RECEIVED
Dec 03 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKEVIUS DAYQUAN LINDSEY,

APPELLANT

APPELLATE CASE NO. 2025-000317

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

STANDARD OF REVIEW 3

ARGUMENT

The trial court erred in denying appellant's request to charge voluntary manslaughter as a lesser-included offense 4

CONCLUSION 9

PETITION TO BE RELIEVED AS COUNSEL 10

TABLE OF AUTHORITIES

Cases

Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) 7

State v. Childers, 373 S.C. 367, 645 S.E.2d 233 (2007) 7

State v. Cole, 338 S.C. 97, 525 S.E.2d 511 (2000) 3

State v. Cooney, 320 S.C. 107, 463 S.E.2d 597 (1995) 3

State v. Gadsden, 314 S.C. 229, 442 S.E.2d 594 (1994) 3

State v. Hill, 315 S.C. 260, 433 S.E.2d 848 (1993) 6

State v. Knoten, 347 S.C. 296, 555 S.E.2d 391 (2001) 6

State v. Sams, 410 S.C. 303, 764 S.E.2d 511 (2014) 3

State v. Starnes, 388 S.C. 590, 698 S.E.2d 604 (2010) 7

State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996) 3

State v. Wharton, 381 S.C. 209, 672 S.E.2d 786 (2009) 7

State v. Wood, 362 S.C. 135, 607 S.E.2d 57 (2004) 6

Statutes

S.C. Code Ann. § 16-3-50 6

STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying appellant's request to charge voluntary manslaughter as a lesser-included offense?

STATEMENT OF THE CASE

Appellant Akevius Dayquan Lindsey was indicted in Greenville County for murder and a weapons charge and on February 10, 2025, was tried before the Honorable G. D. Morgan, Jr. and a jury. R. 1. Brittany D. Scott and Elterrice F. Westfield represented the State. R. 1. Demi L. Messer and Fank L. Eppes represented appellant. R. 1. The jury convicted appellant. R. 519. Judge Morgan sentenced appellant to fifty years' imprisonment for murder and a concurrent five years' imprisonment on the weapons charge. R. 526. This appeal follows.

STANDARD OF REVIEW

"In determining whether the evidence requires a charge on a lesser-included offense, the [appellate court] must view the facts in the light most favorable to the defendant." State v. Sams, 410 S.C. 303, 308, 764 S.E.2d 511, 513 (citing State v. Cole, 338 S.C. 97, 525 S.E.2d 511 (2000)). "The charge request is properly rejected when there is no evidence tending to show the defendant was guilty of the lesser offense." Id. (citing State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996); State v. Cooney, 320 S.C. 107, 463 S.E.2d 597 (1995); State v. Gadsden, 314 S.C. 229, 442 S.E.2d 594 (1994)).

ARGUMENT

The trial court erred in denying appellant's request to charge voluntary manslaughter as a lesser-included offense.

The State theorized that appellant killed his girlfriend and mother of his child while she was in the middle of putting appellant's possessions outside of their apartment, but the Court denied appellant's request for a charge on voluntary manslaughter. The trial court failed to view the evidence—especially in the context of this case—in the light most favorable to appellant. Had the court charged voluntary manslaughter, it is highly likely the jury would have acquitted appellant of murder and convicted him of the lesser offense.

The shooting in this case happened on the night of May 6, 2023. R. 224. R. 206. As of May 2, 2023, appellant was still living with the decedent, Genesys Rice, at her apartment. R. 185. Rice was the mother of appellant's two-year old child. R. 187. Rice's sister testified that later in the relationship, the two no longer shared a bedroom. R. 190-91.

Rice's younger sister spent the night with Rice on May 5, 2023. R.192. Appellant still had items in the apartment. R. 193. On the evening of May 6, Rice FaceTimed her sister. R. 195. She told her sister that she was kicking appellant out of the apartment and was in the middle of moving appellant's things outside during the call. R. 196. Rice asked for her sister's help and the sister and her friend, Lonnie Williams drove there approximately 15-20 minutes after the call. R. 196-97.

