent said he believed the victim had a gun, and the agent had information that Stevens had a gun, and things just went a little too far. (Court's Ex. 1/State's Ex. 6, 27:06). Croft told Stevens that the Good Lord brought him through a lot and there are a lot of people out there who care about Stevens including the agent. (Court's Ex. 1/State's Ex. 6, 27:37). The agent told Stevens he thought things got out of hand in the victim's car. (Court's Ex. 1/State's Ex. 6, 27:51). Croft told Stevens it is up to him [Stevens] to get things squared away, off

his chest, let's deal with it, make things right and move forward. (Court's Ex. 1/State's Ex. 6, 28:07).

At this point, agent Croft told Stevens that he couldn't make any promises about what was going to happen to Stevens, but what he could do was promise to walk every step of the way with Stevens. (Court's Ex. 1/State's Ex. 6, 28:23). Croft also told Stevens that he, Croft, could stand before whoever is involved and say, listen, this guy [the victim] raped this girl who this man [Stevens] cares about. We all know that [rape] is awful, probably one of the worst things you can do to somebody. He [the victim] completely violated her. Emotions ran high. Things went sideways in the victim's car and got out of hand. (Court's Ex. 1/State's Ex. 6). Croft asked Stevens: How close am I? (State's Ex. 6, 28:33-29:22). Stevens told the agent he was "pretty close." (Court's Ex. 1/State's Ex. 6, 29:23). The agent told Stevens to just shoot straight with him, assuring Stevens that he respected him. (Court's Ex. 1/State's Ex. 6, 29:30). The agent talked about consequences and making a mistake and told Stevens that they would deal with this together. (Court's Ex. 1/State's Ex. 6: 29:43). Croft stated he could not promise Stevens what sentence he would get but he would walk every step of the way with him. (Court's Ex. 1/State's Ex. 6).

Stevens made further incriminating statements to agent Croft and investigator Davis. Stevens told the agent and investigator that he got a ride from the victim from Falcon's house intending to beat the victim up. While in the victim's vehicle, Stevens confronted the deceased victim about the rape, and the deceased victim admitted to the rape and acted like it was a joke. Stevens stated he hit the deceased, the deceased reached for a gun, and Stevens shot him with the gun Stevens already had out. (Court's Ex. 1/State's Ex. 6; 30:00).[4] Stevens said he panicked when

[4] On Court's Ex. 1, the unredacted tape of the 2nd interview, Stevens confessed to killing Jeremy Craddock at approximately 33:00 minutes into the interview. On State's Ex. 6, which contained redactions, the confession occurs approximately 30:00 minutes into the interview.

he shot the victim. Stevens told the agent his gun was a .380. (Court's Ex. 1/State's Ex. 6, 31:30). Stevens offered to show the agent where the gun was located. (Court's Ex. 1/State's Ex. 6, 36:15; 55:51). Stevens said he had buried the gun for few weeks behind a tree, but dug the gun up, disassembled the gun, and threw the pieces in a lake. Stevens said he was a member of the Aryan Brotherhood, and they did not like people who raped other people. Stevens said his father had raped a woman also, and he [Stevens] had lived with that his whole life. Stevens said he did not have his phone with him at the time of the murder. (Court's Ex. 1/State's Ex. 6). Stevens was tearful during the confession and stated more than once during the interview that the fact that he had shot and killed Jeremy Craddock had been weighing on him, and Stevens had been unable to sleep for several days before the interview. (Court's Ex. 1/State's Ex. 6). Stevens said it was wrong what he did to the victim, and the victim did not deserve to die. (Court's Ex. 1/State's Ex. 6).[5]

As previously discussed, Stevens led police to where he threw pieces of the murder weapon. The dive team recovered the slide that went to the murder weapon. A forensic firearms examiner from SLED was able to positively link the slide to having left impression marks on the fired shell casing that was found on the ground outside the passenger door of the victim's burned vehicle.

