THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Clifton Newman, Circuit Court Judge

Appellate Case No. 2023-000669
Opinion No. 2025-UP-383 (S.C. Ct. App. filed November 26, 2025)

The State of South Carolina,

Respondent,

v.

Ernest Condre Bethel,

Petitioner.

PETITION FOR A WRIT OF CERTIORARI

Dayne C. Phillips, Esq.
SC Bar No. 77712
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, SC 29201
(803) 807-0234

Attorney for Petitioner

INDEX

CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the South Carolina Court of Appeals on January 29, 2026. (App. 505).

QUESTIONS PRESENTED

I. Did the Court of Appeals err in finding the Trial Court did not abuse its discretion in admitting evidence of Petitioner's alleged involvement in a prior shooting at the same location when the State failed to prove the prior bad act by clear and convincing evidence, the propensity evidence was not logically relevant to a material fact at issue, and the striking similarity of the evidence enhanced the substantial unfair prejudice to Petitioner?

STATEMENT OF THE CASE

A. *Procedural History*

On December 18, 2019, the Richland County Grand Jury indicted Petitioner, Ernest Bethel, for two counts of Murder, two counts of Attempted Murder, and one count of Possession of a Weapon During the Commission of a Violent Crime (Indictment Nos. 2019GS4008050 – 8054). (App. 426 – 445).

On April 17, 2023, Petitioner proceeded to trial before the Honorable Clifton Newman and a jury. (App. 5 – 425). Justin Kata, Esq., represented Petitioner, and Deputy Solicitor Daniel Goldberg and Assistant Solicitor Nicholas Fowler prosecuted the case on behalf of the State. The jury returned guilty verdicts for all five indictments on April 20, 2023. (App. 405, line 11 – 406, line 9). The Trial Court sentenced Petitioner to fifty (50) years imprisonment for each Murder conviction, thirty (30) years imprisonment for each Attempted Murder conviction, and five (5) years imprisonment for the Possession of a Weapon During the Commission of a Violent Crime conviction. (App. 423, line 25 – 424, line 11). The Trial Court imposed concurrent sentences for all convictions.

On April 25, 2023, Petitioner filed a Notice of Appeal in the South Carolina Court of Appeals. Petitioner filed its Final Brief of Appellant on October 3, 2024. (App. 447 – 465). The State then filed its Final Brief of Respondent on October 23, 2024. (App. 466 – 497).

On November 26, 2025, the South Carolina Court of Appeals affirmed Petitioner's convictions and sentences. *State v. Bethel*, Op. No. 2025-UP-383 (S.C. Ct. App. filed November 26, 2025). (App. 498 – 500). Petitioner filed a Petition for Rehearing on December 9, 2025. (App. 501 – 504). The Court of Appeals issued an Order denying the Petition for Rehearing on January 29, 2026. (App. 505).

Petitioner seeks a writ of certiorari to review the Court of Appeals' decision.

B. ***Background***

On August 22, 2019, Petitioner and two acquaintances arrived at McCary's Bar and Grill. Upon entering the bar, Petitioner encountered Tolliver Wise who was standing at the door preparing to exit the building. Petitioner and Wise shook hands and "ended in a hug, indicating peace." (App. 80, lines 14-19; p. 95, line 25; p. 96, lines 1-4; p. 275, line 25; p. 276; lines 1-6).

Several individuals in the bar, which included John Miller and Christopher Lott, then walked over to Petitioner in a hostile manner and surrounded him. (App. 276, lines 11-25; p. 277, lines 1-22). One of the bartenders, Cameron Jenkins, and his co-worker, Gregory Martin, also approached the group and tried to calm the situation. (App. 277, lines 23-25; p. 278, line 1; p. 92, lines 5-22). Petitioner testified that Jenkins intervened "because they were intoxicated and they already had it out for me the moment I walked in there." (App. 277, lines 2-7). Petitioner testified that he perceived the four (4) individuals surrounding him in an aggressive and hostile manner. (App. 279, lines 6-10).

Suddenly, John Miller, threw a drink in Petitioner's face and a physical altercation ensued. (App. 81, lines 20-25; p. 82; lines 1-3; p. 98, lines 16-20; p. 279, lines 16-20). Petitioner testified that he was hit in the face and head multiple times and slammed into a table during this attack by the group of men. (App. 280, lines 6-9). Petitioner ultimately backed out of the building and testified that he noticed Tolliver Wise pulling up his pants, signaling that he was going for his gun. (App. 280, lines 10-25; p. 281, lines 1-3; p. 281, lines 16-25; p. 282, lines 1-7). In response to Wise's actions, Petitioner pulled his gun and began firing at him.

Wise also shot his gun from inside the bar, and Petitioner returned fire. (App. 286, lines 1-24). Jenkins, Martin, Lott, and Wise were wounded during the shooting. Wise and Lott

ultimately died as result of their injuries. (App. 228, lines 4-13; p. 177, lines 17-25; p. 178, lines 1-21).

Pre-Trial

During a pre-trial hearing, Defense Counsel objected to the admissibility of Petitioner's alleged involvement in a prior shooting at the same location. (App. 42, lines 2-14; p. 44, line 15 – 47, line 2). Specifically, after Defense Counsel reiterated that the alleged incident occurred "[a]t the same place, different time and some different people[,]" the Trial Court remarked, "Oh, goodness." (App. 42, lines 9-11). Defense Counsel restated, "So, Your Honor, we would object to that [testimony]." (App. 42, lines 12).

The State maintained that Petitioner was allegedly banned from the bar due to a prior shooting. (App. 43, lines 11-25, p. 44, line 15 – 47, line 2). 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 (i.e., *no police report*). (App. 44, line 19; p. 46, lines 4-5) (emphasis added). The State believed the admissibility of the alleged prior incident is a "twofold issue...in terms of part one would be the testimony of whether he was not allowed to be there as a result of this prior incident... And then part two of that would be whether or not the State would be allowed to go into the specifics of that incident to include the shots being fired into the air." (App. 45, lines 19-25).

The Trial Court then inquired whether Petitioner was charged for the alleged prior shooting, and the State confirmed Petitioner was not arrested because "*there was no law enforcement notification provided.*" (App. 46, lines 4-5) (emphasis added). Defense Counsel argued, "I have an extreme objection to any mention of a prior shooting" and "less of an objection to...discussions about whether he was given notice not to be back." (App. 46, lines 12-16). Defense Counsel

reiterated, "I think once we go into the facts of the specific shooting, it becomes unduly prejudicial." (App. 46, lines 16-18). Notably, Defense Counsel informed the Trial Court that "identity is not an issue in this case." (App. 47, lines 3-4).

The Trial Court ultimately deferred ruling on this issue until the presentation of evidence during trial: "Everyone knows it's an issue, so we'll deal with it." (App. 47, lines 5-7).

Trial

Gregory Martin

During the State's direct examination of Gregory Martin who worked at the bar, the State inquired, "So[,] this night on August 22nd, what was your understanding about whether or not Mr. Bethel was allowed to be at McCary's?" Martin responded, "I knew he was banned, was not allowed to be there." The State then asked, "And what was that -- in general terms, what was that due to?" Defense Counsel contemporaneously objected as Martin attempted to discuss the alleged prior incident, and the Trial Court immediately overruled the objection. (App. 106, lines 3-11).

Martin proceeded to testify that he was at the bar the night of the alleged prior incident and witnessed an argument between Petitioner and Kerry Ross. (App. 106, line 12 – 107, line 5). As Martin began to describe Petitioner's actions once he exited the bar, the Trial Court interrupted the testimony and instructed the attorneys to approach for a bench conference. (App. 107, lines 6-8). The Trial Court then instructed the State to proceed with his line of questioning. (App. 107, lines 9-10). Martin ultimately testified that he heard gunshots from outside of the bar while he was ***inside the bar*** and did ***not*** see the shooting. (App. 108, lines 1-5).

On cross-examination, Martin testified that he was not aware of any documentation banning Petitioner from the bar because "I wasn't the one who banned him, so I wouldn't be able

to provide the documentation of that... I don't have the power to ban somebody[.]" (App. 114, lines 6-13).

Kerry Ross

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. (App. 152, lines 7-11). The State then asked him, "But you were there a week or two prior?" Defense Counsel objected under Rule 404(b), SCRE. The Trial Court requested another bench conference, and Defense Counsel indicated his previous "objection of the prior act" during the earlier bench conference on this issue. (App. 152, lines 12-19).

In response, the State informed the Court, "He's going to say he kicked him out the week before and then subsequent to that, he *went back inside and heard gunshots*." The Trial Court replied, "Okay, I'll overrule your objection. The objection is overruled." (App. 152, line 22 – 153, line 1) (emphasis added). Ross also claimed that he and Petitioner were involved in an unrelated physical altercation a few weeks before the shooting.

