THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Hon. Perry H. Gravely, Circuit Court Judge

Supreme Court Appellate Case No. 2025-001913

The State ..... Respondent,

v.

Eugene Turner, Jr..... Petitioner.

PETITION FOR A WRIT OF CERTIORARI

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Introduction

Eugene Turner, Jr. ("Mr. Turner") respectfully petition this Court to grant a Writ of Certiorari to review the Court of Appeals' Opinion filed on July 23, 2025, which, among other things, affirmed the circuit court's ruling denying Mr. Turner's motion for immunity under the Protection of Persons and Property Act, S.C. Code Ann. §§ 16-11-410, *et seq.* (the "Act") and found Mr. Turner's motion for a mistrial was not preserved for appellate review. Certiorari should be granted because the Court of Appeals' ruling misunderstands and misapplies legal principles of major significance to the jurisprudence of this State relating to operation of this state's laws and applications of the Act, and because this petition provides the Court with an opportunity to provide clear guidance to the lower courts on a recurring question of great legal significance regarding the way in which the lower courts must analyze and rule on self-defense immunity defenses.[1]

Certificate by Counsel

The Court of Appeals ruled on Petitioner's Petition for Rehearing on August 20, 2025.

Questions Presented for Review

I. Whether the trial court and Court of Appeals erred by denying Mr. Turner's motion for immunity under the Act by failing to analyze specific facts supporting each element of self-defense and failing to establish a clear standard of review for evaluating motions for immunity under the Act.

II. Whether the Court of Appeals erred by finding Mr. Turner's motion for a mistrial was not properly preserved for appellate review.

[1] Petitioner further incorporates into this Petition all prior arguments raised in his briefing and at oral argument below as well as in his Petition for Rehearing and does not abandon such arguments here.

Statement of the Case and Facts

A. Procedural History

The State of South Carolina charged Mr. Turner with the attempted murder of Angela Anderson, Nachrisha Rosemond, Kimberly Pickens, Christine Wolfe-Young, and Daniel Stokes (collectively, "Alleged Victims"), and one count of possession of a weapon during the commission of a violent crime based on allegations arising from an incident which occurred on September 1, 2017. (App. 0035, lines 1–9.) The trial took place in the Greenville County Court of General Sessions from September 6, 2022, to September 9, 2022.

Before the start of the trial, Mr. Turner moved for immunity from prosecution under the Protection of Persons and Property Act, S.C. Code Ann. §§ 16-11-410, *et seq.* ("Act") ("Motion for Immunity"). (App. 0053, line 23–p. 0054, line 1.) The trial court denied the Motion for Immunity, erroneously concluding that the Act was inapplicable, and finding that Mr. Turner failed to meet the requirements of S.C. Code Ann. § 16-11-440(c) by a preponderance of the evidence. (App. 0245, line 2–p. 0246, line 24.) The trial court reached this conclusion despite failing to make specific findings on each element of self-defense under the Act, as required by binding precedent.

After the ruling denying Mr. Turner's Motion for Immunity, but before trial, Mr. Turner moved to preclude the State and its witnesses from repeating unfounded accusations that he had allegedly engaged in criminal sexual conduct with a minor who was related to some of the Alleged Victims. (App. 0247, line 23–p. 0248, line 2.) At the trial court's direction, counsel for Mr. Turner and counsel for the State agreed that the alleged incident would be referred to only as a "family incident." (App. 0248, line 3–p. 0249, line 9.) The purpose of the stipulation was to avoid any unfair prejudice against Mr. Turner, and the trial court instructed the Alleged Victims that "it's

very important that y'all comply with that stipulation." (App. 0248, lines 11–12.) Yet, Mr. Stokes—the State's first witness—violated the stipulation. (App. 0278, lines 8–24.) Mr. Turner then moved for a mistrial ("Motion for Mistrial") on the grounds that Mr. Stokes's testimony implied that the allegations against Mr. Turner involved a minor and that this was unfairly prejudicial to Mr. Turner. (App. 0278, line 25–p. 0280, line 12.) The trial court denied the Motion for Mistrial. (App. 0280, lines 13–18.)

After the trial, the jury convicted Mr. Turner of one count of attempted murder, one count of possession of a weapon during the commission of a violent crime, and three counts of assault and battery in the first degree. (App. 0826, line 9–p. 0828, line 13.) Mr. Turner then renewed his Motion for Immunity and Motion for Mistrial, which the trial court denied. (App. 0829, line 25–p. 0830, line 7.) The trial court sentenced Mr. Turner to eighteen years for attempted murder, eight years for each conviction of assault and battery in the first degree, and five years for possession of a weapon during the commission of a violent crime. (App. 0834, lines 11–18.) The trial court ruled that these sentences would run concurrently, and that Mr. Turner would receive credit for 1,829 days of time already served and home incarceration. (App. 0834, lines 13–14.)