Prior to trial, Stevens moved to suppress his 2nd statement to law enforcement. Judge Clyburn-Pope held a Jackson v. Denno[6] hearing. (Tr. pp. 5-19). The State presented evidence to show, by a preponderance of the evidence, that the statement was voluntary. *See, e.g.,* State v. Arrowood, 375 S.C. 359, 367, 652 S.E.2d 438, 442 (2007) ("the State must affirmatively show the

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[5] Toward the end of this interview, Stevens changed his story slightly. He stated he did not punch the victim before he shot him, but when the victim admitted to the rape, he, Stevens told the victim to get out of the car because Stevens was going to "beat his ass." The victim then reached for his gun and Stevens shot the victim with Stevens' gun. (Court's Ex. 1/State's Ex. 6).

[6] Jackson v. Denno, 378 U.S. 368 (1964).

statement was voluntary and taken in compliance with Miranda.")(citing State v. Middleton, 288 S.C. 21, 25, 339 S.E.2d 692, 694 (1986)). Both investigator Davis and SLED agent Croft testified that Stevens was Mirandized before he was interviewed. (Tr. p. 7, ll. 15-21; p. 13, ln. 6 – p. 14, ll. 1-10). A Miranda Waiver form was admitted in evidence as State's Ex. 1 at the Denno hearing. (Tr. p. 14, ll. 4-10). The recorded statement of Stevens with Croft and Davis was admitted as Court's Ex. 1 at the Denno hearing. Stevens did not testify at the Denno hearing or present any evidence. After hearing all of the testimony previously described above regarding the statement and watching the unredacted statement itself (Court's Ex. 1) which is 1 hour, 22 minutes, and 54 seconds in length, Judge Clyburn-Pope denied the motion to suppress. (Tr. p. 98, ll. 3-16; p. 22).

The Miranda Waiver form was admitted in front of the jury as State's Ex. 13. (Tr. p. 104, ll. 9-15). The interview of Stevens with agent Croft and investigator Davis was introduced into evidence before the jury over objection as State's Ex. 6. (Tr. p. 106, ll. 18-25). This entire interview was played for the jury minus some agreed upon redactions and is approximately 1 hour and 14 minutes in length. (Tr. p. 107, ll. 15-16; p. 22, ll. 1-9). In contrast, the un-redacted video which Judge Clyburn-Pope considered is approximately 1 hour, 22 minutes, and 54 seconds in length. (Tr. p. 2; Court's Ex. 1).

After the interview was played, the agent testified about interview techniques and building a rapport with a suspect. (Tr. p. 108, ln. 25 – p. 109, 110). The agent testified about the 3 versions of events provided by Stevens during the interview. (Tr. p. 110, ln. 11 – p. 111, p. 112, ll. 1-20). The prosecutor asked the agent about a hypothetical he used during the interview and Stevens' response. "And in that hypothetical, you explain that you think he went to go beat up the victim and things went south. And you ask him how close am I. What was his response? (Tr. p. 112, ll. 12-14). Agent Croft testified Stevens responded, "Pretty close." (Tr. p. 112, ln. 15).

During cross-examination, the agent confirmed that Stevens wanted to beat up the deceased because of an allegation that the deceased sexually assaulted Stacy _____, who Stevens may have dated previously. (Tr. p. 117, ln. 14 – p. 118; 120, ll. 1-10). Agent Croft also confirmed that on the night of the death of the victim both Stevens and the victim had a gun. (Tr. 120, ll. 11-25). During re-direct examination, agent Croft testified that in the second version of events that Stevens provided during the 2nd interview, Stevens denied knowing about the prior sexual assault of the female and told the agent that a man named Shawn [West] sent Stevens to beat up the victim. (Tr. p. 122, ll. 2-20; Court's Ex. 1/State's Ex. 6). As previously stated, the jury convicted Stevens of murder and possession of a weapon during a violent crime.

Standard of Review

An appellate court will review the trial court's factual findings regarding the voluntariness of a statement for any evidentiary support. However, the ultimate legal conclusion, whether, based on those facts, a statement was voluntarily made, is a question of law subject to *de novo* review. State v. Miller, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023).

