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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable James R. Barber, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID LAMAR THOMPSON,

APPELLANT

APPELLATE CASE NO. 2025-001260

INITIAL BRIEF OF APPELLANT

MOLLY M. KEEGAN
Appellate Defender

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

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred by denying appellant's motion for early parole eligibility under S.C. Code Ann. § 16-25-90 following appellant's voluntary manslaughter conviction despite credible evidence that appellant cohabitated with Youngblood and suffered a history of domestic violence from Youngblood?

STATEMENT OF THE CASE

In June 2015, the Greenville County grand jury indicted appellant for murder and possession of weapon during commission of a violent crime. R *(Indictment). On September 14, 2015, his case was called to trial before the Honorable James R. Barber, III, and a jury. Tr. 1. Judith M. Munson prosecuted the case for the state, and Stuart B. Sarratt and Jake Erwin represented appellant. Tr. 1. The jury ultimately found appellant guilty of the lesser-included offense of voluntary manslaughter and guilty of possession of a weapon during commission of a violent crime. Tr. 364, ll. 13-21. Judge Barber imposed a 35-year total sentence, comprised of 30 years as to voluntary manslaughter and five years as to the weapons charge, set to run consecutively. Tr. 369, l. 23 – 370, l. 14. On September 28, 2015, trial counsel filed a motion to reconsider appellant's sentence and requested early parole eligibility under S.C. Code Ann. § 16-25-90. R *(Mtn to reconsider)

Over nine years later, Chief Administrative Judge Perry Gravely held a hearing on appellant's outstanding motion. Mtn. Tr. 1. After that hearing, Judge Gravely initially denied appellant's motion as untimely but rescinded the order for further consideration of appellant's case several days later. R *(Order denying motion to reconsider); R *(Rescinding prior order). On November 16, 2024, Judge Gravely filed an amended order denying appellant's motion to reconsider his sentence and determining that he had the authority to address appellant's request for early parole eligibility. R *(Amended order). On March 31, 2025, assistant public defender Paul K. Neely filed a memorandum in support of appellants' motion for early parole eligibility. R *(Defense memorandum). On April 11, 2025, the state filed a memorandum in opposition. R *(Opposition memorandum). Finally, on June 9, 2025, Judge Gravely denied appellant's request

for early parole eligibility. R *(Order denying parole eligibility). On June 16, 2025, appellant timely filed a notice of appeal. R *(Notice of appeal).

This brief follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Laney*, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012) (quoting *State v. Jennings*, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)). When a matter presents a mixed question of law and fact, this Court will "review the trial court's factual findings for any evidentiary support, but the ultimate legal conclusion . . . is a question of law subject to *de novo* review." *State v. Frasier*, 437 S.C. 625, 633–34, 879 S.E.2d 762, 766 (2022).

ARGUMENT

The trial court erred by denying appellant's motion for early parole eligibility under S.C. Code Ann. § 16-25-90 following appellant's voluntary manslaughter conviction despite credible evidence that appellant cohabitated with Youngblood and suffered a history of domestic violence from Youngblood.

Relevant facts

Trial

During trial, appellant David Thompson admitted that he killed Jennifer Youngblood on May 23, 2014. Appellant and Youngblood had been engaged in a relationship for six years. Tr. 54, ll. 21-23; 81, ll. 8-10; 107, ll. 18-25; 256, ll. 18-24. Youngblood's mother testified that appellant frequented the house in 2008 to 2009. Tr. 56, l. 24 – 57, l. 1. She testified that he was a regular guest in her house "every now and then." Tr. 57, ll. 2-4. Jackeline Zuniga, Youngblood's sister, testified that there was a period of time in 2008 to 2009 when appellant lived in the house. Tr. 59, l. 23 – 60, l. 10. She described that, during the period when appellant lived at the home, he shared a room with Youngblood, the family fed him, appellant cleaned his clothes there, and "they were just like a couple, I guess, living at home." Tr. 59, l. 23 – 60, l. 10. She estimated that appellant lived with Youngblood for a month or two. Tr. 60, ll. 8-10.

