

RECEIVED

Oct 23 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

Opinion No. 2025-UP-341

THE STATE,

RESPONDENT,

V.

MARCUS DANTA BATSON,

APPELLANT

APPELLATE CASE NO. 2023-001593

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Petitioner Marcus D. Batson requests that this Court grant rehearing. On October 8, 2025, this Court affirmed Petitioner's convictions for two counts of murder, finding his confession was properly admitted as it was voluntary under the totality of circumstances. *State v. Marcus Danta Batson*, Op. No. 2025-UP-341 (S.C. Ct. App. filed October 8, 2025). Petitioner respectfully asserts this Court misapprehended his argument that the statement was involuntary and coerced as it was induced by promises of leniency and a veiled threat.

Petitioner's landlord/roommate and another roommate (Decedents) were killed by blunt force trauma on or about July 6, 2021. R. 181, ll. 3-5; R. 370, ll. 15-17; State's Exhibit #11; R. 109, ll. 24 – 110, l. 11; R. 268, ll. 8-15; R. 273, l. 8 – 275, l. 25; R. 279, ll. 8-24. Petitioner was interviewed by law enforcement twice on July 8, 2021, and he denied involvement in the deaths. R. 178, l. 4 – 185, l. 11; R. 246, l. 7 – 253, l. 22. As the investigation developed, Petitioner was tied to a bloody baseball bat found by a dumpster nearby. R. 105, l. 18 – 108, l. 17; R. 169, l. 4 – 174, l. 4; R. 309, l. 5 – 316, l. 13.

On July 30, 2021, Petitioner was arrested at work. He was taken to police headquarters and interrogated by two detectives for approximately two and a half hours. He was provided warnings pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), and signed a waiver of rights. R. 439; State's Exhibit #11; R. 56, l. 13 – 57, l. 12; R. 58, l. 13 – 60, l. 22. Petitioner was given a bottle of water and his handcuffs were removed for most of the interrogation, although he was shackled at the legs throughout the interrogation. State's Exhibit #11; R. 61, ll. 4-12. Approximately an hour and a half into the interrogation, Investigator Reece promised to help Petitioner if he confessed:

We ain't judging nobody here man, that is not what we do, that ain't why we're here. **We're just here to get to the bottom of what the heck's going on, dude. And at the same time, help the man that's sitting in front of me cuz I'm gonna tell you right now, we the only ones that can help you right now, we really are.**

See State's Exhibit #11 at time mark 14:00:24. Petitioner began to cry, but he continued to maintain his innocence. However, at approximately the 14:45:00 time mark, Petitioner was re-shackled in handcuffs. After Petitioner was handcuffed, Investigator Reece issued a veiled threat to Petitioner: "Since you ain't got no remorse, *good luck to you . . .* We give you an opportunity, man, to say hey, I screwed up. That's what we're here for . . . If I was sitting where you are, this

is the only time I can help myself. It really is, Mark. This is the only time.” State’s Exhibit #11 at time mark 14:46:28 – 14:47:04.

At that point, Petitioner again began to cry. Less than a minute later, at approximately 14:47:57, Petitioner stated he was tired of being raped. The interrogation continued for roughly another twenty minutes. During that time, Petitioner was crying and he confessed to killing Decedents. Petitioner stated he killed the men because they had been raping him for two weeks while he was intoxicated or asleep. Petitioner stated he had nowhere else to go. The night of their deaths, Petitioner explained he awoke to Decedents sexually assaulting him. One of the decedents hit him in the face. He stated Decedent Glenn was trying to penetrate him anally. He stated Decedent Booker stopped and went to bed. Petitioner explained he hit Glenn several times with the baseball bat to try to get him to stop, and that he hit Booker once or twice after Booker had gone back to his room. State’s Exhibit #11.

Petitioner moved to exclude the statement at the pretrial *Jackson v. Denno*, 378 U.S. 368 (1964), hearing. R. 32, ll. 8-11; R. 55, l. 8 – 78, l. 19; R. 79, l. 14 – 80, l. 8; R. 81, l. 18 – 83, l. 5; R. 83, l. 17 – 84, l. 7; R. 85, l. 5-19. Both Investigators Ryant and Reece claimed Petitioner was not made any promises. R. 61, ll. 13-17; R. 63, l. 25 – 64, l. 7; R. 70, ll. 7-11; R. 76, ll. 23-25. Defense counsel argued the statements should be excluded as involuntary based on the circumstances, which included Petitioner being re-shackled before he confessed, and based on the promises made by law enforcement.

It was a two-and-a-half-hour interview. First two hours of that interview, he did not make any incriminating statements or give a confession. It was not until he was shackled that he did. The argument, the circumstances surrounding the interview, the length as well as promises the officers made, as well as being shackled two hours into it, would deem any confession involuntary.

It would be our position that **he was . . . essentially broken down by the length of the interviewing and questioning . . . the statement should not be considered voluntary** for purposes of trial.