"On appeal, the trial judge's ruling as to the voluntariness of the confession will not be disturbed unless so erroneous as to constitute an abuse of discretion." State v. Moses, 390 S.C. 502, 510–11, 702 S.E.2d 395, 399 (Ct. App. 2010) (quoting State v. Myers, 359 S.C. 40, 47, 596 S.E.2d 488, 492 (2004)). "When reviewing a trial court's ruling concerning voluntariness, this [c]ourt does not reevaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial court's ruling is supported by any evidence." State v. Johnson, 422 S.C. 439, 454, 812 S.E.2d 739, 747 (Ct. App. 2018) (alteration in original) (quoting State v. Saltz, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001)). "The test for determining the admissibility of a statement is whether it was knowingly, intelligently, and voluntarily given under

the totality of the circumstances." State v. Peake, 291 S.C. 138, 139, 352 S.E.2d 487, 488 (1987) (citing State v. Rabon, 275 S.C. 459, 272 S.E.2d 634 (1980)).

The trial court's standard

The trial judge's determination of the voluntariness of a statement must be made on the basis of the totality of the circumstances, including the background, experience, and conduct of the accused. State v. Collins, 442 S.C. 444, 445-56, 900 S.E.2d 426, 432 (2024). If a defendant was advised of his Miranda rights, and chose to make a statement, the burden is on the State to prove by a preponderance of the evidence that his rights were voluntarily waived. State v. Childs, 299 S.C. 471, 475, 385 S.E.2d 839, 842 (1989). Our state Supreme Court has stated that trial courts may consider a number of factors in determining the voluntariness of a statement such as: the accused's youth and maturity, lack of education, or low intelligence, the failure to advise the accused of his constitutional rights, the presence of a written waiver of rights; the physical condition and mental health of the accused; the circumstances of the interrogation, including its length, repeated nature, location, and continuity; the use of physical punishment; whether law enforcement offered specific promises of leniency as opposed to general comments that cooperation would be beneficial; and whether law enforcement made intentional misrepresentations of the evidence against the accused. Collins, 442 S.C. at 455-56, 900 S.E.2d at 432.

Analysis

Stevens does not object to the introduction of the 1st interview he gave on the 16th to investigator Davis. Stevens only objects to the admissibility of the 2nd interview he gave on the 18th to both Davis and agent Croft. Stevens argues in his brief, some of the statements by agent Croft were promises of leniency that coerced his 2nd statement from him. Stevens is wrong. In

his brief, Stevens has completely failed to make the connection between Croft's statements and a promise of leniency. (Court's Ex. 1/State's Ex. 6). And, the totality of the circumstances shows Stevens' 2nd statement was freely, voluntarily, and knowingly given. Collins, *supra.*

First, this was not Stevens' first involvement with law enforcement. Miller, 441 S.C. 106, 893 S.E.2d 306. He would not have been intimidated by 2 investigators questioning him about a homicide his name had been brought up in. State v. McLeod, 303 S.C. 420, 301 S.E.2d 175 (1991); State v. Linnen, 278 S.C. 175, 293 S.E.2d 851 (1982). The record shows Stevens was already in custody on 2 grand larceny charges. The record shows Stevens was also on probation after having served a prison sentence. The record also shows Stevens had extensive convictions for other felony and misdemeanor offenses including distribution of methamphetamine, unlawful exposure of a child to methamphetamine, and forgery less than $10,000 in 2013; disorderly conduct in 2015; possession of a stolen vehicle, possession of a stolen pistol, possession of drugs, 2nd offense, and possession of a firearm by a convicted felon (based on a prior ABHAN) in 2018. (States Ex. 6; Tr. pp. 211-12). State v. Patterson, 263 S.C. 176, 209 S.E.2d 39 (1974); In re Christopher W., 285 S.C. 329, 329 S.E.2d 769 (Ct. App. 1985); McLeod, 303 S.C. 430, 404 S.E.2d 175; Linnen, 278 S.C. 175, 293 S.E.2d 851.

Second, Stevens was approximately 35 years old. He was the father of 4 children. He also had a high school education having graduated from the 12th grade. Stevens was also a welder. The recording of the 2nd interview shows Stevens was intelligent and street smart. (Court's Ex. 1: State's Ex. 6).

