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**Dec 09 2025**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of General Sessions

Clifton Newman, Circuit Court Judge

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Appellate Case No. 2023-000669

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The State of South Carolina,

Respondent,

v.

Ernest Condre Bethel,

Appellant.

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**PETITION FOR REHEARING**

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Counsel for Appellant respectfully petitions for rehearing pursuant to Rule 221(a), SCACR, on the basis that this Court overlooked and misapprehended material facts and principles of law in affirming his convictions and sentences. Specifically, Appellant is requesting that this Court rehear the appeal based on the following reasons:

(1) The witness testimony presented by the State regarding Appellant's alleged involvement in a prior shooting at the same location did not satisfy the clear and convincing evidence standard to admit the prior bad act that did not result from a conviction. The number of witnesses testifying about an alleged event does make that testimony more credible. Gregory Martin admitted that he did *not* see Appellant shoot a gun during the prior incident because he was inside the bar when he heard gunshots. (R. p. 104, lines 1-5). Kerry Ross, who is a bartender and assistant manager at McCary's Bar and Grill, conceded on direct examination that

he was *not* present for the shooting that occurred on August 22, 2019. (R. p. 148, lines 7-11). Ross also claimed that he and Appellant were involved in an *unrelated* physical altercation a few weeks earlier. Amircle Wright admitted that she *never* called the police and did *not* file a police report because her “phone was in the bar on the charger” despite even seeing Appellant *after* the shooting (R. p. 191, lines 11-25; p. 192, lines 1-4). The Prosecutor conceded that he “*couldn’t get the exact date correct*” of when the alleged prior shooting occurred and that there is *no* supporting documentary evidence of the alleged shooting. (R. p. 40 – 42). Notably, this Court did not address whether the Trial Court made any findings regarding those witnesses’ credibility. *See generally State v. Fletcher*, 379 S.C. 17, 24, 664 S.E.2d 480, 483 (2008) (citation omitted).

(2) The probative value of the prior bad act is substantially outweighed by the danger of unfair prejudice to Appellant because the act is “strikingly similar” to the one for which Appellant was being tried and was not mitigated by Appellant’s theory of self-defense. *See State v. Gore*, 283 S.C. 118, 121, 322 S.E.2d 12, 13 (1984). Wright’s testimony amounted to the epitome of inadmissible propensity evidence: “*I heard gunshots. And I’m thinking he was doing the same thing he did weeks prior, which is shooting in the air... because we already knew what he was going to do due to the last incident.*” (R. p. 186, lines 1-5; p. 188, line 24 – 189, line 1) (emphasis added). Notably, the State presenting evidence that Appellant had been involved in a prior shooting at the same location was not necessary for the State to prove elements of the charged offense or to disprove Appellant’s theory of self-defense. *Cf. Johnson v. State*, 433 S.C. 550, 555, 860 S.E.2d 696, 699 (Ct. App. 2021).

(3) This Court overlooked and misapprehended material facts and principles of law in finding that the Trial Court did not abuse its discretion in admitting evidence of a prior bad act because the State failed to prove the prior act by clear and convincing evidence, the prior act was

not logically relevant to a material fact at issue, and the admission of the prior act caused substantial unfair prejudice. *See* Rules 403 and 404(b), SCRE.

### CONCLUSION

Based on the foregoing reasons, the Appellant respectfully requests that this Court grant the Petition for Rehearing.

Respectfully submitted,

s/ Dayne Phillips



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**December 9, 2025**

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CERTIFICATE OF SERVICE

The undersigned Counsel certifies that a true copy of the Petition for Rehearing has been served upon **J. Anthony Mabry, Esquire**, at S.C. Attorney General's Office, PO Box 11549, Columbia, SC 29211, on **December 9, 2025**.



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SUBSCRIBED AND SWORN TO before me  
this 9th day of December, 2025.

Courtney Powers (L.S.)  
Notary Public for South Carolina  
My Commission Expires: May 2, 2027

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December 9, 2025

The Honorable Jenny Kitchings  
Clerk of Court, SC Court of Appeal  
P.O. Box 11629  
Columbia, SC 29211

Re: State of South Carolina v. Ernest Condre Bethel  
PETITION FOR REHEARING  
Appellate Case No.: 2023-000669

Dear Ms. Kitchings:

I have emailed the Petition for Rehearing for filing today in the above-referenced case. Thank you for your assistance with filing these documents.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



cc: Ernest C. Bethel  
J. Anthony Mabry, Esq.

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