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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
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

APPENDIX

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THE STATE,

RESPONDENT,

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APPELLANT

APPELLATE CASE NO. 2023-001593

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the court erred where it admitted Appellant's two-and-a-half-hour long interrogation and confession, where, among other things, Appellant was shackled at the wrists and ankles, and where Investigator Reece promised to help Appellant if he confessed, 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 Appellant, Marcus Batson, for two counts of murder. R. 440–443. Appellant was tried before the Honorable J. Derham Cole and a jury, from September 25 – 28, 2023. Charles Snyder, III, represented Appellant. James Hunter prosecuted the case. R. 1. Appellant 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.

This appeal follows.

STANDARD OF REVIEW

The question of the voluntariness of a statement presents a mixed question of law and fact. The appellate court reviews the trial court's factual findings regarding voluntariness for any evidentiary support. However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review. *State v. Miller*, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023).

ARGUMENT

The court erred where it admitted Appellant's two-and-a-half-hour long interrogation and confession, where, among other things, Appellant was shackled at the wrists and ankles, and where Investigator Reece promised to help Appellant if he confessed, since the confession was not voluntarily made under the totality of the circumstances.

Relevant facts

In July of 2021, Appellant was renting a room from Ronald Glenn in Glenn's house on Winsmith Avenue in Spartanburg. Another man, Matthew Booker, also rented a room. Glenn, Appellant, and Booker all lived there. R. 181, ll. 3-5. Glenn was known to be gay. R. 132, ll. 3-4; R. 123, ll. 17-21. Appellant, who worked at a carwash, was homeless before he rented the room from Glenn. R. 182, ll. 5-6; State's Exhibit #11.

In the early morning hours of July 6, 2021, Appellant struck and killed Glenn and Booker with a baseball bat. R. 370, ll. 15-17; State's Exhibit #11; R. 109, ll. 24 – 110, l. 11. Both men were killed by blunt force trauma to the head. R. 268, ll. 8-15; R. 273, l. 8 – 275, l. 25; R. 279, ll. 8-24. Law enforcement entered the home for a welfare check on July 8, 2021, and found the bodies. Booker was in the middle bedroom, face down in his bed, clothed. There was blood splatter above the bed and on the pillow, bed, and wall. Glenn was on the floor in 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.

Glenn's bedroom had a deadbolt. He kept cash and a receipt book in the bedroom. In addition to renting rooms, Glenn's house was a "liquor house." Glenn sold bootlegged alcohol and cigarettes. Law enforcement did not find any money in Glenn's bedroom. R. 166, ll. 13-22;

R. 131, ll. 7-22; R. 127, ll. 14-24; R. 251, l. 23 – 252, l. 12; R. 343, ll. 11-20. However, Barbara Riaz, who was sometimes drunk to the point of not knowing "which days was which," claimed she saw Appellant with a wad of cash the night of July 6. R. 209, l. 12 – 210, l. 6; R. 215, ll. 9-23.

Appellant was interviewed by police officers twice on July 8, 2021, and he denied involvement in the deaths and stated he had been staying at Barabara Riaz's house for the last few days. Appellant suggested a man named Timothy Geter might be responsible. R. 178, l. 4 – 185, l. 11; R. 246, l. 7 – 253, l. 22. However, as the investigation continued, authorities developed Appellant as the murder suspect based on DNA on a bloody baseball bat, and after viewing video surveillance footage from Jackson Electric and the Spartanburg County E.M.S., which were nearby. R. 105, l. 18 – 108, l. 17; R. 169, l. 4 – 174, l. 4; R. 309, l. 5 – 310, l. 4; R. 310, l. 20 – 316, l. 13.

At approximately 6:30 on the morning of July 6, 2021, an employee of Bobby Jackson's found a visibly bloody baseball bat by the dumpster at Jackson Electric. The next day, Jackson told his daughter about the bat, and she called the police. R. 104, l. 24 – 108, l. 15; R. 109, l. 24 – 112, l. 22. A patrolman came and picked up the bat on July 7, 2021, and left it outside the evidence room at the Spartanburg Police Department. Two police officers, including the patrolman and Officer Ed Guthro, mistakenly touched the bat, not knowing its significance. The next day, the bodies were found. R. 114, l. 12 – 118, l. 1; R. 200, l. 18 – 201, l. 24.

An expert in DNA analysis testified DNA located at the top of the bloody bat was likely Glenn's: the DNA "profile is approximately 56 septillion times more likely if Ronald Glenn contributed to the profile than if an unidentified, unrelated individual contributed to the profile." R. 309, l. 5 – 310, l. 4. She also testified the DNA on the handle of the bat was a mixture of four

individuals, which may have included Ed Guthro and Appellant, and may have included Ed Guthro and Glenn. This testimony was complicated, but it supported the State's theory Appellant touched the baseball bat.[1] R. 302, ll. 15-19; R. 310, l. 20 – 316, l. 13.