Third, the record shows Stevens understood his constitutional rights and waived them. Stevens was read his Miranda rights at his 1st interview with investigator Davis on September 16, 2020, and he waived those rights and voluntarily talked to Davis. (Tr. pp. 6-8). Stevens was read

his Miranda rights again on September 18, 2020, before being interviewed by Davis and Croft, and he signed a written Miranda waiver form indicating that he understood each right and that he was voluntarily waiving each right and freely, voluntarily, and knowingly talking to Davis and Croft. (State's Ex. 1 [Denno hearing]; State's Ex. 13 [trial]). The voluntary waiver of his Miranda rights was also recorded on audio/videotape. (Court's Ex. 1/State's Ex. 6). No promises or threats were made to Stevens to get him to talk to the 2 investigators. (Court's Ex. 1/State's Ex. 6). Stevens freely, voluntarily, and intelligently waived his Miranda rights and talked to the 2 investigators. (Court's Ex. 1/State's Ex. 6; State's Ex. 1 [Denno hearing]; State's Ex. 13 [for trial]).

Fourth, the interview was brief. The 1st interview on the 16th was approximately 20-30 minutes. The total 2nd interview on the 18th was 1 hour, 22 minutes, and 54 seconds in length. Stevens confessed 33 minutes into the unredacted interview. Stevens was not beaten down or worn down by a lengthy interrogation. Courts in this state have found interviews of much longer length voluntary. State v. Chaffee and Ferrell, 285 S.C. 21, 328 S.E.2d 474 (1984)(5 hours); State v. Crawley, 349 S.C. 459, 562 S.E.2d 683 (Ct. App. 2002)(7 ½ hour interview was voluntary); State v. Saltz, 346 S.C. 114, 551 S.E.2d 240 (2001)(6 and ½ hour interview voluntary); State v. Cannon, 260 S,C, 537, 197 S.E.2d 678 (1973)(5 ½ hour interview voluntary); State v. Rochester, 301 S.C. 196, 391 S.E.2d 244 (1990)(2 ½ hours voluntary).

Fifth, Stevens was not under the influence of any alcohol or drugs at the time of the interview. That is clear from the fact he was incarcerated at the time of both interviews and the recording itself of the 2nd interview shows Stevens was not intoxicated. (Court's Ex. 1/State's Ex. 6). State v. Bellue, 259 S.C. 487, 193 S.E.2d 121 (1972).

Sixth, food and water were not withheld from Stevens. Collins, *supra.* Stevens was offered water and something to eat on more than 1 occasion and eventually accepted a Pepsi and M&M's.

(Court's Ex. 1/State's Ex. 6). And, the recording itself shows the investigators did not use any form of physical punishment, threat of physical punishment, or coercion to get Stevens to confess. (Court's Ex. 1/State's Ex. 6; State's Ex. 1 [Denno]; State's 13 [for trial]). Id. Stevens was not deprived of any sleep during the interrogation process. The interview only lasted 1 hour and approximately 20 minutes. On the contrary, Stevens indicated he had lost sleep in the past because of *what he had done*, i.e. killed Craddock. (Court's Ex. 1/State's Ex. 6).

Furthermore, review of Stevens' 2nd statement, which is all on video/audio, shows that Stevens was not coerced by any promise of leniency or specific promise of leniency. Collins, *supra*; Miller, *supra*. The only thing the agent said to Stevens was that agent Croft could not make any promises about what was going to happen, what Stevens was going to be charged with, or what sentence Stevens would receive, but what he could do was promise to walk through the criminal justice process with him. (Court's Ex. 1/State's Ex. 6). Croft and Stevens had attended church together in the past. They knew each other. Croft also told Stevens that Croft could stand before whoever is involved in the case and say, listen, this guy [the victim] raped this girl who this man [Stevens] cares about. We all know that [rape] is awful, probably one of the worst things you can do to somebody. He [the victim] completely violated her. Because of this, emotions ran high at the time of this crime. Things went sideways and got out of hand. (State's Ex. 6). This was not a promise of leniency as Stevens now alleges but a statement that Croft would tell whoever was involved in the case, such as the Solicitor or the Court, the circumstances of the case and what he believed actually happened, i.e. he would communicate the circumstances of the crime and Stevens' involvement and cooperation. Our case law has recognized that such statements do not render a statement coerced or involuntary. State v. Hillary, 441 S.C. 239, 250–54, 892 S.E.2d 541,