Mr. Turner timely filed his Notice of Appeal in the Court of Appeals on September 12, 2022. The Court of Appeals filed its opinion fully affirming the trial court's rulings on July 23, 2025. (App. 945.) The Court of Appeals denied Mr. Turner's Petition for Rehearing on August 20, 2025. (App. 960.) Petitioner now timely files this Petition for Writ of Certiorari with this Court pursuant to SCACR 242.

B. Facts

1. Mr. Turner's Relationship with the Alleged Victims

Mr. Turner met the Alleged Victims through his romantic relationship with Latoya "Monique" Fletcher. (App. 0150, line 11–p. 0151, line 6.) Before her relationship with Mr. Turner, Ms. Fletcher had a romantic relationship with Mr. Stokes, with whom she has a child and stepchild. (App. 0150, lines 16–17.) Mr. Turner and Mr. Stokes interacted regularly at family events while Mr. Stokes and Ms. Fletcher continued to coparent their children during Mr. Turner's relationship with Ms. Fletcher. (App. 0276, line 10–p. 0277, line 24.)

2. Mr. Stoke's Attack on Mr. Turner and His Vehicle

On August 14, 2013, there was an incident involving Ms. Fletcher's daughter which led to Mr. Stokes's attack on Mr. Turner and his vehicle. (App. 0055, line 24–p. 0058, line 6.) Mr. Turner was supervising Ms. Fletcher's daughter when she wrapped a roll of 3M tape around her leg and foot. (App. 0151, lines 9–14.) Mr. Turner took a picture of this and sent it to Ms. Fletcher. (App. 0151, lines 9–15.) Ms. Fletcher told Mr. Turner that the children were to stay with Mr. Stokes that weekend. (App. 0151, lines 15–22.) After Mr. Stokes arrived at Ms. Fletcher's house, he jumped out of the car and shouted, "Shut the fuck up, bitch." (App. 0154, lines 1–6.) Mr. Stokes then approached Mr. Turner and began hitting Mr. Turner's car. (App. 0154, lines 8–9.) After Mr. Stokes and Mr. Turner came to blows, Mr. Turner ran away from Mr. Stokes, fearing that he had a gun. (App. 0154, lines 11–19.) Mr. Stokes then rammed his own car into a fence and destroyed Mr. Turner's car with a machete. (App. 0154, line 20–p. 0155, line 4.) Police arrived at the scene and arrested Mr. Stokes for maliciously damaging Mr. Turner's car with a machete. (App. 0056, lines 19–23, App. 0057, lines 12–18.) Mr. Stokes was tried and found guilty of this crime. (App. 0058, lines 2–6.)

3. Allegations against Mr. Turner of Criminal Sexual Conduct

On December 1, 2016, the police and the Department of Social Services ("DSS") responded to a complaint that Mr. Turner had engaged in criminal sexual conduct with a minor. (App. 0061, line 15–p. 0062, line 11.) The alleged victim was Ms. Fletcher's daughter. (App. 0062, lines 6–23.) The investigation revealed that Ms. Fletcher's daughter accused Mr. Turner of inappropriately touching her leg while she was driving a vehicle. (App. 0075, lines 12–16.) During the investigation, Mr. Turner explained to the police and DSS that he believed that the alleged victim's father, Mr. Stokes, had persuaded her to make these accusations. (App. 0072, lines 1–5.) No charges were ever brought against Mr. Turner based on these allegations. (App. 0066, lines 21–23.)

4. Social Media Posts by the Alleged Victims Threatening Mr. Turner's Life

On January 13, 2017, Mr. Stokes, through his Facebook page called "Lethal Cutz," began posting threats against Mr. Turner's life. (App. 0086, line 24–p. 0087, line 11.) Mr. Stokes posted a picture of Mr. Turner and threatened him as follows:

> His name is Eugene Turner!!!! If you see this bitch ass child malester [sic] call the police before I get to hem [sic] because on my family and life he done all my niggas *green light mash on sight!!* Its face off fuck boy not god, not my mama, not Police, not your mama can save you on the Shao *u dead bitch!!!*

(App. 0854 (emphasis added).])

According to the testimony of Amanda Donald, an experienced investigator who formerly worked for the South Carolina Department of Probation and Parole, a "green light" is "giving anyone a go ahead, permission to either assault someone, inflict bodily harm, or kill that person." (App. 0087, line 24–p. 0088, line 6.)

On January 14, 2017, Ms. Wolfe-Young shared Mr. Stokes's Facebook post:

> Family & Friends Please Beware !!! Any man that does this to a child is sick !! I'm praying for this little girl, her mother and family as well. TO think this man has daughters the same age . So many of my friends , social clubs and his own family and friends (including myself) have partied ,hung out and had our kids around him never knowing his wicked thoughts and ways.
> I'm giving it to God because if the law don't get you *the streets will*….

(App. 0858 (emphasis added).) On January 14, 2017, Ms. Wolfe-Young posted another threat on Facebook:

> You Can Run But I Promise You Can't Hide For Long. The Truth Will Be Told And You Blocking Me And Everyone Who Knows What You Did Was Expected. I Knew He Would, But Before He Did I Retrieved All His Family And Friends Information From Georgia , Including Siblings & Kids Mother's. I Have Made Some Aware Of What Happened And Will Continue TO Alert The Others Of What He Did To My Niece (Lethal Cutz) 13 Year Old Daughter. I Advocate For The Children And I Promise To Keep Any And Everyone Informed Of What This Sick Bastard Did To This Baby & One Of Her Female Cousins. Until This Dud Is Convicted & Behind Bars Awareness Will Not Stop !!!

(App. 0860.) Ms. Anderson and Ms. Rosemond then commented on this post:

> Angela Anderson: Bitch better Go have several Seats
>
> Nikki Rose: If they know whats best they will go get a life and sit down cause we RIDE IN PACKS AND RIDE FOR OURS……..ANYTIME ANYDAY ABY HOUR FACTZ
>
> Nikki Rose: And Turn all talks into ACTION… MISERY LOVES COMPANY I SEE AND SOMEONE IS MISERABLE

(App. 0859.)

Several days later, on January 17, 2017, Mr. Stokes went live on Facebook to threaten Mr. Turner a second time as transcribed below:

Yo, yo, yo,
Your boy had a great day
Just checking in to let you know that I'm about
To clock outta this clock
And get on another clock
Ni**a I'm still looking for your bitch ass
Alright
Think you done fucked up
Fuckin around ni**a
I don't give a damn nobody say
*Can't nobody save you ni**a*
You better pray to Allah, Buddha and Shania
Twain
Cause bitch *I'm coming*

(App. 0855–0856 (emphasis added).) Ms. Wolfe-Young shared this post. (App. 0855.)

5. Mr. Turner's Fear after Seeing the Alleged Victims' Social Media Posts

Mr. Turner saw these social media posts because he was Facebook friends with Ms. Wolfe-Young, and he believed—understandably, based on past conduct and plain language—that these posts were threats to his life. (App. 0158, line 17–p. 0159, line 4.) Mr. Turner was "[t]errified" by these posts and "felt threatened" by them. (App. 0160, line 18; App. 0161, line 3.) Mr. Turner believed that the Alleged Victims were trying to harm him. (App. 0162, lines 17–19.) After reading those posts, Mr. Turner "tried to stay home and go back to Georgia" to avoid being harmed. (App. 0163, lines 5–6.) Mr. Turner also went to the Greenville County Sheriff's Department to try to talk to an investigator. (App. 0163, lines 20–24.) Mr. Turner even hired a private attorney to investigate these threats to his life. (App. 0163, line 25–App. 0164, line 5.) He feared for his life from the time he saw the social media posts until he encountered the Alleged Victims on September 1, 2017, which was the first time he had seen them since the posts were made. (App. 0164, lines 7–13.)

6. The Incident at The Dugout on Sepember 1, 2017

On the night of September 1, 2017, Mr. Turner went to meet some friends at a club in Greenville County called the Dugout. (App. 0165, lines 2–9.) Someone at the Dugout told Mr. Turner that Ms. Fletcher was also there, so he ordered her a drink, which he delivered to her without speaking. (App. 0165, lines 9–19.) Soon after that, Mr. Turner received a phone call, and he walked outside to answer it. (App. 0166, lines 4–7.) Mr. Turner told his friend on the phone that he intended to leave the Dugout soon because Ms. Fletcher was there. (App. 0166, lines 7–10.) Mr. Turner went back inside the Dugout before soon leaving again to return to the parking lot. (App. 0166, line 21–p. 0167, line 8.)

While Mr. Turner was in the parking lot, he saw the lights of a vehicle approaching rapidly. (App. 0166, line 25–p. 0167, line 3.) He heard Ms. Wolfe-Young, who was also standing outside the Dugout, say, "[Mr. Turner is] right here." (App. 0166, line 21–p. 0167, line 4.) At that point, Mr. Turner could not tell who was approaching him because his back was turned. (App. 0167, lines 5–7.) Then Mr. Turner heard Mr. Stokes yell obscenities while he was walking towards Mr. Turner. (App. 0167, lines 9–14.)

When Mr. Turner turned around to face Mr. Stokes, he saw that Mr. Stokes was only about ten steps away from him. (App. 0167, lines 14–15.) As Mr. Stokes continued towards him, Mr. Turner reached into his car and grabbed a pistol. (App. 0167, lines 19–21.) Mr. Stokes came closer to Mr. Turner, so Mr. Turner cocked the pistol to show Mr. Stokes that he was armed. (App. 0167, lines 21–23.) Rather than stopping or retreating, Mr. Stokes continued to approach Mr. Turner and appeared to reach into his pocket for a gun. (App. 0167, line 24; App. 0190, lines 8–12.) At that time, Mr. Turner feared for his life and believed that he would be seriously injured or killed. (App. 0171, line 12–p. 0172, line 3; p. 0178, lines 9–23.) As a result of this fear, Mr. Turner fired

the pistol several times in Mr. Stokes's direction, and Mr. Stokes then ran to his vehicle. (App. 0192, lines 7–14; App. 0212, lines 6–9.) No shot hit Mr. Stokes, his vehicle, or anyone else. (App. 0192, lines 17–20.) Mr. Stokes then pulled away in his vehicle with Ms. Rosemond, Ms. Anderson, and Ms. Pickens, who remained unharmed. (App. 0193, lines 3–4.)

7. Mr. Turner's Retreat to Georgia, Return to Greenville, 9-1-1 Call, and Arrest

Following the incident, Mr. Turner returned to his home state of Georgia, where most of his family and friends lived, because he felt safer there than he did in Greenville. (App. 0173, line 17–p. 0174, line 3.) Mr. Turner stayed in Georgia for a day before coming back to Greenville. (App. 0174, lines 4–8.) A few days later, Mr. Turner heard banging on his door, and he thought that Mr. Stokes had come to retaliate. (App. 0174, lines 17–23.)

Mr. Turner then called 9-1-1, thinking that Mr. Stokes might be at his door because "the green light [was] already out on my head." (App. 0175, lines 11–12.) Only four people knew where he lived, so Mr. Turner believed that Ms. Fletcher must have told Mr. Stokes, which was "the only thing [he] could think about" when he called 9-1-1. (App. 0175, lines 14–18.) Thus, Mr. Turner was in fear for his life when he heard these bangs on his door, believing that Mr. Stokes was there to fulfill the threats that he had made on Facebook. (App. 0175, line 19–p. 0175, line 4.) Mr. Turner later learned when law enforcement came to arrest him that the police had been outside his door when he called 9-1-1. (App. 0176, lines 7–10.)

Argument

The application of the Act and the standard required for what a defendant must show to be granted immunity under the Act has proven to perplex the lower courts. The trial courts have inconsistently ruled at times with specific findings of fact as to each element of self-defense, while

at other times providing vague summaries of facts that do not identify to which elements of self-defense the court is applying the facts. The Court of Appeals has similarly been inconsistent in failing to articulate clear standards for trial courts to follow regarding the requirements for granting immunity under the Act. At this point, defendants who seek the protection they are afforded for acting in self-defense under the Act, and the trial courts that are charged with ruling on such motions for immunity, seemingly have insufficient direction on how to proceed. Only this Court can bring needed clarity to a point of law that will ensure the accused in South Carolina have rightful access to the protections of their right to self-defense under the Act.

In addition, the Court of Appeals overlooked or misapprehended the law and facts relevant to Mr. Turner's appeal from the trial court's denial of a mistrial. The Court of Appeal's ruling that the issue was not preserved for appellate review misapprehends the law regarding issue preservation and deprives Mr. Turner of appellate review of the trial court's ruling, contrary to his constitutional, statutory, or common law rights. This Court has the opportunity to make clear that defendants will have their rights preserved in the courtroom when a mistrial should be properly granted and in the appellate court when defendants seek appropriate review of the trial court's decision.

A. Standards Governing Certiorari Review

This Court provides guidance and clarification when the law is unclear, applied inconsistently, or when the Court of Appeals misunderstood and misapplied precedent. Rule 242 of the South Carolina Appellate Court applies, and this Court should grant the writ because the Court of Appeals' decision leaves the law unclear and conflicts with the prior precedent of this Court and if left uncorrected, such confusion and conflict will continue.

B. The Court of Appeals Failed to Properly Articulate a Standard for Determining Immunity Under the Act.

1. The Trial Court's Ruling Lacked Specific Findings of Fact for Immunity Under the Act

Prior to trial, Mr. Turner sought to invoke the immunity of the Act. The Act codifies the common law Castle Doctrine because "no person … should be required to surrender his personal safety to a criminal, nor should a person … be required to needlessly retreat in the face of intrusion or attack." S.C. Code Ann. § 16-11-420(E). Under the Act, a person has no duty to retreat and may stand his ground and meet force with force, including deadly force, if (a) he is attacked in a place where he has a right to be, and (b) he reasonably believes it is necessary to respond with force to prevent death or great bodily injury to himself. *See* S.C. Code Ann. § 16-11-440(C). "[W]ords accompanied by hostile acts may, depending on the circumstances, establish a plea of self-defense." *State v. Dickey*, 394 S.C. 491, 501, 716 S.E.2d 97, 102 (2011) (quoting *State v. Fuller*, 297 S.C. 440, 444, 377 S.E.2d 328, 331 (1989)). "Once the right to fire [a weapon] in self-defense arises, a defendant is not required to wait until his adversary is on equal terms or until he has fired or aimed his weapon in order to act." *State v. Starnes*, 340 S.C. 312, 322, 531 S.E.2d 907, 913 (2000) (citing *State v. Hendrix*, 270 S.C. 653, 244 S.E.2d 503 (1978)).

Claims for immunity under the Act are determined before the trial using a preponderance of the evidence standard. *State v. Jones*, 416 S.C. 283, 290, 786 S.E.2d 132, 136 (2016); *see State v. Duncan*, 392 S.C. 404, 411, 709 S.E.2d 662, 665 (2011) (recognizing that the proper standard for the trial court to use in determining immunity under the Act is a preponderance of the evidence). Under S.C. Code Ann. § 16-11-440(C), a defendant is immune from prosecution if he was attacked where he had a right to be, and a valid case of self-defense exists. *See Curry*, 406 S.C. at 371, 752 S.E.2d at 266. This Court held that "the trial court must necessarily consider the elements of self-

defense in determining a defendant's entitlement to the Act's immunity," which "includes all elements of self-defense, save the duty to retreat." *Id.* These elements of self-defense are (1) the defendant must be without fault in bringing on the difficulty; (2) the defendant must have believed he was in imminent danger of losing his life or sustaining serious bodily injury; and (3) a reasonably prudent person of ordinary firmness and courage would have entertained the same belief. *See id.* at 371, 266 n.4. The trial court is not permitted to consider the elements of self-defense in summary or based on a totality of the circumstances test, but rather, is required to consider each specific element of self-defense.

The trial court must also address each of these elements in its ruling on the application of self-defense and the Act. The trial court is permitted to provide its analysis of the specific elements orally, but the oral ruling does not eliminate the trial court's obligation to consider and address each specific element of self-defense. *See State v. Glenn*, 429 S.C. 108, 123, 838 S.E.2d 491, 499 (2019) ("While we understand that written orders are not always practical given the timing of the immunity hearing, the circuit court, in announcing its ruling, should at least make specific findings on the elements on the record."). In *State v. Cervantes-Pavon*, this Court made clear that while the Act does not require a written ruling, the Act does obligate the trial court to make specific findings of act and conclusions of law, especially given the gravity of the case and consequences of the ruling. 426 S.C. 442, 452 n. 4, 827 S.E.2d 564, 569 n.4 (2019). This Court has also previously held that failure to address each of the elements of self-defense makes appellate review difficult and constitutes reversible error. *Glenn*, 429 S.C. at 123, 838 S.E.2d at 499.

In this case, the trial court failed to consider and specifically address the elements of self-defense either in writing or orally. The trial court denied Mr. Turner's Motion for Immunity in a short and unspecific oral ruling. The trial court stated, "I have considered the evidence, reviewed

the case law and I just find that the Defense has not met its burden by a preponderance of the evidence." (App. 0245, lines 7–9.) The evidence the trial court supposedly considered included "inconsistencies in the statements made or presented on behalf of [Mr. Turner]." (App. 0245, lines 10–11.) Yet the trial court identified no such inconsistencies with specificity to permit appellate review of the findings. As this Court noted in *Glenn*, when the trial court fails to provide specific finds, the appellate courts are reluctant to infer finds of fact that are not in record. *See* 429 S.C. at 123, 838 S.E.2d at 499 ("The circuit court is the fact-finder in immunity hearings, and we are reluctant to infer findings of fact which do not appear in the record.").