R. 79, l. 16 – 80, l. 7 (emphasis added). Counsel further argued Petitioner only confessed to killing the men after he had been “shackled. And at that point, that’s when he—things changed. He becomes very emotional, and its just due to all of the surrounding, certainly totality of the circumstances, that led Mr. Batson probably to feel that, you know—he got very under duress . . . what may have started out as a voluntary interview became involuntary due to the circumstances surrounding it.” R. 83, l. 17 – 84, l. 7. The solicitor argued the statement was voluntary. R. 82, l. 16 – 83, l. 5. The court ruled,

The defendant was in custody, but he was properly advised of his *Miranda* rights. It appeared to me that he was making those statements completely of his own free will and accord. He was not placed upon any pressure; **he was not offered anything, not promised anything, not coerced in any way; and therefore the statement . . . is admissible, it having been freely and voluntarily made** after having been properly advised as to his *Miranda* warnings.

R. 86, ll. 11-20 (emphasis added). The statement was subsequently admitted into evidence. Petitioner was convicted of both counts of murder and was sentenced to life without parole for each offense. R. 434, ll. 2-8; R. 436, ll. 19-24; R. 444–447.

This Court held there was no error in admitting Petitioner’s interrogation and confession “because based on the totality of the circumstances, his statement was voluntary.” *State v. Batson*, Op. No. 2025-UP-341 at 2 (S.C. Ct. App. filed October 8, 2025). This Court noted Petitioner was provided *Miranda* warnings, and found he “waived those rights, and was not under duress.” *Id.* This Court further concluded the “officers conducting the interrogation did not coerce him or make any promises of leniency.” *Id.*

The court erred where it admitted Petitioner’s two-and-a-half-hour long interrogation and confession, where, among other things, Petitioner was shackled at the wrists and ankles, and

where Investigator Reece promised to help Petitioner if he confessed, since the confession was not voluntarily made under the totality of the circumstances.

Respectfully, this Court's conclusions that Petitioner's confession was voluntary; that he was not under duress; and that the officers conducting the interrogation did not coerce him or make any promises of leniency, misapprehends or overlooks the circumstances that rendered Petitioner's confession involuntary. The confession was involuntarily made due to the implied promises of help and veiled threat by law enforcement; the length of the interview, in which Petitioner was upset, yelling and crying, for long periods of time but was given no breaks; the repeated and prolonged nature of the questioning; and the assertion of improper influence.

“There are two constitutional bases requiring any confessions admitted into evidence to be voluntary: the Due Process Clause of the Fourteenth Amendment and the Fifth Amendment right against self-incrimination.” *State v. Miller*, 441 S.C. 106, 120, 893 S.E.2d 306, 313 (2023) (citing *Dickerson v. United States*, 530 U.S. 428, 433 (2000)). The Fifth Amendment requirement of *Miranda* warnings does not dispense with the voluntariness inquiry. *Dickerson*, 530 U.S. at 444. A “defendant in a criminal case is deprived of due process of law if his conviction is founded, in whole or in part, upon an involuntary confession, without regard for the truth or falsity of the confession.” *Jackson v. Denno*, 378 U.S. at 385 (citing *Rogers v. Richmond*, 365 U.S. 534 (1961)).

The standard for determining the voluntariness of a confession is whether, under the totality of the circumstances, the confession is the product of an essentially free and unconstrained choice by its maker or whether his free will has been overborne and his capacity for self-determination critically impaired. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225-26 (1973). “If a suspect's will is overborne and his capacity for self-determination critically

impaired, use of the resulting confession offends due process.” *State v. Saltz*, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001). “In analyzing whether a defendant’s will was overborne and the resulting confession was offensive to due process, courts must consider the totality of the circumstances, including the details of the interrogation and the characteristics of the defendant. *Miller*, 441 S.C. at 120, 893 S.E.2d at 313–14 (citing *Schneckloth v. Bustamonte*, *supra*).

A totality of the circumstances inquiry may include consideration of the physical condition of the accused and the location of the interrogation. *E.g.*, *State v. Miller*, 441 S.C. at 121, 893 S.E.2d at 314. Appropriate factors that may be considered in a totality of the circumstances analysis include: “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*.” *State v. Moses*, 390 S.C. 502, 513–14, 702 S.E.2d 395, 401 (Ct. App. 2010) (emphasis added).

Coercive police activity is a necessary predicate to finding confession is not voluntary within the meaning of the Due Process Clause. *Colorado v. Connelly*, 479 U.S. 157, 167 (1986). “Coercion is determined from the perspective of the suspect.” *State v. Collins*, 442 S.C. 444, 456, 900 S.E.2d 426, 432 (2024) (quoting *State v. Goodwin*, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009)). This is because “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.” *State v. Moses*, 390 S.C. at 513, 702 S.E.2d at 401 (emphasis added).

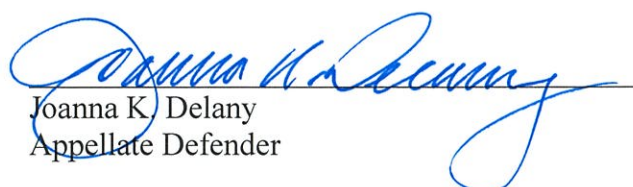
Law enforcement may not make promises or threats to a suspect which extract a confession. “A confession can never be received in evidence where the prisoner has been influenced by any threat or promise; for the law cannot measure the force of the influence used, or decide upon its effect upon the mind of the prisoner, and therefore excludes the declaration if any degree of influence has been exerted.” *Bram v. United States*, 168 U.S. 532, 543 (1897) (cleaned up). See *Malloy v. Hogan*, 378 U.S. 1, 7 (1964) (when government obtains a confession, it “must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence”) (cleaned up); *State v. Rochester*, 301 S.C. 196, 200, 391 S.E.2d 244, 246 (1990) (confession was properly admitted where it was “not induced by a promise of leniency,” “not induced by force,” “or by direct or implied threats”); *State v. Corns*, 310 S.C. 546, 552, 426 S.E.2d 324, 327 (Ct. App. 1992) (officers coerced defendant’s confession “by means of veiled threats against his family”).

Investigator Reece made promises to Petitioner. “We ain’t judging nobody here man . . . We’re just here to get to the bottom of what the heck’s going on, dude. And at the same time, *help the man* that’s sitting in front of me cuz I’m gonna tell you right now, *we the only ones that can help you right now*, we really are.” State’s Exhibit #11 at time mark 14:00:24. After handcuffing Petitioner, Investigator Reece threatened: “Since you ain’t got no remorse, *good luck to you . . . If I was sitting where you are, this is the only time I can help myself*. It really is, Mark. This is the only time.” State’s Exhibit #11 at time mark 14:46:28 – 14:47:04. These were implied promises of law enforcement’s help with the case if Petitioner confessed and a veiled

threat about the failure to confess. This was improper influence which coerced Petitioner into making an involuntary statement. *Bram v. United States*, 168 U.S. at 543; *Malloy v. Hogan*, 378 U.S. at 7; *State v. Rochester*, 301 S.C. at 200, 391 S.E.2d at 246; *State v. Corns*, 310 S.C. at 552, 426 S.E.2d at 327.

Petitioner burst into tears and confessed after the last promise and the veiled threat were made. The shackling, lack of breaks, such as a bathroom break, or food, also contributed to Petitioner's will being overborne. The interrogation continued for approximately two and a half hours. Petitioner was yelling and crying throughout long portions of the interrogation. He was offered no chance to compose himself or have respite. If Petitioner's will had not been worn down, he would have realized that since the investigators were not taking no for an answer, i.e., not accepting his protestations of innocence, he should revoke his *Miranda* waiver and invoke his right to silence or counsel. Instead, Petitioner gave an involuntary confession because his will was overborne. *See State v. Moses*, 390 S.C. at 513–14, 702 S.E.2d at 401 (totality of circumstances analysis includes consideration of: length of detention; threats; direct or indirect promises; repeated and prolonged nature of the questioning; exertion of improper influence; and deprivation of food). These factors were present here. The totality of the circumstances reflect Petitioner's statement was involuntarily made and should have been excluded. U.S. Const. amend. XIV; U.S. Const. amend. V; *Jackson v. Denno*, 378 U.S. at 385; *Bram v. United States*, 168 U.S. at 543. Rehearing should be granted to Petitioner Marcus Batson.

Respectfully submitted,


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 23rd day of October, 2025.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Oct 23 2025

SC Court of Appeals

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

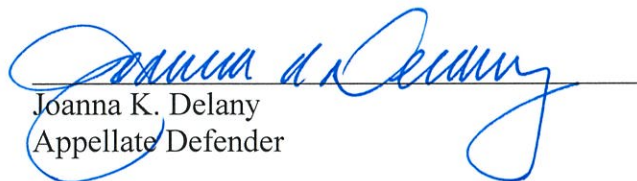
MARCUS DANTA BATSON,

APPELLANT

APPELLATE CASE NO. 2023-001593

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon R. Brandon Larrabee, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Marcus D. Batson, #383150, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 23rd day of October, 2025.


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

2023-001593 The State v. Marcus D. Batson - Petition for Rehearing

From Timberlake, Gage <gtimberlake@sccid.sc.gov>

Date Thu 10/23/2025 4:45 PM

To brandonlarrabee@scag.gov <brandonlarrabee@scag.gov>; DDAlessio@scag.gov <ddalessio@scag.gov>

Cc Delany, Joanna <jdelany@sccid.sc.gov>; Mcinnis, Sara <smcinnis@sccid.sc.gov>

 1 attachment (728 KB)

2023-001593 The State v. Marcus D. Batson - Petition for Rehearing.pdf;

Mr. Larrabee,

Find attached for service the Petition for Rehearing in the above-entitled case which will be filed with the Court of Appeals today.

If you have any questions, please let me know

--

Very Respectfully,

Gage Timberlake

Administrative Assistant

Commission on Indigent Defense

Appellate Division

(803) 734-1330

RECEIVED

Oct 23 2025

SC Court of Appeals