547–49 (Ct. App. 2023), *reh'g denied* (Sept. 18, 2023): State v. Arrowood, 375 S.C. 359, 367, 652 S.E.2d 438, 442 (Ct. App. 2007); Collins, *supra.*

Finally, the fact that Croft knew Stevens from attending church together and indicated he cared about him did not render Stevens' statement involuntary. State v. Parker, 381 S.C. 68, 671 S.E.2d 619 (Ct. App. 2008)(while excessive friendliness on the part of an interrogator can be deceptive, and in some instances, in combination with other tactics, it might create an atmosphere in which a suspect forgets that his questioner is in an adversarial role, and thereby prompt admissions that the suspect would ordinarily only make to a friend, not to the police, such approach is nevertheless recognized as a permissible interrogation tactic.). Further, Croft did not act excessively friendly with Stevens during the 2nd interview. (Court's Ex. 1/State's Ex. 6).

In South Carolina, the test for determining whether a defendant's confession was given freely, knowingly, and voluntarily focuses upon whether *the defendant's will was overborne* by the *totality of the circumstances* surrounding the confession. Courts have recognized appropriate factors that may be considered in a totality of the circumstances analysis: background; experience; conduct of the accused; age; maturity; physical condition and mental health; length of custody or detention; police misrepresentations; isolation of a minor from his or her parent; the lack of any advice to the accused of his constitutional rights; threats of violence; direct or indirect promises, however slight; lack of education or low intelligence; repeated and prolonged nature of the questioning; exertion of improper influence; and the use of physical punishment, such as the deprivation of food or sleep. Moses, 390 S.C. at 513–14, 702 S.E.2d at 401 (citation omitted); *see also* State v. Arrowood, 375 S.C. 359, 367, 652 S.E.2d 438, 442 (Ct. App. 2007) ("A statement 'may not be extracted by any sort of threats or violence, [or] obtained by any direct or implied

promises, however slight, [or] by the exertion of improper influence.'" (alterations in original) (quoting State v. Rochester, 301 S.C. 196, 200, 391 S.E.2d 244, 246 (1990))).

Given the standard of review and the existence of an uncontradicted audio and video recording of the interview, this Court's task here is narrow and straightforward. If the actions and statements of the officers as captured on the recording can support the circuit court's factual findings, this Court should affirm those findings. Miller, *supra*. Put another way, as to the circuit court's factual findings, reversal would be proper only if the events on the recording *cannot* support the circuit court's factual findings. Miller; Hillary, 441 S.C. at 250–54, 892 S.E.2d at 547–49.

In this case, Stevens was not promised leniency. At most, agent Croft told Stevens, who the agent had gone to church with, that he would walk through the criminal justice process with Stevens, and would communicate to prosecutors and the court what the agent believed actually happened during the crime and that Stevens cooperated with law enforcement. That is similar to the interrogation this Court considered in Arrowood. There, the circuit court relied on testimony by law enforcement that "the only 'help' they offered Arrowood was to testify in court that he cooperated with the investigation." Arrowood, 375 S.C. at 368, 652 S.E.2d at 443. This Court held that "the officers' offer to attest to Arrowood's cooperation did not constitute promises of leniency. Consequently, Arrowood produced his statements in the mere 'hope' of leniency based on his cooperation, rather than as the consequence of promises." Id. at 368–69, 652 S.E.2d at 443 (citations omitted).

Here, as in Arrowood, Agent Croft was not promising leniency; if agent Croft followed through on his promise, it would provide Stevens with "the mere 'hope' of leniency based on his cooperation." and the circumstances of the crime. *See also* Parker, 381 S.C. at 91, 671 S.E.2d at 631 ("[D]iscussions of realistic penalties for cooperative and non-cooperative [defendants] ... are

normally insufficient to preclude free choice." (third alteration in original) (quoting United States v. Mendoza–Cecelia, 963 F.2d 1467, 1475 (11th Cir. 1992), *abrogated on other grounds by* Davis v. United States, 512 U.S. 452 (1994))).