The trial court relied entirely on *State v. Marshall*, 428 S.C. 11, 832 S.E.2d 618 (Ct. App. 2019) for its ruling that the defendant is not entitled to immunity because inconsistencies in the record are sufficient to show the elements of self-defense have not been proven by a preponderance of the evidence. (App. 0246, lines 2–6.) There is clear confusion from *Marshall* itself as to what is required for a trial court to make a self-defense determination under the Act. In *Marshall*, the Court of Appeals said "just because conflicting evidence as to an immunity issue exists does not automatically require the court to deny immunity; the court must sit as the fact-finder at this hearing, weigh the evidence presented, and reach a conclusion under the Act." 428 S.C. at 19, 832 S.E.2d at 622 (quoting *State v. Cervantes-Pavon*, 426 S.C. 442, 451, 827 S.E.2d 564, 569 (2019)). The specific case relied on by the trial court is not clear as to whether a trial court can use conflicting evidence as a justification to deny the motion for immunity under the Act or whether the trial court must still weigh each element of self-defense and make specific findings of fact. The contradictions apparent within the one case cited by the trial court make clear this Court needs to provide additional clarity as to the requirements for trial court rulings on immunity under the Act.

The trial court relied exclusively on inconsistencies in the record as justification for denial of the motion for immunity. This Court itself has previously said "…the relevant inquiry is not merely whether there is a conflict in the evidence but, rather, whether the accused has proved an entitlement to immunity under the Act by a preponderance of the evidence." *State v. Andrews*, 427 S.C. 178, 181, 830 S.E.2d 12, 13 (2019). Here, however, the trial court did not analyze the conflicting evidence or weigh the evidence. This Court should take this opportunity to alleviate any confusion as to what is required by the trial court and provide clear guidance that it is not sufficient to simply rely on inconsistencies in the record, but rather the trial court is still required to consider the facts as applied to each element of self-defense.

2. The Court of Appeals Also Failed to Properly Articulate the Standard of Review

In its opinion, the Court of Appeals compounded the error and confusion from the trial court by holding the trial court did not commit reversible error even though the trial court failed to make specific findings as to each element of self-defense in analyzing Mr. Turner's motion for immunity under the Act. *See* App. 0945. The Court of Appeals acknowledged that binding precedent required the trial court to consider each element of the Act and to make specific findings to support its ruling, *id*. at 0955 (citing *Curry* and *Ford*), and the Court of Appeals acknowledged that the trial court did *not* enumerate and discuss each element of the Act and the factual findings pertinent to them. *Id*. Nevertheless, the Court of Appeals erroneously concluded that because "the trial court orally explained its reasoning," that is all that was needed to satisfy the requirement of specific analysis and findings on each element. *Id.* The Court of Appeals acknowledges that each element must be considered, while simultaneously upholding a trial court ruling that did not consider each element.

The Court of Appeals' holding on this point is incorrect and insufficient. The Court of Appeals did not explain why the trial court should be excused from the requirement, how the trial court's ruling satisfied this obligation, or what authority supports the Court of Appeals' bald assertion that an oral "explanation" is adequate despite its failure to address each element of the immunity defense. The Court of Appeals' conclusion that the trial court's ruling was sufficient to meet its obligations to consider each element of self-defense and identify the facts relevant for each element is not sufficiently supported by law or precedent and leaves trial courts further confused as to what is required by their rulings.

3. This Court Should Articulate a Clear Standard of Review for Motions for Immunity Under the Act.

This Court should grant this petition to provide the clarity that trial courts are required to list each element of self-defense in a ruling on a motion for immunity under the Act and that trial courts should also identify the specific facts relevant for why each element of self-defense does or does not apply. This Court should make clear for all courts in the state that the right of defendants under the Act to self-defense are too important to leave open to the contradictory interpretation that specificity is required by the rule, but will not be required in the application. The trial courts need clear direction that their rulings must be specific in identifying each element of self-defense and clearly applying specific facts to determine whether each element is met and therefore the defendant is entitled to the protection of self-defense guaranteed by the Act.