Ross maintained Petitioner arrived at the bar with a few people who did not have their IDs, and Ross denied entry to those people but allowed Petitioner inside the bar. (App. 153, lines 9-11). Ross alleged that Petitioner subsequently punched him in the face and left the bar. Ross also claimed that he informed Petitioner that he was not allowed to return to the bar. (App. 154, lines 14-16). Petitioner supposedly then walked to the back of the building where Ross *heard gunshots*. (App. 153, lines 13-16; p. 154, lines 9-20).

During cross-examination, Ross conceded that he did *not* call the police or file a police report after allegedly being punched in the face by Petitioner or hearing gunshots outside of the business. Ross also admitted that he had not provided Petitioner with any documentation placing

him on trespass notice to ban him from the property. Ross claimed that he had informed his manager and one of the bartenders on duty that night about the incident but had not documented it in any other way. (App. 156, line 7 – 157, line 1).

Amircle Wright

Defense Counsel again objected under Rule 404(b), SCRE, during the direct examination of Amircle Wright, who was allegedly present during both incidents. The Trial Court then asked for a response from the State when Defense Counsel reiterated his objection under Rule 404(b), SCRE. The State replied, "Your Honor, this is the same content we've discussed previously. I believe he's just renewing his objection to it." The Trial Court overruled the objection. (App. 184, lines 13-24).

Amircle Wright testified that Petitioner allegedly got into an altercation with a female in the bar, prompting Ross to intervene. (App. 185, lines 10-12). Wright then claimed that she was outside of the bar and witnessed Petitioner shooting in the air. (App. 185, lines 15-24). Following a series of questions regarding the alleged prior incident, the State asked Wright, "And so in your statement to police, you said Tolliver [Wise] pulled out his gun because he knew what [Petitioner] was going to do; is that correct?" Wright responded, "Yes, sir." (App. 186, lines 2-5). Notably, in response to a question regarding Petitioner's actions on the night of August 22, 2019, Wright testified, "I heard gunshots. And *I'm thinking he was doing the same thing he did weeks prior, which is shooting in the air*...." (App. 190, lines 1-5) (emphasis added).

On cross-examination, Defense Counsel attempted to impeach Wright based on her prior inconsistent statement to police that Wise pulled his gun before Petitioner started shooting. Wright testified, "[Petitioner] was shooting prior to that, prior to Tolliver [Wise] pulling his gun out *because we already knew what he was going to do due to the last incident*." (App. 192, line 24 –

193, line 1) (emphasis added). Wright also admitted that she *never* called the police or filed a police report because "when he shot the gun up in the air that morning, my phone was in the bar on the charger." (App. 195, lines 11-25; p. 196, lines 1-4). Wright also conceded that she saw Petitioner after the alleged prior shooting and did not call the police because he was "harmless" to her. (App. 196, lines 3-4).

Petitioner

Notably, Petitioner testified that he did not shoot a gun during the prior incident and that he was never told that he could not come back to the bar. (App. 274, line 20 – 275, line 16). He acknowledged that there was an exchange of words, but stated, "[Ross] never told me you're banned, don't ever come back." (App. 275, lines 11-13).

Deliberations, Jury Note, and Verdict

The jury began deliberations at 10:24 a.m. on April 20, 2023, and the jury sent out a note at 1:20 p.m. (stating that they "have doubts for the self-defense on elements three and four. Need clarity. Number three, what is considered reasonable for the person? Please provide clarity. Do we have to have all elements to be considered self-defense?"). (App. 395, lines 5-14). The Trial Court recharged the law on self-defense and answered the questions contained in the jury note. The jury left the courtroom at 1:43 p.m. to continue deliberations and returned their verdicts at 3:21 p.m. (App. 404, lines 10-24).

ARGUMENT

I. THE COURT OF APPEALS ERRED IN FINDING THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN ADMITTING EVIDENCE OF PETITIONER'S ALLEGED INVOLVEMENT IN A PRIOR SHOOTING AT THE SAME LOCATION WHEN THE STATE FAILED TO PROVE THE PRIOR BAD ACT BY CLEAR AND CONVINCING EVIDENCE, THE PROPENSITY EVIDENCE WAS NOT LOGICALLY RELEVANT TO A MATERIAL FACT AT ISSUE, AND THE STRIKING SIMILARITY OF THE EVIDENCE ENHANCED THE SUBSTANTIAL UNFAIR PREJUDICE TO PETITIONER.

Generally, evidence of a person's character is not admissible to prove the person acted "in conformity therewith on a particular occasion." Rule 404(a), SCRE. Under Rule 404(b), SCRE, evidence of a person's "other crimes, wrongs, or acts" are inadmissible to prove a person's general character "in order to show action in conformity therewith." However, evidence of other bad acts are admissible when that evidence tends to establish (1) motive; (2) intent; (3) the absence of mistake or accident; (4) a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of one tends to establish the others; or (5) the identity of the person charged with the commission of the crime on trial. *See State v. Lyle*, 125 S.C. 406, 416, 118 S.E. 803, 807 (1923).

The proponent of prior bad act evidence must demonstrate it has a legitimate purpose, "i.e., the evidence does something more than prove a person has propensity to commit crimes." *Johnson v. State*, 433 S.C. 550, 555, 860 S.E.2d 696, 699 (Ct. App. 2021). This Court recently explained the State's initial burden in seeking to admit prior bad act evidence against a criminal defendant *Johnson v. State*:

> In a criminal case, the State must convince the trial court that the prior bad act evidence is logically relevant to a material fact at issue in the case: "If it is logically pertinent in that it reasonably tends to prove a material fact in issue, it is not to be rejected merely because it incidentally proves the defendant guilty of another crime."

Id. (quoting State v. Lyle, 125 S.C. 406, 417, 118 S.E. 803, 807 (1923)). This Court also held that

trial courts are to apply the logical relevancy test with "rigid scrutiny." *Id.* at 556, 860 S.E.2d at 699.

Specifically, if the trial court concludes the prior bad act evidence serves a purpose other than to show the defendant's proclivity for criminal conduct and the purpose is one listed under Rule 404(b), then such evidence is admissible unless its "probative value is substantially outweighed by the danger of unfair prejudice." Rule 403, SCRE; *see Johnson*, 433 S.C. at 556, 860 S.E.2d at 699. The danger of unfair prejudice is also enhanced when the prior bad act is "strikingly similar" to the one for which the appellant is being tried. *State v. Gore*, 283 S.C. 118, 121, 322 S.E.2d 12, 13 (1984).

Notably, if the prior bad act did not result in a prior conviction, the state must prove the prior bad act by clear and convincing evidence. *See Johnson*, 433 S.C. at 556, 860 S.E.2d at 699. Our Supreme Court explained that clear and convincing evidence is that degree of proof which will produce in the mind of the trier of facts a firm belief as to the allegations sought to be established, and such proof is intermediate, more than a mere preponderance but less than is required for proof beyond a reasonable doubt; it does not mean clear and unequivocal. *See State v. Fletcher*, 379 S.C. 17, 24, 664 S.E.2d 480, 483 (2008) (citation omitted).

Discussion

In this case, the Court of Appeals erred in finding the Trial Court did not abuse its discretion in admitting evidence of Petitioner's alleged involvement in a prior shooting at the same location when the State failed to prove the prior bad act by clear and convincing evidence, the propensity evidence was not logically relevant to a material fact at issue, and the striking similarity of the evidence enhanced the substantial unfair prejudice to Petitioner. *See* Rules 403 and 404(b), SCRE; *see Johnson*, 433 S.C. at 556, 860 S.E.2d at 699; *Gore*, 283 S.C. at 121, 322 S.E.2d at 13.

"This type of prior bad act evidence is precisely what Rules 403 and 404(b) of the South Carolina Rules of Evidence seek to exclude from trials." *State v. Robinson*, 438 S.C. 421, 439, 882 S.E.2d 883, 893 (Ct. App. 2023) (citing *Johnson*, 433 S.C. at 559, 860 S.E.2d at 701 ("The rules of evidence recognize verdicts are still rendered by human hands, not the artificial workings of algorithms, and emotion has its place. Rule 403 ensures emotion stays in its place."); *Id.* at 556–57, 860 S.E.2d at 700 ("Rule 404(b) bars the use of prior bad act evidence to prove character, deeming it useless to the factfinder, for such use does not make any legitimate fact at issue more or less probable.")). "The purpose of the rules of evidence is to facilitate fair proceedings that bring forth the truth, not the whole truth, from its shroud of smoke and mirrors in a manner that will secure fair and just outcomes at trial." *Robinson*, 438 S.C. at 439, 882 S.E.2d at 893 (citing Rule 102, SCRE).

A. The Court of Appeals erroneously found that "the prior act was proven by clear and convincing evidence" because "three eyewitnesses indicated that during the prior act—two weeks before the shooting that gave rise to the charged offenses—[Petitioner] engaged in a physical altercation at a bar and ultimately fired a weapon."

The Court of Appeals erred in finding "the prior act was proven by clear and convincing evidence" because "three eyewitnesses indicated that during the prior act—two weeks before the shooting that gave rise to the charged offenses—[Petitioner] engaged in a physical altercation at a bar and ultimately fired a weapon." (App. 498 – 500). The Court of Appeals incorrectly noted that there were "three eyewitnesses", and the Court's reliance on their testimony is misplaced. Specifically, witnesses Gregory Martin and Kerry Ross did ***not*** see the prior shooting, and the number of witnesses testifying about an alleged event does not make that testimony more credible. None of those witnesses called the police about the alleged prior shooting, filed a police report, or had any independent documentary evidence to support the prior shooting occurred or that Petitioner was banned from the bar. Notably, even the Prosecutor acknowledged that he "***couldn't get the exact date correct***" of when the alleged prior shooting occurred. (App. 44 – 46).

First, Gregory Martin, who worked at the bar, admitted that he did ***not*** see Petitioner shoot a gun during the alleged prior incident because he was inside the bar when he heard gunshots. (App. 108, lines 1-5). The Court of Appeals incorrectly stated that there were "three eyewitnesses" of the prior act despite Martin's testimony that he did ***not*** see the prior shooting.

Second, Kerry Ross, who also worked at the bar, claimed that he and Petitioner were involved in an ***unrelated*** physical altercation a few weeks earlier, and that he saw Petitioner walk to the back of the building where he heard gunshots. (App. 153, lines 13-16; p. 154, lines 9-20). Same as witness Martin, Ross did ***not*** see the prior shooting. (App. 152 – 154). The Court of Appeals' reliance on "three eyewitnesses" is not accurate, and the Court of Appeals did not address this witness's bias against Petitioner based on his allegation that they had a prior physical altercation.

Ross also conceded that he did not call the police or file a police report after allegedly being punched in the face by Petitioner or hearing gunshots outside of the business. Ross also admitted that he had not provided Petitioner with any documentation placing him on trespass notice to ban him from the property. Ross maintained that he had informed his manager and one of the bartenders on duty that night about the incident but had not documented it in any other way. (App. 156, line 7 – 157, line 1).

Third, 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." (App. 195, lines 11-25; p. 196, lines 1-4). Wright also acknowledged that she saw Petitioner ***after*** the alleged prior shooting and did ***not*** call the police because he was "harmless" to her. (App. 196, lines 3-4).

Therefore, the witness testimony presented by the State regarding Petitioner'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. *See generally Johnson*, 433 S.C. at 556, 860 S.E.2d at 699.

B. The Court of Appeals erroneously found "the facts of the prior act and its consequences were logically related to a determination of whether [Petitioner] acted in self-defense—particularly, whether he brought on the difficulty—on the night of the charged offenses" because Petitioner's alleged involvement in a prior shooting at the same location was not logically relevant to a material fact at issue.

The Court of Appeals erroneously found "the facts of the prior act and its consequences were logically related to a determination of whether [Petitioner] acted in self-defense—particularly, whether he brought on the difficulty—on the night of the charged offenses" because Petitioner's alleged involvement in a prior shooting at the same location was not logically relevant to a material fact at issue. (App. 498 – 500). The Court of Appeals noted, "the State presented evidence that [Petitioner] was banned from the bar due to the prior incident, that he knowingly violated the ban when he arrived at the bar on the night of the charged offenses, and that others in the bar were enforcing the ban at the time of the charged offenses." Petitioner testified that he did not previously fire a weapon, was unaware of the alleged ban, and he shot in self-defense.

The Court of Appeals' opinion failed to address that the State's evidence was ***not limited*** to the allegation that Petitioner "was banned from the bar due to the prior incident" but instead went into significant detail of the alleged prior shooting and unrelated physical altercations. Specifically, in response to a question regarding Petitioner's actions on the night of August 22, 2019, Wright testified, "**I heard gunshots. And *I'm thinking he was doing the same thing he did weeks prior, which is shooting in the air....***" (App. 190, lines 1-5) (emphasis added). Wright also testified, "**[Petitioner] was shooting prior to that, prior to Tolliver [Wise] pulling his gun out *because we already knew what he was going to do due to the last incident.***" (App. 192, line 24 – 193, line 1) (emphasis added).

Assuming arguendo, Petitioner acknowledges that the evidence of Petitioner being allegedly banned from the bar could be logically relevant in deciding whether Petitioner acted in self-defense. However, the specific and detailed evidence of the alleged prior shooting was not logically relevant to show why Petitioner shot into the bar or to dispel that Petitioner acted in self-defense. *Johnson*, 433 S.C. at 556, 860 S.E.2d at 699. Notably, motive, intent, and identity were not critical in connecting Petitioner to the crime. Therefore, Petitioner's alleged involvement in a prior shooting at the same location was not logically relevant to a material fact at issue. *See* Rule 404(b), SCRE; *Johnson*, 433 S.C. at 556, 860 S.E.2d at 699 ("In a criminal case, the State must convince the trial court that the prior bad act evidence is logically relevant to a material fact at issue in the case.").

C. The Court of Appeals erroneously found that, "[a]lthough the close similarity between the prior act and the charged offenses enhanced the likelihood of prejudice, we find the risk of prejudice did not substantially outweigh the probative value of the prior act regarding [Petitioner's] self-defense theory" because the striking similarity of Petitioner's alleged involvement in a prior shooting at the same located enhanced the substantial unfair prejudice to Petitioner.

The Court of Appeals erroneously found that, "[a]lthough the close similarity between the prior act and the charged offenses enhanced the likelihood of prejudice, we find the risk of prejudice did not substantially outweigh the probative value of the prior act regarding [Petitioner's] self-defense theory" because the striking similarity of Petitioner's alleged involvement in a prior shooting at the same located enhanced the substantial unfair prejudice to Petitioner. (App. 498 – 500). *See* Rule 403, SCRE; *State v. Kelley*, 319 S.C. 173, 177, 460 S.E.2d 370 (1995) ("It is well settled that evidence should be excluded when its probative value is outweighed by its prejudicial effect.").

The probative value of the prior bad act is substantially outweighed by the danger of unfair prejudice to Petitioner because the act is "strikingly similar" to the one for which Petitioner was

being tried and was not mitigated by Petitioner'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.***" (App. 190, lines 1-5; p. 192, line 24 – 193, line 1) (emphasis added). Wright also testified, "**[Petitioner] was shooting prior to that, prior to Tolliver [Wise] pulling his gun out *because we already knew what he was going to do due to the last incident.***" (App. 192, line 24 – 193, line 1) (emphasis added).

Notably, the State presenting evidence that Petitioner had allegedly 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 Petitioner's theory of self-defense. *Cf. Johnson v. State*, 433 S.C. 550, 555, 860 S.E.2d 696, 699 (Ct. App. 2021). When comparing the Court of Appeals' decision in *Robinson* to the facts in this case, "the State presented much evidence that was substantially prejudicial to [Petitioner's] case and confusing to the jury." *Id.*, 438 S.C. at 438, 882 S.E.2d at 892. The State presented numerous witnesses to testify about the alleged prior shooting and unrelated physical altercations with different people. (App. 153, lines 13-16; p. 154, lines 9-20).

Specifically, Ross alleged that Petitioner's punched him in the face during the prior incident, and Wright testified that Petitioner allegedly got into an altercation with a female in the bar during the prior incident. (App. 153, line 12; p. 185, lines 10-12). Therefore, the Trial Court erred by admitting evidence of Petitioner's alleged involvement in a prior shooting at the same location because the striking similarity of this propensity enhanced the unfair prejudice to Petitioner and substantially outweighed any probative value. *See Gore*, 283 S.C. at 121, 322 S.E.2d at 13.

CONCLUSION

Based on the foregoing reasons, Petitioner respectfully requests the Court to grant this Petition for Writ of Certiorari. Specifically, Petitioner asks the Court to reverse his convictions and sentences, and remand the case to the Richland County Court of General Sessions for a new trial.

Respectfully submitted,

s/ Dayne Phillips 

Dayne C. Phillips, Esq.
SC Bar No. 77712
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, SC 29201
(803) 807-0234

Attorney for Petitioner

March 2, 2026

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Clifton Newman, Circuit Court Judge

Appellate Case No. 2023-000669
Opinion No. 2025-UP-383 (S.C. Ct. App. filed November 26, 2025)

The State of South Carolina,

Respondent,

v.

Ernest Condre Bethel,

Petitioner.

CERTIFICATE OF SERVICE

The undersigned Counsel certifies that a true copy of the Petition for Writ of Certiorari has been served upon J. Anthony Mabry, Esquire, by email and at the SC Attorney General's Office, PO Box 11549, Columbia, SC 29211, and Jenny A. Kitchings, Clerk of Court, SC Court of Appeals, P.O. Box 11629, Columbia, SC 29211, by United States Mail, postage prepaid, on March 2, 2026.

Dayne Phillips
PRICE BENOWITZ LLP
1614 Taylor Street, Ste. D.
Columbia, SC 29201
(803) 807-0234
Attorney for Petitoner

SUBSCRIBED AND SWORN TO before me
this 2nd day of March, 2026.

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

DAVID BENOWITZ
ADMITTED DC, MD & VA
DAYNE PHILLIPS
ADMITTED SC
JOHN YANNONE
ADMITTED MD & DC
KERRI CASTELLINI
ADMITTED DC, MD & VA
KUSH ARORA
ADMITTED MD & DC
NICOLAS TORRES
ADMITTED FL
SEAN O-BRIEN
ADMITTED IL
PETER KENT ODOM
ADMITTED DC, MD, VA, NH & GA
RAMMY BARBARI
ADMITTED DC & VA
MARVIN OCHOA
ADMITTED MD
ARREN WALDREP
ADMITTED DC, MD & SC
KENNETH LADUCA
ADMITTED DC, MD & VA
JEFF STICKLE
ADMITTED MD & DC
FARRAL HABER
ADMITTED FL, VA & DC
PAULETTE PAGÁN
ADMITTED DC, MD & MO
RYAN HUTTAR
ADMITTED VA
JEANNE BROWN
ADMITTED VA & DC
TAYLOR COMSTOCK
ADMITTED MD, DC & VA
ELIANE MAKHLOUF
ADMITTED MD & DC
TONY MUNTER
ADMITTED DC, MA & MD
DRAKE BIRNBAUM
ADMITTED DC & MD

*OF COUNSEL

409 7TH STREET NW, SUITE 200
WASHINGTON, DC 20004

PRICE BENOWITZ LLP
1614 TAYLOR STREET
SUITE D
COLUMBIA, SC 29201
OFFICE: (803) 272-4503
DIRECT: (803) 807-0234
FAX: (803) 380-8035

SETH PRICE
ADMITTED DC & NY
TAMMY BEGUN
ADMITTED DC & MD
KARIN RILEY PORTER
ADMITTED VA
SETH OKIN
ADMITTED MD
DENNIS SOMECH
ADMITTED DC & VA
ABIGAIL BEICHLER
ADMITTED MD
JOEL NIED
ADMITTED VA, PA & GA
MICHAEL LEE
ADMITTED VA & CO
CHAD PROPST
ADMITTED SC
JESSICA BALDWIN
ADMITTED VA & SC
DAMIEN SMITH
ADMITTED DC & VA
W. ANDREW PATZIG
ADMITTED DC & VA
SUKHPREET "VICK" SINGH
ADMITTED SC
KEN KOPPELMAN
ADMITTED IL, DC & VA
RAYAN MOMENAH
ADMITTED DC & MD
HANNAH AMUNDSON
ADMITTED FL, DC & MD
JUSTIN TURNER
ADMITTED MD & DC
KIMBERLY PHILLIPS
ADMITTED VA & DC
ANDREW LINDSEY
ADMITTED VA
EVA SWANSON
ADMITTED VA
ASHLEY WILSON
ADMITTED VA & DC
BRIAN MORRIS
ADMITTED DC, TX & IL

10505 JUDICIAL DRIVE, SUITE 203
FAIRFAX, VA 22030

March 2, 2026

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

Re: **State v. Ernest Condre Bethel**
PETITION FOR WRIT OF CERTIORARI
Appellate Case No. **2023-000669**

Dear Ms. Kitchings:

I have enclosed a copy of the Petition for Writ of Certiorari in the above-referenced case, along with a Certificate of Service for filing.

Thank you for your assistance with filing these documents. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Dayne C. Phillips, Esq.
(803) 807-0234

Enclosure (noted)
cc: **Ernest C. Bethel**
J. Anthony Mabry, Esq.