Here, the agent's and the investigator's tactics were part of the allowable spectrum, they informed Stevens' mental calculation about whether to confess, rather than overbearing his will. *See* Parker, 381 S.C. at 89, 671 S.E.2d at 630 ("It is generally recognized that the police may use some psychological tactics in eliciting a statement from a suspect .... These ploys may play a part in the suspect's decision to confess, but so long as that decision is a product of the suspect's own balancing of competing considerations, the confession is voluntary." (alteration in original) (quoting State v. Von Dohlen, 322 S.C. 234, 244, 471 S.E.2d 689, 695 (1996), *overruled on other grounds by* State v. Burdette, 427 S.C. 490, 832 S.E.2d 575 (2019))).

While agent Croft and investigator Davis used some interview techniques to encourage Stevens to confess, their actions fall short of the sustained pressure campaign that would render an admission or confession involuntary. They encouraged Stevens to tell the truth and come clean and specifically did not promise him what he would be charged with or how much prison time he would receive. Given the totality of the circumstances, the record presented at trial provides evidence supporting the circuit court's finding of voluntariness. Miller, *supra*; Hillary, 441 S.C. at 250–54, 892 S.E.2d at 547–49; Collins, *supra*.

Croft asked Stevens: How close am I, and Stevens said "pretty close." Croft asked Stevens to just shoot straight with him, assuring Stevens that he, Croft, respected him. (Court's Ex. 1/State's Ex. 6, 29:30). Agent Croft talked about consequences and making a mistake. (Court's Ex. 1/State's Ex. #6, 29:43). But Croft made clear he could not tell Stevens what he would be

charged with or how much prison time Stevens could or would receive. Davis also told Croft the same thing. (Court's Ex. 1/State's Ex. 6).

Stevens admits he made incriminating statements after agent Croft only stated that he would walk every step of the way with Stevens and stand before whoever was involved in the case and tell them the deceased raped a friend of Stevens, Stevens intended to beat up the victim, things got out of hand and Stevens ended up shooting and killing the victim . (IBOA, p. 7). Stevens told the agent he confronted the deceased about the rape, the deceased admitted to the rape and acted like it was a joke. Stevens then hit the deceased, the deceased reached for a gun and Stevens shot him with the gun Stevens was carrying, a .380. (Court's Ex. 1/State's Ex. 6, 30:00, 31:30). Stevens offered to show and did lead agents to where he had thrown pieces of the murder weapon. (Court's Ex. 1/State's Ex. 6, 36:15; 55:51).

But the mere hope for a benefit is not enough to render a statement involuntary. State v. Miller, 375 S.C. 370, 387, 652 S.E.2d 444, 453 (Ct. App. 2007), *affirmed* State v. Miller, 441 S.C. 106, 893 S.E.2d 306 (2023). In Miller the South Carolina Supreme Court affirmed this Court's determination that Miller's final statement to SLED agents was voluntary under the totality of the circumstances. Id.; Miller, 375 S.C. 370, 652 S.E.2d 444. Miller is instructive. Similar to the investigators here, the agents in Miller indicated "it was in [Miller's] best interest to cooperate," but "made no direct or implied promise of leniency." Id. This Court found that was not enough to show the statement was involuntary. Looking at the totality of the circumstances, the South Carolina Supreme Court agreed, affirming this Court. Miller, 441 S.C. 106, 893 S.E.2d 306.

Similarly, in State v. Simmons, 384 S.C. 145, 682 S.E.2d 19 (Ct. App. 2009), this Court again considered voluntariness in light of general statements made during the interview process. In Simmons, the defendant claimed: "he was induced into making incriminatory statements by the

solicitor's promise of leniency and by coercive police tactics." Id. at 164, 682 S.E.2d at 29. In Simmons, the prosecutor "advised" the defendant that his cooperation "'would be considered at sentencing.'" Id. This Court reasoned that "was not improper." Id. Further, and again as the trial judge found here, other evidence supported that circumstances, as a whole, showed a voluntary statement. Id. at 164-65, 682 S.E.2d at 29. Again, general statements that indicate cooperation is beneficial are not improper. Collins, *supra*.