Further lack of clarity on this issue will only lead to additional defendants being left in confusion as to why their motion for immunity under the Act was denied. In addition, future cases in front of the Court of Appeals or this Court will not have sufficient specificity in their facts for the appellate courts to adequately review. The right of defendants to self-defense under the Act cannot be adequately protected by the Court of Appeals or this Court if trial courts are allowed to continue

making general rulings without identifying the specific facts applicable to individual elements of self-defense. It is imperative for this Court to provide clarity as to what is required of trial court and guarantee that defendants will have rulings that are capable of review to protect the right to self-defense.

C. This Court Should Clarify That Mr. Turner Had a Right to Meaningful Appellate Review of His Motion for Mistrial.

Prior to his trial, Mr. Turner moved to "exclude testimony about the child molestation and investigation." (App. 0212, lines 20–22.) On December 1, 2016, police and DSS responded to a complaint that Mr. Turner had criminal sexual conduct with a minor. (App. 0061, line 15–p. 0062, line 11.) During the investigation, Mr. Turner explained to the police and DSS that he believed that the alleged victim's father, Mr. Stokes, had persuaded her to make these accusations. (App. 0072, lines 1–5.) No charges were ever brought against Mr. Turner based on these allegations. (App. 0066, lines 21–23.) Even so, these child abuse and child molestation allegations prompted the Facebook posts by Mr. Stokes in which Mr. Stokes threatened Mr. Turner's life (App. 0086, line 24–p. 0087, line 11) and the Facebook posts by Ms. Wolfe-Young threatening Mr. Turner (R. pp. 0855, 0859, 0860). These child abuse allegations and the resulting Facebook posts caused Mr. Turner to believe his life was being threatened (App. 0158, line 17–p. 0159, line 4) and that the Alleged Victims were trying to harm him (App. 0162, lines 17–19.) Thus, these child abuse allegations were relevant as much as they explain the motivation of Mr. Stokes's and Ms. Wolfe-Young's conduct toward Mr. Turner leading up to the night of September 1, 2017, and why Mr. Turner feared for his life.

However, Mr. Turner moved to exclude evidence of the particular allegations against him because any mention or implication of the child molestation or child abuse investigation would unfairly prejudice him. (App. 0213, lines 1–3.) The trial court agreed and asked the parties to come

to an agreement on how to reference the child molestation and child abuse investigation. (*Id.*) After discussion, defense counsel and counsel for the State agreed that everyone would refer to the matter as "a serious family incident involving a family member." (App. 0248, lines 3–6.)

Despite this ruling from the trial court of the evidence's prejudicial impact, during the testimony of Mr. Stokes, the State asked multiple questions to Mr. Stokes about the identity of his children and the mothers of his children. (App. 0272, line 20–p. 0276, line 25.) The State asked Mr. Strokes multiple questions about the time he spent with his children around Mr. Turner and tried to establish that Mr. Turner was regularly around the children. (App. 0276, line 1–p. 0278, line 7.) The State asked if there "were any difficulties in dealing with the kids and Ms. Fletcher and Mr. Turner?" (App. 0277, line 25–p. 0276, line 1.) Mr. Stokes responded that there had been a dispute over discipline of the children. (App.0278, lines 2–7.) The State then asked, "[Was there] a serious family incident involving a family member that you become aware of?" (App. 0278, lines 9–11.) Mr. Stokes said yes and stated that, in his "anger, and passion, and love for [his] family," he "went on Facebook and -- in a rage and made a Facebook post." (App. 0278, lines 15–17). Thus, Mr. Stokes implied that something happened with the family that caused him, as a father, to post something out of anger, passion, and love. The State continued, asking if law enforcement had been involved, and Mr. Stokes answered, "They were involved. But it was - - like, kind of shifty. They [sic] were like no evidence yet. *Mom hasn't taken any action or --.*" (App. 0278, lines 18–22) (emphasis added). At this point, Mr. Turner's attorney objected and made the Motion for Mistrial. (App. 0278, line 25–p. 0280, line 12.) Mr. Turner moved for a mistrial because the mention of the mother made a clear connection to the children and implied that Mr. Turner was linked to allegations and an investigation involving abuse of children. (App. 0279, line 17–p. 0280,

line 12). The trial court denied the Motion for Mistrial and offered a curative instruction, which Mr. Turner declined (App. 0280, lines 15–18.)

In the appeal at the Court of Appeals, Mr. Turner argued that the trial court erred by denying his Motion for Mistrial for at least two reasons. *First*, there was unfair prejudice to Mr. Turner because of Mr. Stokes's testimony falsely implying that Mr. Turner sexually molested or abused a child, which substantially outweighed any probative value of the evidence. *Second*, Mr. Turner argued the admission of such evidence was not harmless error, and the trial court should have granted the Motion for Mistrial. The Court of Appeals ruled this issue was unpreserved for appellate review and did not otherwise fully reach the merits of the appeal. *See* App. 0954.