The sister noticed appellant's items around the door to the apartment. R. 198. The door was unlocked. R. 198. A Ring camera, which earlier had been taken down, was back on the door. R. 198. The sister found Rice in the bedroom with a pillow over her head. R. 202. A doorknob was found near Rice's body. R. 287. Rice died from a gunshot wound to the head. R.

251. The sister and Williams called 911. R. 203. The Ring camera showed a person running from the scene at 10:26pm. R. 346-47.

A police officer who responded to the scene interviewed a neighbor who said he "heard arguing earlier in the evening but nothing else." R. 216. The State called appellant's uncle, Lawrence Williams, in an attempt to get Williams to admit that appellant confessed to the shooting. R. 138. Williams initially did not recall telling the police that appellant admitted to the shooting and told the police appellant denied the crime. R. 138-39.

The solicitor played Williams a recording that Williams said sounded like it had been edited. R. 140-41. On the recording was a reference to appellant doing what his uncle (not Williams) had done, which was kill his wife. R. 141-42. Williams later testified that appellant said he killed Rice, but also said, "y'all don't know the truth, y'all don't know, y'all just don't know." R. 144. Appellant's grandmother testified that the uncle who killed his wife had a man waiting in a closet to kill him, and the uncle shot his wife by accident. R. 168.

Williams helped appellant coordinate turning himself into the police. R. 147. Williams remembered that on May 8, appellant had scratches all over his face. R. 147. Williams testified, "Looked like a cat had ripped his face all up." R. 147.

The State's theory of the case was that appellant killed Rice because she made a domestic violence complaint to the police against him on May 2. A police officer took a statement from Rice on May 2. R. 211-13. The police found a photo of the statement Rice gave the police in appellant's social media. R. 338-40.

At the charge conference, appellant asked Judge Morgan to instruct the jury on voluntary manslaughter. R. 448-455. Appellant referenced the evidence that Rice was throwing appellant out of the apartment, that a neighbor heard arguing, that the two had been fighting, the broken

doorknob near Rice's body, and the scratches on appellant's face. R. 448-455. Appellant argued a jury could infer that the two had a physical confrontation and could convict appellant of voluntary manslaughter.

The judge said there was no testimony about when the scratches occurred. R. 451. The court also said there was no testimony that a fight took place "at the time the murder happened." R. 451. Defense counsel again pointed the court to the neighbor hearing the argument and the scratches and argued that a fight was a reasonable inference a jury could draw from this evidence. Judge Morgan first ruled that there was not "sufficient evidence" to charge voluntary manslaughter, but later corrected himself after a break and ruled there was "no evidence" to support the charge. R. 455. R. 458.

The law to be charged is determined from the evidence presented at trial. State v. Knoten, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). Reversible error is committed if the trial court fails to give a requested charge on an issue raised by the evidence. State v. Hill, 315 S.C. 260, 262, 433 S.E.2d 848, 849 (1993). Moreover, when determining whether the evidence requires a charge on a lesser included offense, the court views the facts in the light most favorable to the defendant. See Knoten, 347 S.C. at 302, 555 S.E.2d at 394 (requiring the trial court to view facts in the light most favorable to a defendant when determining whether to charge involuntary manslaughter).

"A person convicted of manslaughter, or the unlawful killing of another without malice, express or implied, must be imprisoned not more than thirty years or less than two years." S.C. Code Ann. § 16-3-50. Voluntary manslaughter is defined by the courts as the unlawful killing of a human being in sudden heat of passion upon a sufficient legal provocation. State v. Wood, 362 S.C. 135, 607 S.E.2d 57 (2004).

"To warrant the court in eliminating the offense of manslaughter it should clearly appear that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter." State v. Wharton, 381 S.C. 209, 214, 672 S.E.2d 786, 788 (2009). "If there is any evidence from which it could be inferred the lesser, rather than the greater, offense was committed, the defendant is entitled to such charge." State v. Childers, 373 S.C. 367, 373, 645 S.E.2d 233, 236 (2007) (citing Dempsey v. State, 363 S.C. 365, 371, 610 S.E.2d 812, 815 (2005)). "Whether a voluntary manslaughter charge is warranted turns on the facts. If the facts disclose *any* basis for the charge, the charge must be given." State v. Starnes, 388 S.C. 590, 597, 698 S.E.2d 604, 608 (2010) (emphasis added).

