STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Charleston County

Honorable William C McMaster, III, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

COURTNEY CHARLES CORDAE RICHARDS,

APPELLANT

APPELLATE CASE NO. 2024-001274

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# FINAL BRIEF OF APPELLANT

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## STATEMENT OF ISSUES ON APPEAL

1.

In this self-defense case, did the trial court err in admitting an extended magazine added to the pistol after appellant sold it when the magazine had no relevance or probative value and unfairly prejudiced appellant by making him seem more dangerous and more likely to be the aggressor?

2.

After the decedent's girlfriend, a critical State's witness who testified on the disputed point of whether the decedent had his gun in his hand before appellant fired, told the jury that while she knew the decedent had a gun, she never really saw him with it, did the trial court err when it would not even let appellant refresh her recollection with the decedent's Facebook profile photo that shows him pointing a pistol with an extended magazine directly at the camera?

3.

Did the trial court err in refusing to charge the presumption of reasonable fear and that a defendant has no duty to retreat from the South Carolina Protection of Persons and Property Act?

## STATEMENT OF THE CASE

Appellant was indicted in Charleston County for murder and a weapons charge and on July 22, 2024, was tried before the Honorable William C. McMaster and a jury. R. 1. Stephanie Linder and Mariana Outten represented the State. R. 2. Jonathan Bischoff, II and William McGuire represented appellant. R. 2. The trial court denied immunity in a written Order after a hearing. R. 936 (Order Denying Immunity). The jury convicted appellant. R. 919-920. Judge McMaster sentenced appellant to forty-five years' imprisonment for murder and concurrent five years on the weapons charge. R. 931-932. This appeal follows.

## STANDARD OF REVIEW

The standard of review for Issues One and Two, which involve the admission of evidence, is abuse of discretion. The standard of review for Issue Three, which involves the propriety of a jury charge, is *de novo* because it is a pure issue of law.

## ARGUMENT

1.

In this self-defense case, the trial court erred in admitting an extended magazine found with appellant's pistol seven months after the shooting pistol in the car of the people to whom appellant sold it when the extended magazine had no relevance or probative value and unfairly prejudiced appellant by making him seem more dangerous and more likely to be the aggressor.

**Factual and Procedural Background**

On February 19, 2022, a Sunday afternoon, appellant Courtney Richards was driving his pregnant girlfriend Emonie Burgess to her mother's house in North Charleston. R. 719-720. Richards stopped at a stop sign at the corner of Comstock and Cosmopolitan. R. 722-723. As he slowed down, he saw Javon Thomas and his girlfriend, Antoniya Singleton, both of whom had axes to grind against Richards and Burgess. R. 723-725.

Singleton began verbally abusing Burgess through the car window. R. 723-724. Thomas clutched at his waistband as if he had a gun. R. 724. Thomas had acted aggressively towards Richards on another occasion when Richards was in his car. R. 724-725. Richards drove away when he saw Thomas clutch at his gun. R. 725. He drove past Burgess's mother's house. R. 725.

Once past Thomas and Singleton, Richards slowed down. R. 726. Burgess opened the passenger door and put her foot out of the car. R. 726. Richards stopped because Burgess was going to get out of the car. R. 726-727. Burgess got out of the car and Thomas began walking up the street toward them with a gun in his hand. R. 727.

Richards could not just drive away because the pregnant Burgess was outside the car. R. 727. Richards knew he could not leave her there. R. 727. Richards got his gun and stood near

the back of his car. R. 727. He showed Thomas his gun. R. 727. He hoped Thomas would see the gun and leave him alone, but Thomas kept coming. R. 727-728.

Thomas was belligerent. R. 728. Mother and daughter Monique and Abigail Perry had no connection to either couple and were parked waiting to go in their church. R. 283-284. Monique Perry described Thomas as gesturing with his hands at someone they could not see farther up the street. R. 286. Abigail Perry thought Thomas was arguing and "getting intense" and told her mother to stay in the car because of the danger. R. 294-295. Abigail Perry said Thomas was "angry and gesturing with his hands." R. 305. Neither Monique nor Abigail Perry saw Thomas walking with a gun, but Abigail saw Thomas pull a gun and start shooting after she heard a gunshot come from farther up Comstock. R. 286. R. 305. Monique Perry thought Thomas only fired one shot, which was incorrect. R. 291. R. 626. Abigail Perry said Thomas fired and then began backing up. R. 300-301. As Thomas turned, Thomas continued to fire, but she heard more shots and saw one hit Thomas. R. 306, 302.

Richards said that as Thomas marched toward him, Thomas yelled, "Do something n***er." R. 728. Richards fired a warning shot into the ground. R. 728. Thomas kept marching towards Richards and Burgess. R. 728. Richards fired another warning shot at the ground. R. 729. Instead of retreating, Thomas started firing at Richards and Burgess. R. 729. Richards returned fire to protect himself and Burgess. R. 729. One of Richards' shots hit Thomas in the back of the head and killed him. R. 343.

A bystander named Zairae Davis filmed part of the encounter with his cell phone. R. 585-587. The police obtained the video from Facebook and entered it into evidence as State's Exhibits 8 and 9. The defense entered several versions of the video that used slow motion and zoom to focus on particular parts of the incident. Defendant's Ex. 18-21.

Thomas is the only person that can be seen in the video; he is wearing a red shirt. Defendant's Ex. 18-21. Richards' car is parked in such a way that the passenger door can be seen and it is open, but Richards cannot be seen. Defendant's Ex. 18-21. Richards' warning shot can be heard before Davis (the cameraman) rolls down his window. R. 626. The lead investigator agreed that a total of thirteen shots can be heard on the video between Thomas and Richards. R. 626. Ten shell casings were recovered from the scene in two clusters—one near where Richards fired and the other where Thomas fired. R. 626. R. 475-482. The distance between the two clusters of shell casings was approximately 170 feet. R. 482.

In the video, Richards' two warning shots can be distinctly heard. Defendant's Ex. 18-21. Thomas is seen returning a volley of shots. Defendant's Ex. 18-21. Richards can then be heard returning fire. Defendant's Ex. 18-21. Five shots are heard as Richards returns fire. Defendant's Ex. 18-21. The shot that hits Thomas is not captured on the video because the cameraman briefly turns the camera on himself. Defendant's Ex. 18-21. But as Davis drives away, Thomas' body is seen lying by the side of the road. Defendant's Ex. 18-21.

Burgess's mother, Evette Burgess, was at the front of her house and saw Thomas walking angrily down the street towards Richards and her daughter. R. 784. She saw Thomas pull his gun and walk with it close by his body. R. 785-787. Thomas said, "I'm going to wet this shit up." R. 785. Evette Burgess said that meant "Shoot it up." R. 786. The lead investigator admitted that from the video, it was possible that Thomas already had the gun in his hand as he walked up the Street toward Richards. R. 671.

Richards left and drove to Summerville. R. 733. Before he was arrested, he sold his gun for about $250. R. 741. His gun only had a standard clip. R. 740-743. It did not have an extended magazine that held 26 bullets. R. 740-743.

Almost seven months after the shooting, on September 16, 2022, the police conducted a traffic stop. R. 523. When the police searched the car, they found Richards' gun. R. 523. In the gun was an extended magazine that held 26 rounds. R. 525.

Appellant submitted a pretrial brief highlighting the evidentiary issues for the trial judge. R. 12-13. R. 933 Defendant's Pretrial Brief. Appellant noted for the judge that he would be objecting to the entry of the extended magazine. R. 933 Defendant's Pretrial Brief. Appellant stated, "This extended magazine was never used by the defendant and was not in the .45 caliber pistol during the incident. The introduction of the magazine would be introduced to paint the defendant as having a gangster-like persona." R. 933 Defendant's Pretrial Brief.

Judge McMaster took the issue up before trial. R. 16-23. Defense counsel argued the State could not present any evidence that the magazine was with the gun during the shooting. R. 16-23. He argued that the magazine was not relevant and had the unfairly prejudicial effect of showing the defendant "as being more dangerous, more malicious, more gangster, that sort of thing" and asked the court to suppress the magazine. R. 16-23.

In response, the State said it did not know whether the magazine was in the gun during the shooting, but offered no evidence that it was. R. 16-23. The State said it did not intend to offer any gang evidence. R. 16-23. The solicitor also said their firearms expert would not "intimate or in any way suggest that the clip" was the one from which bullets were fired. R. 16-23. She argued, "And so, I think that it's important to show the firearm, as it was recovered months after the shooting, how it was recovered by law enforcement." R. 19. Judge McMaster then immediately ruled the clip would be admitted. R. 19.

The judge's Rule 403 analysis did not make any separate findings concerning the magazine. R. 19-23. Defense counsel admitted the gun belonged to Richards and offered to stipulate to the

chain of custody and the toolmark evidence to show it was Richards' gun. R. 21-23. He elaborated that the extended clip turned the pistol "into an assault weapon, and that has a very negative connotation." R. 21-22. The solicitor countered that only five casings were recovered at the scene and they did not plan to refer to the gun as an assault rifle. R. 22-23. The judge reiterated his ruling that the clip would be admitted. R. 23. Appellant renewed his objection when the State offered the gun and extended magazine into evidence. R. 524.

**Discussion**

The trial court erred in admitting the extended magazine. The magazine had zero probative value and large unfair prejudice. Rule 403, SCRE. The State never connected the extended magazine to appellant. Only seven shots can be heard coming from the defendant on the video—nowhere near the 26 held by the extended magazine. The State's only argument for admission was that appellant's gun was found with the extended magazine in the hands of third parties seven months after the shooting.

The solicitor's deflections during the argument that they never intended to introduce gang evidence or call the gun an assault weapon show the State knew the connotation associated with the extended magazine was correctly stated by defense counsel. The clip extends far beyond the bottom of the pistol. (State's Ex. 10) It makes the pistol look more like an Uzi submachine gun than the pistol used by appellant in self-defense.

State v. Spears, 393 S.C. 466, 713 S.E.2d 324 (Ct. App. 2011) shows what is required to admit a gun not found at the scene whose progeny is disputed. In Spears, the defendant was arrested in North Carolina three days after the robbery in question. Under the mattress in the room where Spears was staying, the police found a black gun with silver trim. Spears moved to suppress, arguing the State presented no evidence he owned the gun and citing a witness's statement that the

gun used in the robbery was silver with black trim. The Court ruled the evidence was properly admitted because two witnesses testified the gun found with Spears looked similar to the gun used in the robbery and the discrepancies were for the jury to resolve.

Unlike Spears, the State did nothing to tie the extended magazine to appellant. The number of shots heard on the video and the number of casings found at the scene corroborate the defendant's testimony that he did not have the extended magazine. Furthermore, the gun was not found with the defendant, but seven months later in the possession of people unrelated to the case.

In State v. Bryant, 369 S.C. 511, 633 S.E.2d 152 (2006), the State impeached the defendant with prior firearms convictions. The Court held the prior firearms convictions were not admissible for impeachment. Importantly for this case, the Court said the improper evidence could not be harmless because the case hinged on self-defense and the defendant's credibility. Like Bryant, appellant's case involved self-defense and the extended magazine undermined appellant's credibility by painting him as a gangster.

The State did nothing to tie the extended magazine to appellant. It capitalized on finding the extended magazine added by unrelated persons to make appellant look more dangerous and that he was the likely aggressor. The extended magazine had no probative value and was unfairly prejudicial. In this close self-defense case, the error requires reversal.

2.

After the decedent's girlfriend, a critical State's witness, told the jury that while she knew the decedent had a gun, she never really saw him with it, did the trial court err by not admitting into evidence or even allowing appellant to refresh her recollection with the decedent's Facebook profile photo that shows him pointing a pistol with an extended magazine directly at the camera.

Unlike appellant, concrete evidence absolutely connected Javon Thomas with possession of an extended magazine for his pistol, but the jury never saw it. The State called Antoniya Singleton—Thomas's girlfriend to testify about the shooting. Singleton's account of the incident differed greatly from appellant's and her credibility was critical to the State's case.

Singleton claimed she and Thomas were minding their own business walking down Comstock when a car sped past them. R. 397. Had they not jumped out of the way, the car would have hit them. R. 398. Thomas knew Richards was driving and supposedly told Singleton, "They did the same thing the day before." R. 398-399. Richards' car continued down Comstock and stopped. R. 399.

Thomas told Singleton to go to the house and kept walking. R. 399. Singleton hid on the side of a house. R. 399. She only heard Thomas yelling, "What—what—what." R. 401. She saw no gun in Thomas's hand when he walked down the street. R. 401. She did not think Thomas had a gun when they left the house and said he did not carry a gun when they were together. R. 401. Singleton left the scene before the police arrived. R. 403. Singleton originally told the police she did not know who was in the car. R. 452-453. She later changed her story and told the police it was Richards and Burgess. R. 453.

Defense counsel began cross-examining Singleton asking her what she knew about Thomas's gun. R. 405-407. Singleton initially claimed she had not seen his gun many times. R.

405. She claimed not to know whether Thomas liked guns. R. 406. Defense counsel asked, "Did Javon like guns?" and Singleton responded, "I don't know. I mean—." R. 406.

Defense counsel marked Defendant's Exhibit 2 and showed it to Singleton. R. 409. She said she recognized the picture. R. 409. She confirmed Thomas's nickname was "Von." R. 409. Defense counsel then asked, "And in that picture, he has a gun—" and the solicitor objected. R. 409. The State argued that appellant could not ask what was in the photograph without putting it into evidence and the court agreed. R. 409.

Defense counsel asked Singleton what she knew about Facebook and she claimed that she did not go "on it a lot." R. 410. She understood what a profile photo was and she knew what instant messages were. R. 410. Appellant moved to admit the exhibit and the State again objected based on authentication and relevance. R. 411. After defense counsel asked Singleton to confirm the exhibit said Thomas worked at True Religion Brand Jeans, Singleton denied it said "work." R. 411. The judge then excused the jury. R. 411-412.

The solicitor first accused defense counsel of publishing the exhibit to the jury before it was admitted and Judge McMaster said he did not notice that. R. 412. The solicitor again objected on authentication. R. 412. The solicitor then objected—and the trial judge agreed—that appellant could not even use the photograph to refresh Singleton's recollection. R. 413-414.

The trial court erred in refusing to allow the impeachment of Singleton with Defendant's Exhibit Two. This exhibit is Thomas's profile photo from Facebook. Def. Ex. 2. Thomas is looking directly into the camera holding a pistol with an extended magazine. Def. Ex. 2. The pistol looks like an Uzi submachine gun because of the extended magazine. Def. Ex. 2.

The Facebook profile photo was admissible to impeach Singleton's testimony about her knowledge of whether Thomas liked guns. It strains credulity that she had not seen Thomas's

profile photo. Appellant laid the necessary foundation by having her identifying Thomas in the picture and his nickname. More importantly, when defense counsel first showed it to Singleton and asked her if she recognized it, she answered simply, "Yes." R. 409. Allowing the evidence for impeachment would show that just a few minutes earlier, Singleton lied to the jury about whether she knew Thomas liked guns. "The credibility of a witness may be attacked by any party, including the party calling the witness." Rule 607, SCRE.

"Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced." Rule 608(c). The photo of Thomas with a gun and extended magazine was also admissible to show Singleton's bias and motive to misrepresent. She repeatedly tried to minimize Thomas's affection for guns and whether he carried guns as a habit. The fact that Thomas used a photograph of himself pointing a gun with an extended magazine directly at the camera was emphatic impeachment evidence for the important State's witness Singleton.

The evidence was also admissible under Rule 613(b), SCRE. The prior inconsistent statements by Singleton were not made out-of-court, but directly to the jury about her knowledge of Thomas's gun-carrying proclivities. Extrinsic evidence was therefore admissible to catch Singleton in her lie. Rule 613(b), SCRE. She recognized the photograph and it refuted her statement to the jury that she did not know whether Thomas liked guns.