This ruling from the Court of Appeals deprived Mr. Turner of meaningful appellate review that is guaranteed by constitutional, statutory, and common law rights. In fact, on appeal, the State did not even argue the issue was unpreserved, and did not attempt to avoid addressing meaningful review of Mr. Turner's right to have his rights protected. The Court of Appeals or this Court can, of course, raise issue preservation *sua sponte*, but the Court of Appeals erred in doing so in this case. The Court of Appeals relied completely on the fact that Mr. Turner declined a curative instruction as the reasoning for *sua sponte* deciding the issue was not preserved for appeal. To hold Mr. Turner to this standard would have forced him to accept a cure that would have been worse than the disease. The entire reason this issue was not allowed to be discussed in testimony was because any discussion of the child abuse allegation was deemed so prejudicial that it would irreparably poison Mr. Turner to the jury if they heard any discussion of the allegations. The curative instruction offered to Mr. Turner would have drawn more attention to the impermissible testimony that all parties agreed was extremely prejudicial. The jury would have directed to specifically think about and consider the testimony that was already prejudicing Mr. Turner.

The Court of Appeals decision to rely on an unbending application of the prudential principal of issue preservation is unjust, unfair, and contrary to South Carolina law, and perpetuates the deprivation of Mr. Turner's rights to a fair trial. *See Herron v. Century BMW*, 395 S.C. 461, 470,719 S.E.2d 640, 644 (2011) ("We are mindful of the need to approach issue preservation rules with a practical eye and not in a rigid, hyper-technical manner."); *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) (noting the doctrine of issue preservation "is not a 'gotcha' game"). The standard used by the Court of Appeals implies that defendants must decide at trial whether they prefer compounded prejudice of the admission of prejudicial evidence and the use of a curative instruction that will direct the jury to focus on the prejudicial evidence or will forfeit their right to appellate review of the trial court's decision to deny a mistrial as a result of the admission of prejudicial evidence. Mr. Turner, or similarly situated defendants, already suffer the deprivation of their rights through the admission of prejudicial evidence, but to ask them to forfeit their right to appellate review to avoid a curative instruction that would compound the prejudice is antithetical to the purpose of the existence of appellate courts.

This Court should grant review here to alleviate any confusion regarding whether defendants should fear being deprived of appellate review if they decline a prejudicial curative instruction. The opinion of the Court of Appeals leaves Mr. Turner without appellate review of the decision to deny a mistrial because he chose to protect himself from the prejudice of the curative instruction. This opinion also potentially chills future defendants from protecting themselves during trial from curative instructions that threaten to compound existing prejudice. Defendants are left with an impossible choice of forfeiting their right to appellate review or accepting additional prejudice. This Court has the opportunity to grant review here and provide Mr. Turner

the appellate review that he is owed and guarantee that no future defendant will suffer the double prejudice of inadmissible evidence and the unjust denial of appellate review of such evidence's admission.

Conclusion

For these reasons, Petitioner respectfully request that this Court grant the Petition for Writ of Certiorari.

/s/ Miles E. Coleman
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Greenville, South Carolina
September 26, 2025

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Hon. Perry H. Gravely, Circuit Court Judge

Supreme Court Appellate Case No. 2025-001913

The State ..... Respondent,

v.

Eugene Turner, Jr. ..... Petitioner.

PROOF OF SERVICE

Pursuant to Rules 242(c) and 262(a)(3), SCACR, undersigned counsel hereby certifies I have served a copy of Appellant's Petition For Rehearing on counsel for Respondent at the primary e-mail addresses listed in the Attorney Information System (see attached email).

By: 

Miles E. Coleman

Attorney for Petitioner

September 26, 2025
Greenville, South Carolina

Miles Coleman

From: Miles Coleman
Sent: Friday, September 26, 2025 10:15 PM
To: Josh Edwards; ccrick@greenvillecounty.org
Cc: Adam McCoy; Carter, Wanda
Subject: State v. Turner (No. 2025-001913) -- Petition for Certiorari
Attachments: 2025.9.26 -- State v. Turner -- Petition for Writ of Certiorari.pdf

Josh and Cindy — please find attached for electronic service a copy of the Petition for Certiorari that we'll be filing shortly at the Supreme Court and Court of Appeals in the above-referenced case.

Regards,

Miles

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