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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Spartanburg County
Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARCUS DANTA BATSON,

PETITIONER

Opinion No. 2025-UP-341 (S.C. Ct. App. Filed October 8, 2025)

APPELLATE CASE NO. 2026-000009

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on December 3, 2025. App. 57 – 58.

QUESTION PRESENTED

Whether the Court of Appeals erred in affirming the admission of Petitioner's two-and-a-half-hour-long interrogation and confession, where Petitioner's will was overborne by circumstances which included the confluence of his re-shackling with improper comments by Investigator Reece, since the confession was not voluntarily made under the totality of the circumstances?

STATEMENT OF THE CASE

On June 22, 2022, a Spartanburg County Grand Jury indicted Petitioner, Marcus Batson, for two counts of murder. R. 440–443. Petitioner was tried before the Honorable J. Derham Cole and a jury, from September 25 – 28, 2023. Charles Snyder, III, represented Petitioner. James Hunter prosecuted the case. R. 1. Petitioner was convicted as indicted. He was sentenced to life imprisonment without the possibility of parole for each offense. R. 434, ll. 2-8; R. 436, ll. 19-24; R. 444–447.

On October 4, 2023, Petitioner served his notice of intent to appeal. On October 8, 2025, the Court of Appeals affirmed his convictions in an unpublished opinion. *State v. Batson*, Op. No. 2025-UP-341 (S.C. Ct. App. filed October 8, 2025). App. 45 – 46. Petitioner sought rehearing. App. 47 – 56. On December 3, 2025, the Court of Appeals issued an order denying rehearing. App. 57 – 58.

Petitioner now respectfully requests this Court issue a writ of certiorari to review the decision of the Court of Appeals.

ARGUMENT

The Court of Appeals erred in affirming the admission of Petitioner's two-and-a-half-hour-long interrogation and confession, where Petitioner's will was overborne by circumstances which included the confluence of his re-shackling with improper comments by Investigator Reece, since the confession was not voluntarily made under the totality of the circumstances.

Relevant facts

Petitioner's landlord/roommate, Ronald Glenn, and another roommate, Matthew Booker, (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. Law enforcement found Booker in a middle bedroom, face down in bed, clothed. Glenn was found on the floor of another bedroom, which was locked, and he was naked from the waist down. R. 153, l. 8 – 160, l. 7; R. 162, l. 22 – 167, l. 24; R. 175, l. 14 – 176, l. 10; R. 330, l. 9 – 332, l. 3. 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.

The Court of Appeals 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). App. 46. The Court of Appeals noted Petitioner was provided *Miranda* warnings, and it concluded that he "waived those rights, and was not under duress." *Id.* The Court of Appeals further concluded the "officers conducting the interrogation did not coerce him or make any promises of leniency." *Id.*

Discussion

Although the Court of Appeals noted Petitioner's initial waiver of his *Miranda* rights, that waiver does not cure the subsequent coercive circumstances. "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.

This confession was inadmissible, as involuntary confessions may not be used at trial. 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*). 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).

Moreover, 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").

The Court of Appeals erred by concluding that the confession was voluntary, Petitioner was not under duress, and there were no promises of leniency or coercion. Petitioner was interrogated for about two and a half hours. He was shackled at the ankles throughout. He had no food. He was yelling and crying throughout long portions of the interview. Investigator Reece made improper comments to Petitioner, when about an hour and a half into the interrogation, Reece stated law enforcement could "help" Petitioner. *See* State's Exhibit #11 at time mark 14:00:24. Petitioner began to cry but continued to maintain his innocence. Then he was re-handcuffed and Investigator Reece issued a veiled threat to Petitioner, saying "good luck" to him since he did not cooperate and admit he "screwed up." Reece told Petitioner this was the

only time he would be able to "help [him]self." State's Exhibit #11 at time mark 14:46:28 – 14:47:04. This remark came on the heels of Petitioner being re-handcuffed and implied Petitioner would be jailed if he did not confess. At that point, Petitioner's will was visibly overborne—he again began to cry and less than a minute later, at approximately 14:47:57, stated he was tired of being raped. The interrogation continued for roughly another twenty minutes, during which Petitioner was crying and he confessed to killing Decedents because they were sexually assaulting him. State's Exhibit #11. These circumstances show involuntariness. *See State v. Moses*, 390 S.C. at 513–14, 702 S.E.2d at 401 (factors that may be considered in a totality of the circumstances analysis include: conduct of the accused; length of custody or detention; direct or indirect promises, however slight; repeated and prolonged nature of the questioning; exertion of improper influence; and the deprivation of food).

The circumstances also demonstrate coercion. After Reece stated law enforcement could help Petitioner but the interrogation did not yield a confession, Petitioner was re-handcuffed just before Reece told Petitioner "good luck" since he was unwilling to help himself by admitting he "screwed up," *i.e.*, confessing. Petitioner started crying. Handcuffing Petitioner and telling him "good luck" since he would not take his one chance to cooperate was improper and acted as a veiled threat, which overcame Petitioner's will, as shown by the recording of the interrogation. Promises and threats may be indirect or veiled, and coercion is determined from the perspective of the suspect. Although these circumstances might not overcome the will of everyone, they did overcome Petitioner's will. *See Malloy v. Hogan*, 378 U.S. at 7 (confession 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); *State v. Rochester*, 301 S.C. at 200, 391 S.E.2d at 246 (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. at 552, 426 S.E.2d at 327 (confession coerced by means of veiled threats); *State v. Collins*, 442 S.C. at 456, 900 S.E.2d at 432 (coercion is determined from the perspective of the suspect).

The confession was involuntarily made due to the implied promises of help, as well as a comment that acted as a veiled threat coming on the heels of Petitioner's re-shackling; and the repeated and prolonged nature of the interrogation, in which Petitioner was upset, yelling and crying for long periods of time but was given no breaks or chance to compose himself. Petitioner gave an involuntary confession because his will was overborne. The totality of circumstances reflect Petitioner's statement was involuntary and should have been excluded. *Jackson v. Denno*, 378 U.S. at 385.

CONCLUSION

Petitioner respectfully requests this Court grant the petition for writ of certiorari and order full briefing on the issue presented.

Respectfully Submitted,

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This 3rd day of February, 2026.