The error cannot be harmless because Singleton was an important witness and the evidence would have significantly undermined her credibility. This error is also important because it shows the trial court feeding the State and the defense out of different spoons. An extended magazine with no connection to appellant was admitted into evidence. A picture of Thomas pointing a gun

with an extended magazine that would have impeached the State's witness was excluded. This Court should reverse.

3.

The trial court erred in refusing to charge that a defendant has no duty to retreat from a place he has a right to be pursuant to section 16-11-440(C) of the South Carolina Protection of Persons and Property Act which altered the common law of self-defense.

The trial court erroneously charged the jury that appellant had a duty to retreat. The court told the jury, "The final element of self-defense is that the Defendant had no other probable way to avoid the danger of death or serious bodily injury than to act as the Defendant did." R. 897. The solicitor stressed this element in her closing argument, stating that the "first and fourth [elements] are the most important, is that there is no other way that the Defendant could have avoided that danger. It's also kind of known as a duty to retreat." R. 827.

During the charge conference, appellant asked the court "to charge 16-11-440 subsection C which is under the immunity statute, but we believe is applicable." R. 811. Defense counsel cited State v. McCray, 413 S.C. 76, 773 S.E.2d 914 (Ct. App. 2015), in which the defense asked the court to charge section C of the immunity statute to show that "McCray did not have a duty to retreat." R. 811.

Section 16-11-440(C) of the Protection of Persons and Property Act states, "A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person . . . ." S.C. Code Ann. § 16-11-440(C). Richards was first in his car and then in a public street. He was not acting

unlawfully. He was defending himself and defending his pregnant girlfriend. By the plain terms of the statute, Richards could stand his ground and did not have to retreat.

The solicitor argued, based on an incomplete reading of McCray, that the immunity statute should not be charged to the jury. R. 812. The judge agreed with the State's reading, stating that he read McCray. R. 812. The key point omitted from the State and the judge's analysis was that the trial court's charge in McCray included the phrase that if the defendant was on his own premises, he had no duty to retreat. McCray at 87, 773 S.E.2d at 920. The narrow holding of McCray is refusing to give the additional charge requested by the defense was not error. Id.

The Stand Your Ground Act "codified the common law Castle Doctrine and extended its reach." State v. Glenn, 429 S.C. 108, 117, 838 S.E.2d 491, 495-96 (2019). See also State v. McCarty, 437 S.C. 355, 878 S.E.2d 902 (2022). Importantly, in its Order denying appellant immunity under the Act, the trial judge found that the duty to retreat **did not apply** because appellant "was in an area that he had the right to be in." R. 936 Order Denying Immunity at 5.

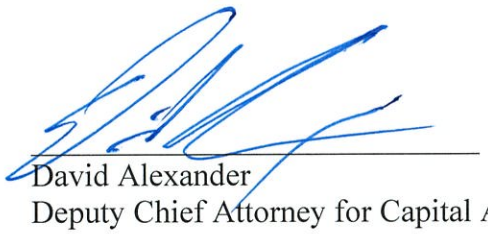
It would make no sense for the Legislature to alter the law of self-defense only for pretrial immunity hearings. The substantive law of self-defense must be the same pre-trial as during the jury trial. The Act removed the duty to retreat for persons standing their ground in a place they had a right to be. The trial judge here even specifically found that section 16-11-440(C) applied to appellant, yet inexplicably charged the jury that appellant had a duty to retreat.

This error requires reversal. It saddled appellant with an extra element of self-defense. The jury could have found that appellant acted reasonably and did not bring on the difficulty, but could have retreated. The jury sent a question asking to be recharged on the law of self-defense. R. 906-918. The judge again charged the duty to retreat as "the final element" of self-defense. R.

914. Without this additional burden, appellant would not have been convicted. This Court should reverse.

## CONCLUSION

For the foregoing reasons, appellant's convictions should be reversed and this case remanded for a new trial.



David Alexander
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ATTORNEY FOR APPELLANT

This 13th day of November, 2025.

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**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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CERTIFICATE OF SERVICE

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

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