Amber Singleton testified that she was aware that in August of 2013, Youngblood was charged with criminal domestic violence of a high and aggravated nature (CDVHAN) and appellant was the victim. Tr. 79, ll. 8-13.

Dan Shaw, a sergeant in the forensic division of the Greenville County Department of Public Safety, testified that appellant was identified as a person of interest in Youngblood's death and that evidence needed to be collected from appellant. Tr. 175, ll. 20-25. Shaw

explained that he photographed appellant's injuries. Tr. 176, ll. 8-13. Appellant did not complain of injuries but had a missing chunk of skin on his finger which Shaw photographed. Tr. 176, ll. 10-17.[1] Ramon Rivera, the on-call sergeant, testified that while appellant did not appear injured to him, he could see old scars on his arm. Tr. 211, ll. 10-25. He testified that appellant said the scars were from cleaning out the fryer at his job. Tr. 211, ll. 10-25.

After the state rested its case, *see* Tr. 230, ll. 6-7, appellant called Stanford Overby, Jr., a Thirteenth Circuit assistant solicitor, who testified that he was the solicitor assigned to a CDVHAN case where Youngblood was the defendant and appellant was the victim. Tr. 242, ll. 2-22. He explained that the warrant was served on August 21, 2013, and was pending when Youngblood was killed. Tr. 243, ll. 20-25. Defense counsel submitted Defense Exhibits 3 and 4, which were photographs from the CDVHAN case file. *See* Defense Exhibits 3 and 4 (on file with this Court); *see also* Tr. 243, ll. 2-21. On cross-examination, Overby testified that appellant came to his office and said that Youngblood did not cut him. Tr. 244, ll. 3-12.

Patricia Nix, a paralegal for attorney Larry H. Cooke, testified that Youngblood was Cooke's client. Tr. 245, ll. 4-13. She spoke with Youngblood on May 23, 2014. Tr. 246, ll. 19-21. Nix testified that a plea agreement had been worked out for Youngblood where she would not face jail time. Tr. 246, ll. 5-9. Nix also testified that appellant called on May 23, 2014, and said that he did not want Youngblood to go to jail or do any jail time. Tr. 246, ll. 13-22.

Appellant testified in his own defense. He explained that while Youngblood died at his hands, he did not murder her. Tr. 255, l. 18 – 256, l. 3. He explained that he was on-and-off with Youngblood for six years. Tr. 256, ll. 18-24. Their relationship changed in the summer of 2009, when he got a girl pregnant after he and Youngblood "split up." Tr. 257, ll. 15-22. They

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[1] Based on her autopsy, Youngblood was 5'10" and 240 pounds. Tr. 97, ll. 1-3.

tried to recover the relationship a few times after that, but it was never the same. Tr. 258, ll. 3-7. He described that when things got bad, they fought and argued. Tr. 258, ll. 8-11.

Appellant described the August 2013 CDVHAN incident as follows.[2] He and Youngblood were hanging out and drinking when they had a small argument. Tr. 258, ll. 20-22. They got in the car to get drinks, and on the way back, Youngblood started talking about "my baby mom, me being childish and everything like that. So she got mad." Tr. 259, ll. 1-4. They argued about his "baby mom" all the time. Tr. 259, ll. 5-7. Youngblood began "striking [appellant] in the face," and he reminded her that they were driving and could wreck. Tr. 259, ll. 9-11. She was punching him "closed hand, fist to face." Tr. 259, ll. 12-16. Both appellant and his friend in the backseat asked Youngblood to stop, but she did not. Tr. 259, ll. 18-24. Youngblood started striking him on his right side, and he could not stop her from doing that because he was driving. Tr. 260, ll. 1-5. He did not realize until after that he had lacerations on his right side and a deep cut across his arm. Tr. 260, ll. 8-16. He described the photographs that officers took at the scene. Tr. 260, l. 21 – 261, l. 2. He did not receive any medical treatment. Tr. 261, ll. 3-5. He testified that he did not call the police. Tr. 262, ll. 21-22. When the police arrived, he told them how he got his injuries, and Youngblood was charged with CDVHAN. Tr. 262, l. 23 – 263, l. 3. He explained that they got back together after the CDVHAN charge. Tr. 263, ll. 5-7.

Appellant continued that the CDVHAN incident was not the only time that Youngblood was physical during an argument. Tr. 263, ll. 8-10. He described an incident where Youngblood swung on him in the parking lot of Goodwill. Tr. 263, ll. 22-23. He testified that he just let it go, and once she was done, he "did contact the cops on that particular day." R. 264, ll. 1-3. He

[2] A search of the Greenville County public index reflects that an indictment for CDVHAN under 2013-GS-23-10993 was dismissed on May 28, 2014, due to Youngblood's death.

testified that a criminal domestic violence (CDV) charge was filed as a result of that incident. Tr. 264, ll. 6-13. He explained that he did tell Overby that some of the other cuts on his arm was from jobs he worked. Tr. 264, ll. 16-24.

Appellant testified that the only reason he and Youngblood were around each other "was to try to negotiate something as far as her not going to jail for, I think, a year or something like that for that high and aggravated." Tr. 266, ll. 11-19. He described going to court for the CDV and telling the judge that he was okay with Youngblood receiving anger management classes. Tr. 267, ll. 3-8. He explained that regarding the CDVHAN case, Youngblood did not believe that appellant had spoken with her attorney. Tr. 268, ll. 2-4. He explained he was "willing to do whatever [he] had to do for her not to have the charges." Tr. 268, ll. 2-4. He called her attorney's office and spoke with his paralegal, Nix, to communicate that he did not want Youngblood to go to jail. Tr. 268, ll. 7-19. He explained that Youngblood wanted him to come over that day to prove that he had spoken with her attorney's office. Tr. 269, ll. 3-4. Appellant testified that he and Youngblood had agreed for him to "take a little bit of money" and "say [he] lied about the whole situation." Tr. 270, ll. 21-25. He testified that he thought he might have to go to jail for filing a false police report. Tr. 271, ll. 1-7. He spoke with his mom who thought the agreement was "pretty stupid," and he told Youngblood he was not going to do it. Tr. 271, ll. 16-24. After appellant concluded his testimony, the defense rested. Tr. 305, l. 22.

The state called Sarah Napolitano as a reply witness. Tr. 308, ll. 15-22. She worked for the sheriff's office in August of 2013. Tr. 309, ll. 3-5. She had an incident report from August 20, 2013, where the complainant was appellant. Tr. 310, ll. 14-17. She testified that on her way to the scene, she was advised that appellant had gone to St. Francis hospital. Tr. 310, ll. 23-25. She met with appellant at the hospital and observed that he was distressed and had bandages

covering his left forearm and the right side of his abdomen. Tr. 311, ll. 1-3. The incident report stated that appellant called the police and police responded to his friend's residence. Tr. 312, ll. 4-5.

In closing, defense counsel highlighted the history of domestic violence that the jury heard appellant testify about. Tr. 339, ll. 5-6. Specifically, he emphasized the two prior incidents of domestic violence where Youngblood was charged as the defendant. Tr. 339, ll. 6-9.

The jury found appellant guilty of the lesser-included offense of voluntary manslaughter and possession of a weapon during commission of a violent crime. Tr. 364, ll. 13-21.

Sentencing

During sentencing, defense counsel moved for the trial court to consider early parole eligibility under S.C. Code § 16-25-90, based on a history of domestic violence. Tr. 369, ll. 3-6. The state promptly objected and requested a hearing on the matter. Tr. 369, ll. 7-10. Defense counsel deferred to the court. Tr. 369, ll. 12-14. The trial court then imposed a thirty-year sentence as to the voluntary manslaughter charge and five years, set to run consecutively, as to the weapons charge. Tr. 369, l. 23 – 370, l. 17

Motion for early parole eligibility

On September 28, 2015, defense counsel moved to reconsider appellant's sentence and asked the court to rule on his request for an evidentiary hearing to determine whether appellant qualified for early parole eligibility under S.C. Code Ann. § 16-25-90. R *(Mtn to reconsider).

Appellant's 28 U.S.C. § 2254 filings

Nearly nine years passed, during which time appellant filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 in the United States District Court for the District of South Carolina. *See generally* R *(Petition for Writ of Habeas Corpus). In that filing, appellant raised

the "inordinate delay in adjudicating" his pending motion for reconsideration. R *(Petition for Writ of Habeas Corpus at 6). A magistrate judge issued a report and recommendation (R&R) which recommended dismissal without prejudice. R *(R&R at 17-18). However, the magistrate judge acknowledged that a timely post-trial motion to reconsider appellant's sentence was filed but was "somehow, still pending nearly *nine years* later." R *(R&R at 13-14) (emphasis in original). The magistrate judge thus recommended that the state be "ordered to inform the Chief Administrative Judge of the Thirteenth Judicial Circuit, which includes Greenville County, of this R&R and this Court's concerns over the delay in ruling on Petitioner's motion to reconsider." R *(R&R at 18). On July 23, 2024, District Judge David C. Norton adopted the R&R and dismissed appellant's § 2254 petition without prejudice. R *(Order dismissing § 2254 petition at 2).

Hearing on appellant's outstanding motions

Thereafter, on August 23, 2024, the Honorable Perry H. Gravely convened a hearing to address appellant's outstanding motion. Mtn. Tr. 1. Paul Neely represented appellant, and Frederick Fisher appeared on behalf of the state. Mtn. Tr. 1. Defense counsel Neely explained that during appellant's trial, trial counsel raised "the possible defense or the affirmative defense of being a battered person." Mtn. Tr. 2, ll. 18-21. He noted that the prosecutor assigned to Youngblood's case, Stanford Overby, Jr., of the Anderson County Solicitor's Office, testified at trial. Mtn. Tr. 2, l. 21 – 3, l. 1. Defense counsel Neely explained that former trial counsel Sarratt raised in his motion that he failed to present evidence to the court of a battered person and that he did not allow appellant's family to address the court in mitigation during sentencing. Mtn. Tr. 3, ll. 2-7. Defense counsel explained that Sarratt filed a timely motion to reconsider sentence that was never heard by the court. Mtn. Tr. 3, ll. 8-12. He continued that the situation was "unique,"

given that the prosecutor who tried the case retired, trial counsel was no longer with the public defender's office, and the trial judge retired. Mtn. Tr. 3, ll. 20-25. He argued that the motion needed to be ruled on so appellant could explore other potential remedies afforded to him. Mtn. Tr. 4, ll. 4-6. Finally, defense counsel noted that he submitted an *ex parte* order requesting funding for an expert on battered person syndrome. Mtn. Tr. 4, ll. 7-13.

The court explained that before it could consider the substance of the motion, the court needed to determine whether the motion was timely filed and resolve the jurisdictional issue presented by the retirement of the trial judge. Mtn. Tr. 4, l. 25 – 5, l. 23. The court determined that it would take the matter under advisement. Mtn. Tr. 5, l. 24; 8, ll. 2-5.

Trial court's initial rulings

On October 2, 2024, Judge Gravely entered an order denying appellant's motion to reconsider as untimely. R *(Order denying motion to reconsider). On October 10, 2024, Judge Gravely *sua sponte* rescinded his order because the appellant's motion needed further consideration. R *(Rescinding prior order).

On November 16, 2024, Judge Gravely entered an amended order on appellant's motion to reconsider. R *(Amended order at 1). Judge Gravely found that, as Chief Administrative Judge, he had authority to address appellant's motion in light of the trial judge's retirement. R *(Amended order at 1). He continued that the motion presented two district issues: (1) reconsideration of appellant's sentence because trial counsel failed to present additional mitigation evidence; and (2) appellant's eligibility for early parole under S.C. Code Ann. § 16-25-90. R *(Amended order at 2). As to reconsideration, Judge Gravely denied the motion to present additional mitigation. R *(Amended order at 2). As to parole eligibility, Judge Gravely

determined he had authority to address the issue and ordered "a hearing be scheduled for the presentation of evidence pursuant to the statute." R *(Amended order at 2).

Additional memoranda concerning early parole eligibility

On March 31, 2025, defense counsel Neely filed a memorandum in support of appellant's motion for parole eligibility pursuant to § 16-25-90. R *(Defense memorandum at 1). He argued that the United States Supreme Court "has approved trial courts to apply a by a preponderance of the evidence burden of proof." R *(Defense memorandum at 2). He asserted that appellant met the requirements of § 16-25-90, as supported by the record at trial, because the record provided testimony from several witnesses that appellant and Youngblood had a six-year relationship and lived together for a period in 2008 to 2009. R *(Defense memorandum at 3). Thus, he contended that credible evidence existed that appellant and Youngblood were household members pursuant to the statute's definition. R *(Defense memorandum at 3).

Next, counsel argued that the trial record contained credible evidence that appellant was a victim of domestic violence during his relationship with Youngblood. R *(Defense memorandum at 3). He highlighted appellant's trial testimony and the corroborative testimony presented by Stan Overby and Patricia Nix. R *(Defense memorandum at 3). He thus argued that the weight of the evidence was more than mere production. R *(Defense memorandum at 3). He contended that Youngblood was arrested for a CDVHAN warrant which a magistrate judge found probable cause to support. R *(Defense memorandum at 3). Therefore, he concluded that the presentation and corroboration of evidence of domestic violence "at trial is a clear indication the evidence is more probable than not." R *(Defense memorandum at 3-4).

On April 11, 2025, the state filed a memorandum in opposition to appellant's motion for early parole eligibility. R* (Opposition memorandum at 1). The state argued that appellant was

not eligible for early parole under § 16-25-90. R* (Opposition memorandum at 2). The state contended that, although Youngblood was arrested for CDVHAN, she was never indicted for nor convicted of the charge, did not enter a guilty plea, and did not make an admission or confession in relation to that charge. R* (Opposition memorandum at 2-3). The state argued that appellant and Youngblood were not household members because they were not married and had no children in common. R* (Opposition memorandum at 3). Further, the state argued that because no evidence was presented that appellant formerly resided in Youngblood's mother's house, like receiving mail there or maintaining a lease, he could not establish cohabitation by a preponderance of the evidence. R* (Opposition memorandum at 3).

The state also asserted that, apart from appellant's "self-serving testimony," there was "scant" evidence of a history of criminal domestic violence. R* (Opposition memorandum at 3). The state argued that appellant's testimony was "wildly inconsistent" and contradicted by his prior statements. R* (Opposition memorandum at 5). The state asserted that "[a]lthough the jury found that the State did not meet its burden of proving Defendant killed Ms. Youngblood with malice aforethought, it should not be inferred that the jury found Defendant credible." R* (Opposition memorandum at 5). The state continued that appellant did not provide sufficient credible evidence to demonstrate a history of Youngblood causing "physical harm or injury" to appellant. R* (Opposition memorandum at 6). The state concluded that appellant should thus not be eligible for parole after serving one-fourth of his thirty-five year prison term. R* (Opposition memorandum at 6).

The trial court's ruling

On June 10, 2025, Judge Gravely denied appellant's motion for early parole eligibility. R *(Order denying parole eligibility at 6). The court noted that Youngblood was charged with

CDVHAN where appellant was the alleged victim on or about August 20, 2013. R *(Order denying parole eligibility at 2). The court explained, however, that Youngblood was never indicted for, convicted of, entered a guilty plea to, nor made any admission related to the charge. R *(Order denying parole eligibility at 2). The court continued that in order to determine eligibility under § 16-252-90, it was "left to rely, in large part, on the transcript of Defendant's trial." R *(Order denying parole eligibility at 3). Because appellant and Youngblood were never married and did not share children in common, the court determined that appellant could only meet the definition of a household member through cohabitation. R *(Order denying parole eligibility at 3). The court found that no evidence was presented that appellant formerly resided in Youngblood's mother's house, like receiving mail there or maintaining a lease, and thus, could not establish cohabitation by a preponderance of the evidence. R *(Order denying parole eligibility at 3).

As to a history of criminal domestic violence, the court determined that appellant's statements to third persons involved in the 2013 case against Youngblood were contradicted by his trial testimony. R *(Order denying parole eligibility at 3). The court found that no other witness to the alleged incident of criminal domestic violence testified at trial. R *(Order denying parole eligibility at 4-5). The court stated as to the other allegation of criminal domestic violence, appellant previously omitted that allegation, and no court record of any other criminal domestic violence charge was filed against Youngblood. R *(Order denying parole eligibility t 4-5). The court found that appellant's testimony was inconsistent and often contradicted by his own prior statements. R *(Order denying parole eligibility at 5). The court further determined that it should not be inferred from the jury's verdict that it found appellant's testimony credible. R *(Order denying parole eligibility at 5). The court concluded that appellant "failed to present

credible, trustworthy evidence of a history of criminal domestic violence suffering at the hands of Ms. Youngblood." R *(Order denying parole eligibility at 6). Therefore, the court determined that appellant was not eligible for early parole pursuant to S.C. Code § 16-25-90. R *(Order denying parole eligibility at 6).

Discussion

The trial court erred by denying appellant's motion for early parole eligibility because he presented credible evidence that he formerly cohabitated with Youngblood and that he suffered a history of criminal domestic violence at Youngblood's hands, in accordance with the requirements of S.C. Code Ann. § 16-25-90. Therefore, this Court should reverse the trial court's erroneous application of § 16-25-90.

In 1992, the South Carolina Supreme Court offered an abbreviated overview of battered woman's syndrome. *See Robinson v. State*, 308 S.C. 74, 76-77, 417 S.E.2d 88, 90 (1992) (explaining that the battered woman's syndrome results from the cyclical nature of the relationship between the battered woman and the man who abuses her). To address this fact, our General Assembly enacted legislation providing an opportunity for a battered spouse to seek "early parole eligibility to long term victims of repeated abuse at the hands of a household member." *State v. Hawes*, 411 S.C. 188, 190 n.2, 767 S.E.2d 707, 708 n.2 (2015). S.C. Code Ann. § 16-25-90 provides:

> [A]n inmate who was convicted of ... an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to ... an offense against the household member ... presented credible evidence of a history of criminal domestic violence, as provided in [s]ection 16-25-20, suffered at the hands of the household member.

Under S.C. Code Ann. § 16-25-20: "[i]t is unlawful to: (1) cause physical harm or injury to a person's own household member, (2) offer or attempt to cause physical harm or injury to a

person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril." S.C. Code Ann. § 16-25-20(A). In addition, "Household member" includes "a male and female who are cohabiting or have formerly cohabited." S.C. Code Ann. § 16-25-10(d).

The history of criminal domestic violence must be proven by a preponderance of the evidence. *State v. Grooms*, 343 S.C. 248, 254, 540 S.E.2d 99, 102 (2000). The defendant must persuade the judge by presenting proof which leads the trier of fact to find that the existence of the contested fact is more probable than its nonexistence. *Id.* at 253-54, 540 S.E.2d at 101-02 (citing *McCormick on Evidence* § 339 (5th ed. 1999)). "The circuit court must make specific findings in ruling on parole eligibility or ineligibility under § 16-25-90." *State v. Blackwell-Selim*, 392 S.C. 1, 4, 707 S.E.2d 426, 428 (2011).

As an initial matter, it does not appear that defense counsel renewed a request for an evidentiary hearing to present evidence related to appellant's motion for early parole eligibility under § 16-25-90. Tr. 369, ll. 3-10; *see generally* R *(Mtn to reconsider); R *(Defense memorandum). In any event, the trial court erred by determining that the record before it, namely appellant's trial transcript, did not contain credible evidence sufficient to establish that appellant was eligible for early parole because the record supported that appellant suffered a history of criminal domestic violence at the hands of a household member. R *(Order denying parole eligibility at 6). Particularly, there was significant evidence presented during appellant's trial concerning his on-and-off relationship with Youngblood and specific instances of domestic violence committed against appellant.

First, despite the trial court's conclusion to the contrary, the record supports that appellant and Youngblood were "household members." R *(Order denying parole eligibility at

3). The definition of a household member includes "a male and female who are cohabitating or have formerly cohabited." S.C. Code Ann. § 16-25-10(d). The record supports that Youngblood and Appellant met that definition. The trial court concluded that there was no evidence that appellant "formally" resided in Youngblood's mother's home. R *(Order denying parole eligibility at 3). However, trial testimony revealed that for a period in 2008 or 2009, appellant and Youngblood shared a room, appellant cleaned his clothes at the home, and he was fed by the family. Tr. 59, l. 23 – 60, l. 10. Further, Younglood's sister, Zuniga, testified that appellant and Youngblood "were just like a couple, I guess, living at home." Tr. 59, l. 23 – 60, l. 10. Although the trial court determined that appellant did not produce a lease or evidence that he received mail at the residence, he nonetheless presented testimony from other occupants of the home that he cohabitated with Youngblood for a period of time. Tr. 59, l. 23 – 60, l. 10. The record thus provided credible evidence that Youngblood and appellant formerly cohabitated such that they met the definition of a "household member" for application of § 16-25-90. Therefore, the trial court erred by finding that appellant did not establish cohabitation by a preponderance of the evidence. R *(Order denying parole eligibility at 3); *Black*, 400 S.C. at 16, 732 S.E.2d at 884; *Grooms*, 343 S.C. at 254, 540 S.E.2d at 102.

Second, the record contained evidence of a history of criminal domestic violence by Youngblood against appellant. At trial, appellant presented testimony from Overby, the solicitor assigned to Youngblood's CDVHAN case, who confirmed that a CDVHAN charge was pending against Youngblood at the time of her death. Tr. 242, ll. 2-22; 243, ll. 20-25. In addition, he confirmed that there were photographs taken of appellant's injuries which were contained in the case file. Tr. 243, ll. 2-21; Defense Exhibits 3 and 4 (on file with this Court). Those photographs show scratches and a cut to appellant's arm. In addition, evidence was presented

that Youngblood's lawyer had worked out a plea deal for her on the CDVHAN charge. Tr. 246, ll. 5-9. Another witness, Singleton, also testified that she was aware Youngblood had a pending CDVHAN charge. Tr. 79, ll. 8-13. Taken together, appellant presented corroborative evidence to his own testimony concerning the domestic violence he suffered at Youngblood's hands which resulted in a CDVHAN charge. *See generally* Tr. 258-63. In its order, the trial court points out inconsistencies in appellant's testimony regarding the CDVHAN incident, specifically that he testified he did not call the police which contradicted the arresting officer's report that he did. R *(Order denying parole eligibility at 3-5); *see also* Tr. 262, ll. 21-22; Tr. 312, ll. 4-5. However, inconsistency over who called the police does not negate that a criminal domestic violence incident was reported and that an incident report was prepared which detailed that appellant was distressed and in bandages covering his left forearm and the right side of his abdomen. Tr. 311, ll. 1-3. Even considering inconsistencies in appellant's testimony, the evidence presented rose above mere production and constituted proof that the CDVHAN incident was more probable than not, given that several witnesses testified as to the existence of the pending charge and the incident. *Grooms*, 343 S.C. at 254, 540 S.E.2d at 102.

Moreover, appellant testified during trial about his relationship with Youngblood and instances of violence. For instance, in addition to the CDVHAN incident, he testified to an additional incident of domestic violence wherein he described that Youngblood swung on him in a Goodwill parking lot. Tr. 263, ll. 22-23. Even further, appellant testified that during his six-year on-and-off relationship with Youngblood that when things got bad, they fought and argued. Tr. 258, ll. 8-11. Considering appellant's testimony in his own defense concerning the history of domestic violence and the corroborative evidence of domestic violence presented, the record supports that Youngblood caused injury to appellant. S.C. Code Ann. § 16-25-20. Thus, based

on the record, the trial court erred by finding that appellant failed to present credible evidence of a history of criminal domestic violence suffered at the hands of Youngblood. R *(Order denying parole eligibility at 6).

Accordingly, the trial court erred by denying appellant's motion for early parole pursuant to § 16-25-90 because he established his eligibility by a preponderance of the evidence with credible evidence that he and Youngblood formerly cohabitated and that he suffered a history of criminal domestic violence from Youngblood.

CONCLUSION

Based on the foregoing argument, appellant respectfully requests that this Court reverse the lower court's order denying early parole eligibility and remand for a finding that appellant qualifies for early parole eligibility under S.C. Code Ann. § 16-25-90.

Molly M. Keegan
Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of March, 2026.