On July 30, 2021, Appellant was at work when he was arrested for the murders of Glenn and Booker. He was taken to headquarters and interrogated by two detectives, Chindar Ryant and William Reece, for approximately two and a half hours. He was given *Miranda* warnings[2] and signed a waiver of rights. *See* State's Exhibit #14. Appellant 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. Approximately an hour and a half into the interrogation, Investigator Reece told Appellant the following:

> 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. Appellant maintained his innocence during most of the questioning. However, at approximately the 14:45:00 time mark, Appellant was re-shackled in handcuffs. After Appellant was handcuffed, Investigator Reece stated to Appellant,

[1] The testimony included the following. The DNA "profile is approximately 1.5 quadrillion times more likely if Ed Guthro, Marcus Batson and two unidentified, unrelated individuals contributed to the mixture than if Ed Guthro and three unidentified, unrelated individuals contributed to the mixture." "It's very strong support that [Appellant] is included as a contributor." The DNA "profile is approximately 49 million times more likely of Ed Guthro, Ronald Glenn and two unidentified, unrelated individuals contributed to the mixture than if Ed Guthro and three unidentified, unrelated individuals contributed to the mixture." R. 310, l. 20 – 316, l. 13.

[2] *Miranda v. Arizona*, 384 U.S. 436 (1966).

"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.

At that point, Appellant began to cry. Less than a minute later, at approximately 14:47:57, Appellant stated he was tired of being raped. The interrogation continued for roughly another twenty minutes. During that time, Appellant was crying and he confessed to killing Glenn and Booker. Appellant stated he killed the men because they had been raping him for two weeks while he was intoxicated or asleep. Appellant stated he had nowhere else to go. The night of their deaths, Appellant explained he was drunk and "messed up on pills" when he awoke to Glenn and Booker sexually assaulting him, orally and anally. Appellant stated he was penetrated orally by both men and hit in the face by Glenn. He stated Glenn was trying to penetrate him anally. He stated Booker stopped and went to bed. Appellant 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.[3] *See* State's Exhibit #11.

Appellant moved to exclude the statement at a pretrial *Jackson v. Denno* hearing.[4] 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 Appellant was not made any promises. R. 63, l. 25 – 64, l. 7; R. 70, ll. 7-11. Defense counsel argued the statements should be excluded as involuntary based on the circumstances, which included, inter alia, Appellant being fully shacked when he confessed, and based on the promises made by law enforcement.

[3] Troublingly, statements that Appellant had served time in prison, for robbery, are contained in the interview. However, defense counsel did not object to their inclusion or request their redaction.

[4] *Jackson v. Denno*, 378 U.S. 368 (1964).

> It was a long interview. He was never offered a chance to go to the bathroom; he was never offered anything to eat. There were never any breaks during the interview.
>
> 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. Counsel further argued Appellant 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 . . . I believe 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 Appellant was provided *Miranda* warnings, and did not invoke his rights.

> They think that the interview or interrogation is about to be over at which point he re-engages and wishes to speak to them . . . He was in shackles, but just because he was in shackles does not mean that anything he says when he's in handcuffs or shackles can never be used.
>
> He was given his rights. He understood his rights. He did not invoke them, and he continued to speak; and therefore we believe that the interrogation was voluntary, the statements were voluntary, and that they complied with *Jackson vs. Denno* and they should be admitted as freely and voluntarily given by Mr. Batson.

R. 82, l. 16 – 83, l. 5.

The trial court took the matter under advisement and stated it would watch the footage from the interview. The court ultimately found the statement was voluntarily made. It 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.

Other notable evidence in the case included the following. Appellant was thirty-two years old. *See* State's Exhibit #14; State's Exhibit #11. Booker was fifty-six years old and Glenn was seventy-three years old. R. 273, ll. 10-19. Sexual assault kits were taken from the bodies of Booker and Glenn; this included oral, anal, and penile swabs. R. 277, l. 2 – 279, l. 3. No foreign DNA was present in the sexual assault kits, only each man's own DNA, except that the DNA evidence provided "very strong support" that Glenn likely had Appellant's DNA under his fingernails. "[T]he DNA profile is approximately 40 quintillion times more likely if Ronald Glenn and Marcus Batson contributed to the mixture than if Ronald Glenn and an unidentified, unrelated individual contributed to the mixture." R. 318, l. 19 – 325, l. 22. Booker's estranged wife claimed that Booker was not homosexual, and she stated that he took a number of medications and was impotent. R. 143, ll. 4-22; R. 147, ll. 14-15.

As seen, Appellant was convicted and sentenced to life without parole for each offense.

Discussion

"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. "[C]ertain interrogation techniques, either in isolation, or as applied to the

unique characteristics of a particular suspect, are so offensive to a civilized system of justice that they must be condemned under the Due Process Clause of the Fourteenth Amendment." *State v. Miller*, 441 S.C. at 120, 893 S.E.2d at 313 (quoting *Miller v. Fenton*, 474 U.S. 104, 109 (1985)). It is "axiomatic that 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)).

Pursuant to *Jackson v. Denno*, a defendant is entitled to a reliable determination as to the voluntariness of his confession by a tribunal other than the jury charged with deciding his guilt or innocence. *State v. Collins*, Op. No. 28197 (S.C. Sup. Ct. filed Apr. 3, 2024) (Howard Adv. Sh. No. 13 at 11). "In South Carolina, the trial judge makes this initial determination of voluntariness required by *Jackson v. Denno*." *Id.* (citing *State v. Fortner*, 266 S.C. 223, 226–27, 222 S.E.2d 508, 510 (1976)).

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 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. Goodwin*, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009) (citation omitted). *See State v. Collins*, Op. No. 28197 (S.C. Sup. Ct. filed Apr. 3, 2024) (Howard Adv. Sh. No. 13 at 11) ("false assurance of confidentiality from law enforcement is inherently coercive because it interferes with a layperson's ability to make a fully informed decision whether to engage in an interview under such circumstances").

Law enforcement may not make implied or express promises to a suspect which extract a confession. *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) (same). However, a "statement induced by a promise of leniency is involuntary only if so connected with the inducement as to be a consequence of the promise." *State v. Saltz*, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001) (citing *State v. Peake*, 291 S.C. 138, 139, 352 S.E.2d 487, 488 (1987)). *Cf. State v. Miller*, 375 S.C. 370, 387, 652 S.E.2d 444, 453 (Ct. App. 2007) ("Miller's statements were made in the 'hope' of leniency rather than as a consequence of a 'promise.'").

"The State bears the burden of proving by a preponderance of the evidence that a statement allegedly given by an accused was voluntary and that the accused voluntarily, knowingly, and intelligently waived his rights to silence and to have counsel present during interrogation." *State v. Henderson*, 286 S.C. 465, 470, 334 S.E.2d 519, 522 (Ct. App. 1985) (citations omitted). A "waiver must be voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception, and made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it." *Berghuis v. Thompkins*, 560 U.S. at 382–83 (cleaned up). "[W]aivers of counsel must not only be voluntary, but must also constitute a knowing and intelligent relinquishment or abandonment of a known right or privilege, a matter which depends in each case upon the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused." *Edwards v. Arizona*, 451 U.S. 477, 482 (1981) (cleaned up).

As seen, Investigator Reece told Appellant: "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 Appellant was handcuffed, Investigator Reece stated to Appellant, "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 help by law enforcement. The promises were, when seen from the viewpoint of Appellant, coercive circumstances. See *State v. Collins*, Op. No. 28197 (S.C. Sup. Ct. filed Apr. 3, 2024) (Howard Adv. Sh. No. 13 at 11) ("false assurance of confidentiality from law enforcement is inherently coercive because it interferes with a layperson's ability to make a fully informed decision whether to engage in an interview under such circumstances"). These promises interfered with Appellant's ability to make an informed decision about whether to assert his rights, and they induced his confession. Investigator Reese implied three times he would "help" Appellant if Appellant confessed.

The shackling, lack of breaks, such as a bathroom break, or food, as noted by counsel, also contributed to Appellant's will being overborne. Also problematic was Reece's implied threat to Appellant" "good luck to you" if Appellant did not confess to get law enforcement's "help." Immediately after that threat by Reece, Appellant began to cry and confessed. Appellant was either yelling or crying throughout long portions of the interrogation. He was offered no chance to compose himself or have respite in which to consider the wisdom of whether he should assert his rights. Appellant did not confess until he had been re-shackled and Investigator Reece again implied law enforcement would help Appellant if he confessed. State's Exhibit #11 at time mark 14:46:28 – 14:47:04. Appellant's will was overborne.

His waivers of counsel and silence were the product of coercion and deception. *Berghuis v. Thompkins*, 560 U.S. at 382–83. The State did not prove by a preponderance of evidence that Appellant's waivers were the product of a free and voluntary choice, and the confession should

have been excluded. U.S. Const. amend. XIV; U.S. Const. amend. V; *Jackson v. Denno*, 378 U.S. at 385; *State v. Saltz*, 346 S.C. at 136, 551 S.E.2d at 252.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his convictions and sentences and remand for a new trial.

Joanna K. Delany
Appellate Defender

ATTORNEY FOR APPELLANT

This 17th day of January, 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."

January 17, 2025.

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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 Final Brief of Appellant 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), this 17th day of January, 2025.

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Appellate Case No. 2023-001593

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Whether the court erred where it admitted Appellant's two-and-a-half-hour long interrogation and confession, where, among other things, Appellant was shackled at the wrists and ankles, and where Investigator Reece promised to help Appellant if he confessed, since the confession was not voluntarily made under the totality of the circumstances?

RESPONDENT'S COUNTER-STATEMENT OF ISSUES ON APPEAL

Whether Appellant's statement was voluntary, and thus admissible, when law enforcement did not use specific promises or threats against Appellant and Appellant decided to confess after he was shackled in preparation for transport.

STATEMENT OF THE CASE

Respondent accepts Appellant's statement of the case for the purposes of this appeal.

STATEMENT OF FACTS

On July 6, 2021, a Spartanburg electrical contractor and one of his employees found a bloody baseball bat next to a dumpster outside the contractor's business. (R. p. 109, l. 6–p. 110, l. 5). At the time, the contractor believed that the bat had likely been used to kill a dog. (R. p. 110, ll. 6–7).

Upon learning about the bat the next day, the contractor's daughter called the police and provided surveillance footage to law enforcement. (R. p. 106, ll. 6–13; p. 110, ll. 10–11). The bat was picked up by Clay Risen, then working as a Spartanburg police officer. (R. p. 113, ll. 18–20; p. 114, ll. 8–13; p. 116, ll. 1–15).

Two days later, retired college professor Sharon Porter received a phone call from a neighbor of her cousin, Ronald Glenn. (R. p. 120, ll. 16–22). Prior to the call to Porter, two neighbors tried to visit him. But they could not establish contact, prompting the call to Porter. (R. p. 128, l. 15–p. 129, l. 7). Porter then tried to reach her cousin. (R. p. 120, l. 16–p. 121, l. 11; p. 121, ll. 17–18). When Glenn did not respond, Porter called the police and went to Glenn's house. (R. p. 121, ll. 12–21).

Glenn was a retired school teacher who had lived on Winsmith Avenue for 30 or 40 years. (R. p. 119, l. 8–p. 120, l. 4). Glenn sold alcohol—though apparently not wine—and cigarettes out of his house. (R. p. 127, ll. 11–21). He also provided boarding to Appellant and a man named Matthew Booker. (R. p. 125, l. 16–p. 126, l. 2).

Matthew Booker was married to Melody Booker. (R. p. 139, ll. 10–13). Though the two had separated, they were still "[b]est friends," and Melody hoped they could reconcile. (R. p. 142, ll. 5–8). Melody sometimes took food to Booker; for example, on July 5, she had brought him chicken livers from KFC. (R. p. 141, ll. 16–23). Complicating Matthew Booker's life were

medications that made him impotent. (R. p. 142, l. 21–p. 143, l. 12). Melody Booker said her husband was not gay, but based on what he told her, she believed Appellant and Glenn were engaged in a sexual relationship. (R. p. 147, ll. 14–15; p. 148, ll. 15–18; p. 152, ll. 3–9).[1]

Jeremy Drake, a patrol officer for the Spartanburg Police Department, was among the law enforcement officers sent to Glenn's house on July 8. (R. p. 152, l. 21–p. 153, l. 2; R. p. 153, ll. 8–23). Drake and other officers spotted two bodies in the house—finding Booker's body on his floor and viewing Glenn's body through a window. (R. p. 156, l. 4–p. 158, l. 21).

After hearing that Drake had seen a body in Glenn's room, Ronnie Horn, an investigator for the Spartanburg Police Department, kicked down the bedroom door, which was locked with a deadbolt. (R. p. 161, ll. 14–17; p. 166, l. 13–p. 167, l. 16). Glenn was lying on the floor, dead. (R. p. 167, ll. 17–24). He was found without pants. (R. p. 175, ll. 17–18). Based on the evidence gathered and presented at trial, prosecutors theorized that the two men had been beaten to death with a baseball bat.

Appellant was among those who spoke to law enforcement at the house. He spoke twice to Matthew Davis, a SLED agent. (R. p. 177, ll. 4–11; p. 180, ll. 8–18). During their discussions, Batson told Davis that Timothy Geter, whom Batson did not like, was in a relationship with Glenn. (R. p. 181, l. 8–p. 184, l. 21). Batson also told Davis that Booker was not gay. (R. p. 186, ll. 16–19).

During the investigation into the murders, law enforcement gathered video evidence that suggested Appellant—sometimes accompanied by Barbara Riaz—moved between Glenn's home

[1] Barbara Riaz, an acquaintance of Appellant, testified that she also understood that Batson and Glenn were sexually involved. (R. p. 217, l. 23–p. 218, l. 8). During her testimony, Riaz admitted that she told a law enforcement official that she had trouble remembering some timing details from the period surrounding the killings because she was drunk. (R. p. 215, ll. 2 – 23).

and Riaz's home several times beginning at around 1:39 a.m. on July 6 and continuing until 5:22 a.m. (R. p. 355, l. 19–p. 363, l. 16). According to testimony, in one video, Appellant can be seen carrying something. (R. p. 362, ll. 9–16). In one video someone stops near the dumpster where the baseball was found. (R. p. 362, l. 24–p. 363, l. 13). Appellant later told police that he dumped the baseball bat. (R. p. 363, ll. 14–16). Testing on the bat revealed a DNA profile that was

> approximately 1.5 quadrillion times more likely if [a Spartanburg County evidence technician],[2] [Appellant] and two unidentified, unrelated individuals contributed to the mixture than if [the technician] and three unidentified, unrelated individuals contributed to the mixture.

(R. p. 315, ll. 10–14). Riaz remembered that on July 6, Appellant "had a wad of money" that she later described as "liquor-house money." (R. p. 209, ll. 12–19).

Sexual assault kits were used on Booker and Glenn's bodies. (R. p. 277, l. 2–p. 278, l. 10). No foreign DNA was found on Matthew Booker's oral, rectal, or penile swabs. (R. p. 318, l. 7–p. 320, l. 10). Similarly, no foreign DNA was found on Ronald Glenn's oral, rectal, or penile swabs. (R. p. 321, l. 6–p. 322, l. 5). Nor was any foreign DNA found on a sample of Glenn's pubic hair. (R. p. 327, ll. 2–14).

However, a mixture of DNA was found on Glenn's fingernail scrapings; examination found that the resulting DNA profile found on Glenn's left fingernail was "approximately 40 quintillion times more likely if Ronald Glenn and [Appellant] contributed to the mixture than if Ronald Glenn and an unidentified, unrelated individual contributed to the mixture." (R. p. 322, l. 6–R. p. 323, l. 25). The profile found on Glenn's right fingernails was found to be "50 octillion times more likely

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[2] Edgar Guthro, an evidence technician for the Spartanburg Police Department, (R. p. 197, ll. 11–24), touched the handle of the bat before he knew it was evidence in an investigation. (R. p. 200, l. 18–p. 201, l. 21). Risen has also accidentally came into direct contact with the bat. (R. p. 116, ll. 18–21).

if Ronald Glenn and [Appellant] contributed to the mixture than if Ronald Glenn and an unidentified, unrelated individual contributed to the mixture." (R. p. 324, l. 14–p. 325, l. 17).

At trial, defense counsel argued against the admission of the videotape of an interrogation of Appellant during which Appellant, after some hesitation, confessed to carrying out the murders because Glenn and Booker were raping him. (State's Exh. 11). During the interview, as Appellant appeared uncomfortable discussing the nature of his interactions with another man, Investigator William Reece said:

> Look here, 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 going to tell you right now, we're the only one that can help you right now. We really are.

(Exh. 11, 14:00:23–14:00:55). Later, as the interview is about to wrap up and Appellant is in shackles, the following exchange occurred:

> REECE: Since you ain't got no remorse, good luck to you.
>
> APPELLANT: Remorse for what? I didn't do nothing.
>
> REECE: The evidence lines up that you did.
>
> APPELLANT: So evidence—cuz I had sexual orientation [*sic*] with this man, so [inaudible] evidence lines up like that?
>
> INVESTIGATOR CHINDAR RYANT: That's not everything we got. [Inaudible].
>
> APPELLANT: Then what the f*** is you talking about?
>
> REECE: We give you an opportunity man to say, hey, I screwed up. That's what we're here for.
>
> APPELLANT: I did not do anything, bro.
>
> RYANT: Cuz if something happened, now is the time for you to tell us what happened.

> [CROSSTALK]
>
> REECE: If I was sitting where you are, this is the only time I can help myself. It really is, Marc, this is the only time.
>
> RYANT: I guarantee you, if you were to be honest with us, you'd feel a whole lot better.
>
> REECE: And, at least we would understand and be able to say, hey, this is why this happens. Not, this guy don't care. . . .

(Exh. 11, 14:46:28–14:47:14). Shortly after that, Appellant confessed to killing the two men.[3]

At a pretrial hearing on the interrogation, Chindar Ryant, one of the investigators who interrogated Marcus Batson, said that Batson was allowed to smoke a cigarette after the interview. (R. p. 61, ll. 8–10). She also noted that he was provided with water. (R. p. 61, ll. 11–12). Further, Ryant testified that officers did not promise Appellant leniency, did not physically pressure him and did not misrepresent any of the evidence that law enforcement had at the time. (R. p. 61, ll. 13–20). On cross-examination, Ryant testified that Batson did not use the restroom, "[b]ut if he wanted to, he could have." (R. p. 63, ll. 15–18). She also conceded that Batson was not given food. (R. p. 63, ll. 23–24).

Like Ryant, Investigator William Reece testified that Batson was not pressured, either through physical force or other means of coercion. (R. p. 69, ll. 21–24). Reece also recalled that Appellant was not deprived of sleep and was given water, but did not receive any food. (R. p. 69, l. 25–p. 70, l. 6). Reece also testified that he did not make any promises of leniency, though he did promise Appellant he could smoke before being transported. (R. p. 70, ll. 7–11). Nor did Reece misrepresent the state's evidence. (R. p. 70, ll. 12–15). Reece noticed during the

[3] Batson was properly Mirandized prior to making any incriminating statements. (R. p. 66, l. 15–p. 69, l. 5).

interrogation that Appellant's story appeared to be shifting. (R. p. 71, l. 24–p. 72, l. 1). On cross-examination, Reece said that Appellant never asked to use the restroom. (R. p. 75, ll. 6–8).

During his argument against admission, Appellant's counsel argued that there were no breaks in the course of a two-and-a-half-hour interview, and that Appellant did not confess until he had been placed in shackles. (R. p. 79, l. 16–p. 80, l. 7). Counsel also argued that the officers made impermissible promises. *Id.*

In response, the solicitor argued that the statement should be admitted. (R. p. 81, l. 18–p. 83, l. 5). The solicitor noted the shifting nature of Appellant's story during the interview, and that the shackles did not automatically render the statement involuntary. *Id.*

Counsel for Appellant replied that Appellant's statement did not substantially change until he was placed in shackles. (R. p. 83, l. 17–p. 84, l. 7). Counsel said that "what may have started out as a voluntary interview became involuntary due to the circumstances surrounding it." (R. p. 84, ll. 5–7).

The following day, the court found the statement admissible. (R. p. 86, ll. 5–20). The court held that Appellant was in custody, was Mirandized, and was not subjected to pressure or promised anything in exchange for his statement. *Id.*

During the trial, an exhibit containing the interview was admitted into evidence without objection. (R. p. 337, l. 14–p. 338, l. 8).[4] Additionally, Investigator Ryant testified about her recollection of the interview without objection. (R. p. 338, l. 9–p. 343, l. 3). Investigator Reece also testified as portions of the interview with Appellant were played. (R. p. 354, ll. 12–17; p. 364,

[4] The exhibits have different numbers. However, based on a review of the record, the exhibit introduced at trial appears to include some if not all of Exhibit 11 broken into shorter clips.

l. 16–p. 370, l. 17). No contemporaneous objections to the testimony were made on the record during that testimony. *Id.*

The jury found Batson guilty of the murders of Glenn and Booker. (R. p. 434, ll. 2–15). The trial court sentenced Batson to prison for the remainder of his natural life. (R. p. 436, ll. 19–24). This appeal follows.

STANDARD OF REVIEW

Under recent South Carolina precedent, on appeal from a ruling on the admissibility of a statement by a defendant, "the question of voluntariness presents a mixed question of law and fact." *State v. Miller*, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023). As a result, the factual determinations underlying a circuit court's ruling on whether a statement was voluntary is reviewed under an any-evidence standard. *See id.* "However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review." *Id.*

ARGUMENT

I. There was no error in admitting the defendant's statement when he was not mistreated, officers made no impermissible promises or threats, and his statement was willful and voluntary.

Appellant argues that the trial court should have excluded his videotaped confession because it did not constitute a voluntary statement. Appellant is incorrect.

Not all police interrogation tactics violate a suspect's due process rights or protection against self-incrimination. Instead, the Supreme Court "has long held that certain interrogation techniques, either in isolation or as applied to the unique characteristics of a particular suspect, are so offensive to a civilized system of justice that they must be condemned under the Due Process Clause of the Fourteenth Amendment." *Miller v. Fenton*, 474 U.S. 104, 109, 106 S. Ct. 445, 449, 88 L. Ed. 2d 405 (1985). The suspect's rights are violated, the high court found, when law enforcement officers employed torture and interrogation techniques "revolting to the sense of justice" to draw out statements that were later used against a defendant at trial. *See id.* (quoting *Brown v. Mississippi*, 297 U.S. 278, 286, 56 S.Ct. 461, 465, 80 L.Ed. 682 (1936)). Our courts have frequently framed the inquiry in terms of whether the defendant's will was overborne. *See State v. Johnson*, 422 S.C. 439, 455, 812 S.E.2d 739, 747 (Ct. App. 2018) ("If a suspect's will is overborne and his capacity for self-determination critically impaired, use of the resulting confession offends due process." (quoting *State v. Saltz*, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001))).

The rights guaranteed by the Constitution do not prohibit law enforcement officers from discussing the potential benefits of talking to officers, or the risk of refusing to do so. *See id* at 456, 812 S.E.2d at 748 ("Isolated incidents of police deception . . . and discussions of realistic penalties for cooperative and non-cooperative [defendants] . . . are normally insufficient to

preclude free choice." (cleaned up) (quoting *State v. Parker*, 381 S.C. 68, 91, 671 S.E.2d 619, 630-31 (Ct. App. 2008) (alterations in original))). Instead, when considering the back-and-forth between suspects and law enforcement over potential penalties, courts look to "whether law enforcement offered specific promises of leniency, rather than general remarks that a cooperative attitude would be to the accused's benefit." *State v. Miller*, 441 S.C. 106, 121, 893 S.E.2d 306, 314 (2023); *see also State v. Miller*, 375 S.C. 370, 387, 652 S.E.2d 444, 453 (Ct. App. 2007) ("Although the officers and [an assistant attorney general] told [the defendant] it was in his best interest to cooperate, no one made any direct or implied promise of leniency. As a result, [the defendant's] statements were made in the 'hope' of leniency rather than as a consequence of a 'promise.'").

A promise does not render a statement involuntary unless the promise causes the statement. *See State v. Rochester*, 301 S.C. 196, 200, 391 S.E.2d 244, 246–47 (1990) ("A statement induced by a promise of leniency is involuntary only if so connected with the inducement as to be a consequence of the promise."); *State v. Miller*, 375 S.C. at 386, 652 S.E.2d at 452 (same) (collecting cases).

Here, no impermissible threats or promises were made—and even if it could be argued, contrary to law and fact, that such a promise or threat was made, there is no reason to believe it caused Appellant's statement.

As to whether the officers' comments constituted a promise of leniency, *Arrowood* is instructive. In that case, the court found a confession admissible after officers and the defendant gave conflicting testimony about whether the officers promised to get charges in North Carolina dropped and get the defendant a favorable sentencing arrangement in South Carolina in return for cooperation. *See State v. Arrowood*, 375 S.C. 359, 363–65, 652 S.E.2d 438, 440–441 (Ct. App.

2007). During his testimony, one officer said any offer to help defendant would have consisted of a statement that the officer would testify about the defendant's cooperation. *Id.* at 364, 652 S.E.2d at 441. This court held that "the officers' offer to attest to Arrowood's cooperation did not constitute promises of leniency." *Id.* at 368, 652 S.E.2d at 443.

The officers' statements in the current case strongly resemble those in *Arrowood.* In fact, the officers at one point suggested to Appellant not that they would help him if he made a statement, but that he would be *helping himself.* (Exh. 11, 14:46:54–14:46:58); *see also State v. Rochester*, 301 S.C. 196, 199–201, 391 S.E.2d 244, 246–47 (finding that a polygraph examiner's statement that "it would be certainly, probably, in [the defendant's] best interest to tell the truth" did not render the confession involuntary because it was "not on its face an inducement or hope of lighter punishment").

What is not permitted by our law—and what the officers did not do in this case—is using a specific promise of leniency to pry a confession out of an unwilling suspect. *See* Promise, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/promise (last visited June 20, 2024) (defining a promise as "a declaration that one will do or refrain from doing something *specified*" (emphasis added)); *cf.* Promise, BLACK'S LAW DICTIONARY (11th ed. 2019) ("The manifestation of an intention to act or refrain from acting in *a specified manner*, conveyed in such a way that another is justified in understanding that a commitment has been made; a person's assurance that the person will or will not do something." (emphasis added)).

Nor can the officers' other comments be credibly argued to amount to a threat. A sarcastic remark of "good luck to you" is hardly a threat. In this instance, it was meant to emphasize to Appellant that cooperating could be beneficial, and lack of cooperation could not. Again, Appellant can point to no law saying that is not permitted, because the law clearly says it is.

Instead, the officers in this case provided Appellant with input that he could use in making a choice about whether to cooperate. Certainly, they hoped that Appellant would confess, but the law does not prohibit persuasion. It prohibits force.

Even so, there is no indication that officers' statements directly led to an involuntary confession by Appellant. Contrary to Appellant's brief, his confession *did not* immediately follow the statements Appellant portrays as problematic. In the immediate aftermath of those remarks, Appellant maintained his innocence. It was only after further discussions with officers—discussions that likewise did not include promises or threats—that Appellant concluded it was in his best interest to give the officers a self-serving version of the truth. The stray comments that Appellant highlights did not constitute threats or promises, but even if they did, there is no evidence that those comments caused Appellant's confession. *See Johnson*, 422 S.C. at 456, 812 S.E.2d at 748 (finding that an "isolated" reference to the death penalty given long before the suspect's confession did not render a statement involuntary).

Appellant's reliance on *Collins* is misplaced. *See generally State v. Collins*, 442 S.C. 444, 900 S.E.2d 426 (2024). In that case, our supreme court found that a confession should be suppressed when law enforcement actively misled a suspect about whether the officer would keep Collins' statements confidential. *See id.* at 456–460, 900 S.E.2d at 432–434. The court held: "This *misstatement of the law* and *false assurance by law enforcement* regarding [the defendant's] constitutional rights violated due process." *Id.* at 459, 900 S.E.2d at 434 (emphases added); *see also id.* ("Such *misleading statements* undermine the fundamental fairness that every defendant is entitled to under the law . . . ." (emphasis added)).

Here, the officers did not misstate the legal consequences of Batson choosing to give a statement about the killings. They certainly did not assure Appellant that his statements to them

would remain confidential. *See id.* at 454, 900 S.E.2d at 431–32 (framing the issue in Collins as whether "a false promise of confidentiality give[s] rise to coercion and, thus, a lack of voluntariness, because it intentionally misleads a suspect about *the law*, i.e., the legal consequences and risks of proceeding with an interview with law enforcement, as distinguished from misleading a suspect about *the facts* in an investigation?"). Throughout Appellant's interrogation, law enforcement instead did what the law says they are entitled to do: present the suspect with options and allow him to choose which avenue to take. But the choice remained with Appellant. That choice was—and could be—informed but not coerced by the investigators' statements. *See State v. Von Dohlen*, 322 S.C. 234, 243–44, 471 S.E.2d 689, 695 (1996) ("The present record reveals, not a defendant whose will was overborne by police, but one who, after considering his options, knowingly waived his *Miranda* rights and voluntarily decided to confess the details of the crime to police."), *overruled on other grounds by State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019).

As to the other conditions of the interview, Appellant points to no case law finding the use of shackles to be a determining factor in analyzing whether a statement was voluntary. In any event, while the use of shackles to prepare Appellant for transfer might have focused his mind, it did so only because it emphasized the consequences of his calculation. Nor has Appellant been able to explain why this Court should assume that the shackles were placed on Appellant to influence his willingness to make a statement, rather than their most obvious purpose—to prepare Appellant for transfer before Reece and Ryant tried one more time to persuade Appellant to come clean.

Finally, there is no reason to believe that the amount of time devoted to this interrogation was excessive under state and federal precedents. *See Berghuis v. Thompkins*, 560 U.S. 370, 386–87, 130 S. Ct. 2250, 2263, 176 L. Ed. 2d 1098 (2010) ("The interrogation was conducted in a

standard-sized room in the middle of the afternoon. It is true that apparently he was in a straight-backed chair for three hours, but there is no authority for the proposition that an interrogation of this length is inherently coercive. Indeed, even where interrogations of greater duration were held to be improper, they were accompanied, as this one was not, by other facts indicating coercion, such as an incapacitated and sedated suspect, sleep and food deprivation, and threats."); *State v. Myers*, 359 S.C. 40, 47, 596 S.E.2d 488, 492 (2004) (finding trial court did not err in admitting statements when, among other factors, "[n]ot one of the interrogations lasted more than a few hours"); *Von Dohlen*, 322 S.C. at 245, 471 S.E.2d at 696 (upholding questioning "from approximately 7:00 to 10:00 p.m." when defendant was given breaks).

Furthermore, even if the statement was not voluntary, any error in its admission was without a doubt harmless.

"[T]he erroneous admission of an involuntary statement is still subject to a harmless error analysis." *Collins*, 442 S.C. at 460, 900 S.E.2d at 434. Harmless error is determined following a case-specific analysis of whether the alleged error meaningfully contributed to the conviction of the defendant. *See id.* at 460, 900 S.E.2d at 434–35 (collecting cases); *see also State v. Reeves*, 301 S.C. 191, 194, 391 S.E.2d 241, 243 (1990) ("Error is harmless when it could not reasonably have affected the result of the trial. The harmless error doctrine 'should be employed guardedly, however, and on a case by case basis.'" (citations omitted) (quoting *State v. Morris,* 289 S.C. 294, 297, 345 S.E.2d 477, 479 (1986)).

Given the manner of the victims' deaths, there is no doubt that they were murdered. The State introduced evidence, including forensic evidence, conclusively tying Appellant to the murder weapon, and showing that his DNA was present under the fingernails of one of the victims. There

is no reason to believe that the removal of Appellant's statement from the record would have resulted in a different verdict.

CONCLUSION

The record supports the trial court's finding that Appellant's statement was voluntary and admissible. In the alternative, any error resulting from the admission of that statement was beyond a doubt harmless. For those reasons, this Court should affirm Appellant's conviction.

Respectfully Submitted,

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January 23, 2025.

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
The Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

MARCUS D. BATSON,

APPELLANT.

Appellate Case No. 2023-001593

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to R. Brandon Larrabee, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Final Brief of Respondent has been forwarded to Appellant's counsel, Joanna K. Delany, Esq., via email today, January 23, 2025 to jdelany@sccid.sc.gov, and to her assistant at smcinnis@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 23rd day of January, 2025.

s/ Donna D'Alessio
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Marcus Danta Batson, Appellant.

Appellate Case No. 2023-001593

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2025-UP-341
Submitted September 1, 2025 – Filed October 8, 2025

AFFIRMED

Appellate Defender Joanna Katherine Delany, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy Attorney General Donald J. Zelenka, Senior Assistant Deputy Attorney General Melody Jane Brown, and Assistant Attorney General Richard Brandon Larrabee, all of Columbia; and Solicitor Barry Joe Barnette, of Spartanburg, all for Respondent.

PER CURIAM: Marcus Danta Batson appeals his convictions for two counts of murder and sentence of life imprisonment without the possibility of parole. On appeal, Batson argues the trial court erred in admitting his interrogation and confession. We affirm pursuant to Rule 220(b), SCACR.

We hold the trial court did not err in admitting Batson's interrogation and confession because based on the totality of the circumstances, his statement was voluntary. *See State v. Miller*, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023) ("[T]he question of voluntariness presents a mixed question of law and fact."); *State v. Moses*, 390 S.C. 502, 513, 702 S.E.2d 395, 401 (Ct. App. 2010) ("[T]he 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."). Batson was advised of his *Miranda*[1] rights, waived those rights, and was not under duress. *See State v. Johnson*, 422 S.C. 439, 455, 812 S.E.2d 739, 747 (Ct. App. 2018) ("Relevant circumstances for the trial [court] to consider include . . . the failure to Mirandize, the length of detention, the repeated and prolonged nature of the questioning, and the use of physical punishment such as the deprivation of food or sleep."); *Berghuis v. Thompkins*, 560 U.S. 370, 386-87 (2010) (finding an interrogation conducted in a "standard-sized room in the middle of the afternoon" that lasted three hours was not "inherently coercive" but acknowledging longer interrogations were "improper" when accompanied by "other facts indicating coercion, such as an incapacitated and sedated suspect, sleep and food deprivation, and threats"). The officers conducting the interrogation did not coerce him or make any promises of leniency. *See State v. Rochester*, 301 S.C. 196, 200, 391 S.E.2d 244, 246 (1990) ("[T]he confession may not be 'extracted by any sort of threats or violence, [or] obtained by any direct or implied promises, however slight, [or] by the exertion of improper influence.'" (alterations in the original) (quoting *Hutto v. Ross*, 429 U.S. 28, 30 (1976))); *State v. Miller*, 375 S.C. 370, 387, 652 S.E.2d 444, 453 (Ct. App. 2007) (finding a defendant's "statements were made in the 'hope' of leniency rather than as a consequence of a 'promise'" when he was told "it was in his best interest to cooperate" and where "no one made any direct or implied promises of leniency").

AFFIRMED.[2]

WILLIAMS, C.J., and THOMAS and CURTIS, JJ., concur.

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[1] *Miranda v. Arizona*, 384 U.S. 436 (1966).

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

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).

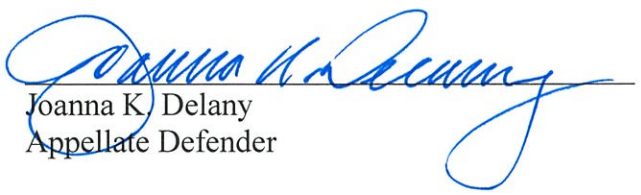
Law enforcement may not make promises or threats to a suspect which extract a confession. "A confession can never be received in evidence where the prisoner has been influenced by any threat or promise; for the law cannot measure the force of the influence used, or decide upon its effect upon the mind 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,



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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.

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ATTORNEY FOR APPELLANT

The South Carolina Court of Appeals

The State, Respondent,

v.

Marcus Danta Batson, Appellant.

Appellate Case No. 2023-001593

ORDER

After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

H. Bruce Williams C.J.

Paula H. Thomas J.

Kristi J. Curtis J.

Columbia, South Carolina

FILED
Dec 03 2025

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