In State v. Collier, 421 S.C. 426, 439, 807 S.E.2d 206, 213 (Ct. App. 2017), this Court considered the voluntariness of a defendant's statement after investigating officers "assured him that telling the truth would not hurt his situation." Citing to State v. Rochester, 301 S.C. 196, 201, 391 S.E.2d 244, 247 (1990), this Court resolved that the broad statement did not negatively affect voluntariness and admissibility. Id. This Court's logic in Collier and the other above-referenced cases soundly rests in the logic and law as reflected in Supreme Court precedent, in particular, Rochester and Peak.

In Rochester, our Supreme Court rejected an argument that a polygraph examiner's statement, "' it would be certainly, probably, in his best interest to tell the truth,'" could reasonably be considered inducement as it "was not on its face an inducement or hope of lighter punishment" such as those condemned in State v. Peak, 291 S.C. 138, 352 S.E.2d 487 (1987). Peak well illustrates the impermissible.

In Peak, the officer who conducted the interview of the defendant in a murder investigation expressly stated that "the State would not ask for the death penalty" if the defendant would give a statement of what happened. Id. at 139, S.E.2d at 488. He even offered to contact "the Solicitor and have him put it in writing...." Id. A statement soon followed. Our Supreme Court found "the officer was in a position of apparent authority, and his comments ... tantamount to a promise not

to seek the death penalty if the appellant gave a statement." Id. Therefore, the prosecution necessarily failed to show the "statement was voluntary and not the product of the officer's promise of leniency." Id. The statement was inadmissible.

Here, the recorded interview confirms no such direct promise was made. (Court's Ex. 1/State's Ex. 6). In fact, Croft told Stevens two (2) different times that he could not make any promises regarding what Stevens would be charged with or what his punishment would be. Rather, Stevens asserts in his brief there was an implied promise. Stevens has simply not made that connection. In fact, the record does not show that there was an implied promise during the interview. (Court's Ex. 1/State's Ex. 6). The trial judge did not abuse his discretion in discounting that claim below in light of the contemporaneous record made of the interview. (Court's Ex. 1/State's Ex. 6). *See* Simmons, 384 S.C. at 165–66, 682 S.E.2d at 30 ("the circuit court did not abuse its discretion in giving greater weight to the officers' testimony in its voluntariness determination based on Simmons's inconsistent testimony of what transpired while in custody."); *see also* Arrowood, 375 S.C. at 367, 652 S.E.2d at 442 ("The trial judge's determination of the voluntariness of the statement must be made on the totality of the circumstances, including the background, experience, and conduct of the accused.")(citing Saltz, 346 S.C. at 136, 551 S.E.2d at 252).

Again, the key is whether there was a promise of leniency that induced an involuntary statement. Was the defendant's will overborne? A defendant's attempt to avoid a harsh sentence is a logical consideration and is not, alone, evidence of involuntariness. In fact, it has long been the rule that a guilty plea may be voluntary even if entered specifically to avoid a death sentence. *See, e.g.* Dingle v. Stevenson, 840 F.3d 171, 174–75 (4th Cir. 2016) (citing Brady v. United States,

397 U.S. 742 (1970)). Here, Stevens was not threatened with the death penalty, and he was not promised leniency or a specific term of years.

Here, given the totality of the circumstances, the uncontradicted record shows Stevens' 2nd statement was not coerced, and his will was not overborne. Collins, *supra*. The trial court's factual findings are fully supported by the record, and the trial court appropriately denied the motion to suppress Stevens' 2nd statement. Even under *de novo* review of the legal issue, Stevens' convictions and sentences should be affirmed because under the totality of the circumstances his confession made in his 2nd interview was not coerced but was freely, voluntarily, and knowingly given. Id.; Miller.

CONCLUSION

For the above stated reasons, Stevens' convictions and sentences for the murder of Jeremy Craddock should be affirmed and this appeal denied and dismissed.

Respectfully submitted,

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