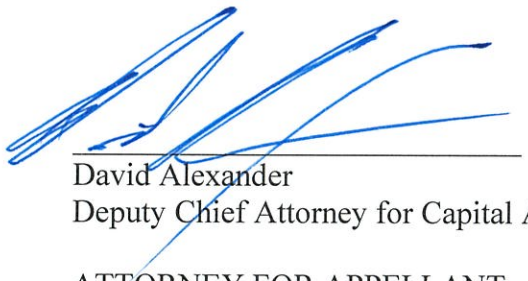
Evidence of a sudden heat of passion, legal provocation, and the absence of malice existed in this case and the trial judge erred in refusing to charge voluntary manslaughter. Appellant and Rice had a contentious relationship as the State's own theory showed they had an argument that warranted the giving of a statement to police just days before the shooting. The neighbor telling police he heard arguing was evidence of a fight. The scratches on appellant's face were evidence of a fight. The judge found that there was no evidence about when the scratches happened, but from Williams' testimony that appellant's face on May 8 looked like a cat had "ripped" his face, a reasonable inference was that the scratched happened during his encounter with Rice. The doorknob near Rice's body was also further evidence of a fight.

Furthermore, even the State's shaky assertion that appellant confessed by stating that he did what his uncle did supports giving the charge. The uncle's shooting was a classic voluntary manslaughter situation of finding another man in his wife's room. Appellant's supposed statement could have been interpreted that he committed manslaughter, especially when

combined with appellant's statements that no one knew "the truth" about what happened. This Court should reverse and remand the case so a jury can consider the lesser-included offense.

CONCLUSION

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



David Alexander
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR APPELLANT

This 3rd day of December 2025.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKEVIUS DAYQUAN LINDSEY,

APPELLANT

APPELLATE CASE NO. 2025-000317

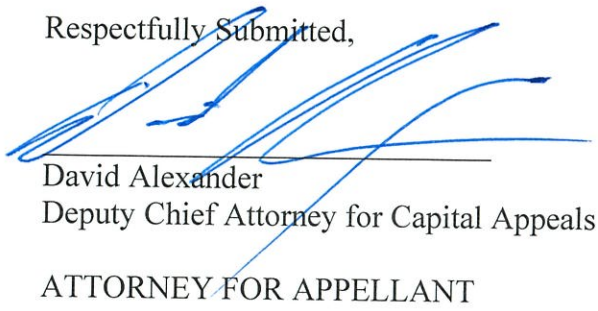
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Akevius Lindsey states:

1. He is Deputy Chief Attorney For Capital Appeals for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge G. D. Morgan, Jr., which was held on Feb. 10-13, 2025, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, he asks the Court to relieve him as counsel for Akevius Lindsey.

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR APPELLANT

This 3rd day of December 2025.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKEVIUS DAYQUAN LINDSEY,

APPELLANT

APPELLATE CASE NO. 2025-000317

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

(1) True-billed indictment(s):
(2) Trial transcript
(3) State's Ex. 16 (to be transported)

I certify that this designation contains no matter which is irrelevant to this appeal.

David Alexander
Deputy Chief Attorney For Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

This 3rd day of December 2025.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders 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."

David Alexander
Deputy Chief Attorney For Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

This 3rd day of December 2025.

RECEIVED
Dec 03 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKEVIUS DAYQUAN LINDSEY,

APPELLANT

APPELLATE CASE NO. 2025-000317

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders 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); and on Akevius Lindsey, #396525, at Tyger River Correctional Institution, 200 Prison Road, Upper Yard, Enoree, SC 29335-9308, this 3rd day of December, 2025.

David Alexander
Deputy Chief Attorney For Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT