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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Heath P. Taylor, Circuit Court Judge
Appellate Case No. 2024-001916

THE STATE,

Respondent,

vs.

WILLIS TERREL IVEY,

Appellant.

FINAL BRIEF OF RESPONDENT

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Other Federal Cases:

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S.C. Code Ann. § 16-3-95. 35

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Other Authorities:

Black's Law Dictionary (9th ed. 2009). 34

Collins English Dictionary (13th ed. 2018). 34

Model Penal Code § 2.02. 36

William Shepard McAninch et al., The Criminal Law of South Carolina (5th ed. 2007). 35

William Shepard McAninch et al., The Criminal Law of South Carolina (6th ed. 2013). 35

STATEMENT OF ISSUES ON APPEAL

I.

"Whether the trial court's failure to dismiss appellant's pending charges violated his right to a speedy trial where appellant was arrested on June 15, 2018, but the case was not called for trial until November 4, 2024, over six years after appellant's arrest?"

II.

"Whether the trial court erred by denying appellant's motion for a directed verdict as to the ABHAN charge where the state failed to establish that appellant had the necessary mens rea to support the charge?"

III.

"Whether the trial court abused its discretion by refusing to provide a jury charge on specific intent related to the ABHAN charge because subsection (b) functions like an attempt statute?"

COUNTER-STATEMENT OF ISSUES ON APPEAL

I.

Did the trial judge abuse his broad discretion by declining to dismiss Appellant's charges based on a purported violation of his speedy trial rights when the approximately six-year-and-four-month period of delay between Appellant's arrest and trial did not result from any intentional efforts on the part of the State to hinder Appellant's defense, did not cause any meaningful prejudice to Appellant, and resulted in large part from difficulties caused by the unexpected onset of a global pandemic, issues with forensic testing, agreed-upon continuances, the number of cases in which Appellant was simultaneously involved, and a heavy trial docket in Charleston County that was only made heavier by the pandemic?

II.

Did the trial judge err by declining to grant a directed verdict on the assault and battery of a high and aggravated nature charge and by refusing to instruct the jury on specific intent when defining that offense when: (1) specific intent was not an element of the offense; and (2) the evidence and testimony presented during trial supported a rational and logical conclusion Appellant—while acting with a criminally-culpable mental state of recklessness—unlawfully injured another person through a volitional act likely to cause death or great bodily injury and, thus, was guilty of all the required elements of assault and battery of a high and aggravated nature?

STATEMENT OF THE CASE

In June of 2018, Appellant Willis Terrel Ivey was arrested following an incident in which he led law enforcement officers on a high-speed chase, violently crashed into one of the pursuing officers' vehicles, and unsuccessfully attempted to flee on foot. In October of 2018, the Charleston County Grand Jury indicted Appellant for two counts of murder and two counts of possession of a weapon during the commission of a violent crime based on several earlier incidents. Thereafter, while incarcerated in connection to all the prior incidents, Appellant was charged in July of 2021 with assaulting and stabbing a fellow inmate at the detention center. In September of 2024, the Charleston County Grand Jury indicted Appellant for assault and battery of high and aggravated nature ("ABHAN") in connection to the July 2021 incident along with failure to stop for a blue light, assaulting a police officer while resisting arrest, and attempted unlawful taking of a firearm or weapon from a law enforcement officer in connection to the June 2018 incident. In October of 2024, the Charleston County Grand Jury additionally indicted Appellant for ABHAN in connection to the June 2018 incident. On November 4, 2024, a jury trial was commenced on several of the charges stemming from the June 2018 incident, including ABHAN and failure to stop for a blue light, in the Charleston County Court of General Sessions with the Honorable Heath P. Taylor, circuit court judge, presiding. At the conclusion of the three-day trial, the jury convicted Appellant solely of ABHAN and failure to stop for a blue light. Following the verdict, the trial judge sentenced Appellant to concurrent terms of imprisonment of eighteen years for ABHAN and three years for failure to stop for a blue light.[1] Appellant then timely filed a notice of appeal.

[1] In imposing Appellant's sentence, the trial judge granted Appellant 2,337 days of credit for time served. (R. p. 305).

STATEMENT OF FACTS

By June of 2018, Appellant was a wanted man. (R. p. 80; pp. 84-85). Someone had been shot and killed in the North Charleston area in October of 2017, and Appellant was the prime suspect in that murder. (R. pp. 323-328). Likewise, Appellant was a suspect in the death of another man who had been fatally shot in North Charleston in December of 2017. (R. pp. 308-313). However, despite the issuance of multiple highly-serious warrants for his arrest, Appellant had not yet been tracked down or apprehended up to that point. (R. p. 80). That was about to change, though. (R. pp. 104-105; p. 124).

On the evening of June 14, 2018, Deputy Marshal Robert Roe, a senior inspector and street-level supervisor with the United States Marshals Service's Regional Fugitive Task Force, received information indicating Appellant was going to be at a particular location in North Charleston that night while driving a sedan with a Maryland license plate. (R. p. 89; pp. 101-102; p. 106; p. 109). Based on that information, Deputy Marshal Roe began coordinating with the other members of the task force—which was made up of officers from a variety of agencies, including the North Charleston Police Department, the Charleston County Sheriff's Office, the Berkeley County Sheriff's Office, the Summerville Police Department, and the Bureau of Alcohol, Tobacco, Firearms and Explosives—in an effort to finally locate and apprehend Appellant. (R. p. 80; p. 85; pp. 106-107).

Once everyone had been briefed, Deputy Marshal Roe and his team responded to the identified area and got into position at various points in a collection of marked and unmarked law enforcement vehicles to wait for Appellant to arrive. (R. p. 85; pp. 106-107). As they waited, Deputy Marshal Roe spotted a sedan matching the description that had been provided of Appellant's vehicle, and, in response, he instructed his team to surround it when it stopped for a

red light at an intersection on East Montague Avenue. (R. p. 80; p. 85; p. 110; p. 116; pp. 120-121; p. 124). Unfortunately, things did not go to plan from there. (R. p. 85; p. 124; p. 222).

When the task force members began surrounding Appellant's vehicle, Appellant seemed to realize what was occurring before an officer was able to get his vehicle into position in front of him. (R. pp. 85-86; pp. 124-125). That left a narrow gap toward the front of Appellant's car. (R. p. 125). Seeing that gap, Appellant rapidly drove through it at a high-rate of speed and took off down Rivers Avenue in the direction of Interstate 526's entrance ramp with numerous officers in pursuit. (R. pp. 81-82; p. 85; p. 125; p. 129; p. 222).

Shockingly, as he sped down the busy roadway in his vehicle, Appellant drove in the opposite direction of the flow of traffic, reaching a speed of roughly 90 to 100 miles per hour—which was more than double the posted speed limit in that area—as he weaved in and out of the oncoming traffic in his frantic attempt to escape. (R. p. 82; p. 86; pp. 130-132; p. 134; p. 143; p. 222). Predictably, Appellant's dangerous actions resulted in a violent crash. (R. pp. 82-83; p. 132; p. 223).

More specifically, just as he approached the interstate entrance ramp, Appellant suddenly veered across a grass median and, seconds later, slammed squarely into the side of a law enforcement vehicle being driven by Officer Wilson Bishop, a K-9 handler from the North Charleston Police Department who was involved in the pursuit. (R. p. 132; p. 141; p. 223; p. 229). The tremendous force of the impact caused the officer's vehicle to flip and roll over and left Appellant's vehicle completely incapacitated. (R. p. 86; p. 134; p. 162; p. 223; State's Ex. # 6 (Photograph); State's Ex. # 29 (Recording)).

Despite being involved in the violent crash, Appellant's fervid desire to avoid capture remained undiminished, and he quickly crawled over his passenger before fleeing on foot out the

passenger-side door of his now-disabled car. (R. pp. 86-87; p. 134; p. 137; p. 139; p. 177; State's Ex. # 28 (Recording)). With multiple officers in pursuit, Appellant raced[2] into a wooded area and headed into some nearby marshy water. (R. p. 87; pp. 92-93; p. 137; p. 124; p. 167; p. 185). He then appeared to attempt to hide in the water by partially submerging himself, but one one of the officers spotted him with his flashlight. (R. p. 87; pp. 93-94; p. 148; State's Ex. # 27 (Recordings)). A brief struggle swiftly ensued, and Appellant—who touched or grabbed one of the officers' guns during the struggle—was subdued and finally taken into custody. (R. p. 87; p. 149; pp. 154-155; pp. 175-176; p. 179; p. 185).

Miraculously, even though the force of the collision heavily damaged his vehicle and caused it to completely roll over, Officer Bishop suffered only minor abrasions in the crash and was otherwise uninjured. (R. pp. 194-195; pp. 223-224). An expert medical professional later described the officer as being "more than lucky" to have only sustained the limited injuries he sustained. (R. p. 195). Based on the minor nature of Officer Bishop's injuries, he was cleared for duty the next day. (R. p. 193; p. 197). In addition to that, Officer Bishop's police dog, Nero, was fortunately unscathed as well. (R. p. 224).

Ultimately, based on his stunning illegal acts to avoid arrest on the night of June 14, 2018, Appellant was indicted for multiple offenses, including ABHAN and failure to stop for a blue light, and he proceeded forward to trial. (R. p. 41; pp. 331-336; pp. 339-340). During that trial, Officer Bishop and the other officers involved in the attempt to apprehend Appellant recounted the details of Appellant's reckless actions and "[e]xtremely dangerous" driving that night, and multiple recordings of what transpired were introduced and played for the jury, including one captured by Officer Bishop's vehicle's dash camera. (R. pp. 79-99; pp. 101-185;

[2] As he fled, Appellant appeared to be tossing items from his waistband. (R. p. 145).

pp. 219-229; pp. 231-232). Furthermore, Dr. Barry Weissglass, an expert in occupational medicine who treated Officer Bishop after the crash, explained the collision and resulting vehicle rollover could have led to the officer suffering significant injuries, including bone fractures or traumatic brain injuries, and even death. (R. pp. 192-193; pp. 195-196).

After all the testimony and evidence was introduced, the parties presented their closing arguments to the jury, and the trial judge instructed the jury on the applicable law. (R. pp. 250-289). The case was then submitted to the jury, and, after a little over an hour of deliberations, the jury convicted Appellant of both ABHAN and failure to stop for a blue light. (R. p. 290; pp. 294-295).

ARGUMENT

I.

The trial judge did not abuse his broad discretion by declining to dismiss Appellant's charges based on a purported violation of his speedy trial rights because the approximately six-year-and-four-month period of delay between Appellant's arrest and trial did not result from any intentional efforts on the part of the State to hinder Appellant's defense, did not cause any meaningful prejudice to Appellant, and resulted in large part from difficulties caused by the unexpected onset of a global pandemic, issues with forensic testing, agreed-upon continuances, the number of cases in which Appellant was simultaneously involved, and a heavy trial docket in Charleston County that was only made heavier by the pandemic.

Appellant contends the trial judge erred by failing to dismiss his charges based on an alleged violation of his constitutional speedy trial rights. In support of that contention, Appellant maintains his charges should have been dismissed based on the delay incurred between his June 2018 arrest and November 2024 trial because that delay was presumptively prejudicial, the reasons for it constituted "more than simple negligence" and should have been weighed heavily against the State, he properly asserted his right to a speedy trial on multiple occasions, and the length of the delay alone should preclude him from having to show particularized prejudice since he was incarcerated during that entire period. To the contrary, the trial judge did not abuse his broad discretion by refusing to dismiss Appellant's case based on an alleged speedy trial violation because—although lengthy—the six-year-and-four-month period of delay involved was not the result of any willful or intentional efforts on the part of the State, did not result in any meaningful prejudice to Appellant, and resulted in large part from difficulties caused by a global pandemic, issues with forensic testing, agreed-upon continuances, the number of cases in which Appellant was simultaneously involved, and a heavy trial docket in Charleston County that was only made heavier by the pandemic. Under such circumstances, Appellant's constitutional

speedy trial rights were—just as the trial judge concluded—not violated, and the extreme sanction of dismissal was not warranted. Appellant's convictions should be affirmed.

Relevant Facts

Roughly five months after Appellant's June 2018 arrest for two earlier murders *and* for his dangerous actions while attempting to avoid being arrested for those murders, an assistant public defender entered a notice of appearance and began formally representing him on all his then-pending charges. (R. p. 1; pp. 308-319; pp. 323-329). A few months later, Appellant's original defense counsel sought dismissal of all those charges *without* prejudice due to a purported violation of an administrative order. (R. pp. 3-4).

Subsequent to that, both original defense counsel and the original solicitor assigned to prosecute Appellant's case agreed to several continuances to allow for forensic testing to occur and to provide time for the parties "to explore the possibility of a resolution without a jury trial." (R. pp. 5-6). In addition to that, Appellant's original defense counsel sought Appellant's release on bond, but his requests were repeatedly denied, including on June 1, 2021. (R. pp. 7-9).

A few weeks after the most-recent request for bond was denied, Appellant retained new defense counsel, who formally began representing him on all charges on June 17, 2021. (R. p. 10). However, one month after that, Appellant accrued yet another charge following an incident in which he was accused of stabbing a fellow inmate at the detention center. (R. pp. 54-55; pp. 320-322). Thus, by July of 2021, Appellant had pending criminal charges in Charleston County related to *four* separate highly-serious incidents. (R. pp. 54-55; p. 61).

In August of 2021, Appellant's new defense counsel agreed to a continuance with a new solicitor, who had taken over Appellant's case after the original prosecutor assigned to the matter left the solicitor's office. (R. p. 11; p. 52). Notably, pursuant to the agreement reached,

Appellant's case would not be scheduled for trial until *after* February of 2022 at the earliest. (R. p. 11).

Following that, defense counsel moved in September of 2022 for a speedy trial to be granted *solely* on the charges stemming from the first of the two murders. (R. p. 13). He then also moved for all Appellant's charges to be dismissed *without prejudice* based on a purported violation of a case management order that had been issued in Charleston County. (R. pp. 14-15).

In response to the motions, the Honorable Bentley Price, circuit court judge, conducted a hearing on the matter. (R. p. 17). During that hearing, defense counsel noted the parties were still waiting on forensic testing results "that could be dispositive." (R. p. 18). He then asked the circuit court judge to: (1) grant a speedy trial to Appellant; (2) order Appellant to be released on a personal recognizance bond "if not tried within [the circuit court judge]'s discretion"; (3) set a reasonable bond on Appellant's charges; and (4) dismiss Appellant's charges without prejudice because the State had failed to complete the discovery process in the manner required by the case management order. (R. pp. 19-20). In response, the solicitor explained the State had provided defense counsel with everything in its possession up to that point and had been unable to obtain the forensic testing results due to the fact the South Carolina State Law Enforcement Division ("SLED") was transitioning to a new laboratory, which resulted in delays. (R. p. 21). The solicitor further noted Appellant was being incarcerated prior to trial based on the seriousness and volume of his charges coupled with his behavior at the detention center. (R. pp. 21-22).

After listening to counsel's remarks, the circuit court judge indicated he believed there had been undue delay and the State had been at fault for failing to have the forensic testing completed. (R. pp. 23-24). Based on that, the circuit court judge explained he was going to issue an order granting a speedy trial to Appellant and was also going to schedule a bond hearing

for Appellant. (R. p. 24). The circuit court judge also cautioned: "[Y]ou might want to remind everybody what the ramifications and what is going to be my -- what *can be* my ultimate resolution if I grant the speedy trial motion and it's not adhered to." (R. p. 24) (emphasis added).

Following that, the circuit court judge—consistent with his oral pronouncement—issued an order granting Appellant a speedy trial on all his charges and directing Appellant to be tried within ninety days. (R. p. 26). Furthermore, the circuit court judge stated Appellant was to receive a hearing to address the issue of bond. (R. p. 26).

Subsequent to that, Appellant's various cases were not ultimately tried within ninety days, and defense counsel responded by filing a motion in May of 2023 seeking for all Appellant's charges to be dismissed due to him purportedly not receiving a speedy trial. (R. pp. 27-28). Following that, Appellant did not receive the requested relief, but the circuit court judge who issued the speedy trial order did issue orders in his case in July of 2023 and October of 2023 and, through them, continued to decline to grant Appellant bond. (R. pp. 29-30).

Thereafter, in March of 2024, defense counsel again moved for Appellant's case to be dismissed based on alleged violation of his speedy trial rights, and he renewed that motion in October of 2024 after Appellant was indicted for ABHAN in connection to the June 2018 incident. (R. pp. 34-34; pp. 36-39; pp. 339-340). Ultimately, on November 4, 2024, Appellant proceeded forward to trial on the charges stemming from the June 2018 incident. (R. p. 41).

Toward the outset of Appellant's trial, defense counsel—while referencing the speedy trial dismissal motion that had been filed in March of 2024—sought dismissal of Appellant's charges based on a purported speedy trial violation. (R. pp. 48-50; p. 57). As support for the motion, defense counsel maintained Appellant had begun asserting his speedy trial rights in

2022.[3] (R. p. 49). He further noted another circuit court judge had issued an order granting Appellant's request for a speedy trial in 2023 and had directed Appellant be tried within ninety days, which did not occur.[4] (R. p. 50). Moreover, as to prejudice, defense counsel solely pointed to the fact Appellant was incarcerated during the roughly six-year period of delays that had elapsed since his initial arrest, and he did not identify—or attempt to identify—any case-specific prejudice that resulted to the defense from the delays. (R. pp. 48-50; p. 56). Meanwhile, defense counsel readily conceded none of the delays stemmed from "any sort of intent level" or malice on the part of the State. (R. p. 56).

Conversely, the solicitor argued the trial judge should deny the motion and decline to dismiss the case. (R. p. 56). In doing so, the solicitor—like defense counsel—noted none of the delays involved in Appellant's case were purposeful or intentional on the part of the State. (R. p. 56). To the contrary, the solicitor explained: (1) some of the delays resulted from the fact items that required forensic analysis were erroneously not transported to SLED until 2019 or 2020; (2) additional delays were incurred because the test results were not obtained until July and August of 2023 due to SLED's immense backlog for forensic testing; (3) some delays resulted from the case being reassigned to him toward the end of 2020 after the original prosecutor left the office; (4) a portion of the delays resulted from the fact trials were not occurring in Charleston County from March of 2020 until September of 2021 due to the global pandemic; and (5) some portion of the delays occurred because Appellant's case involved charges stemming from four separate incidents, including one involving a stabbing that occurred while Appellant was incarcerated in

[3] As previously noted, the 2022 motion for a speedy trial *only* sought a speedy trial in connection to one of the four matters giving rise to Appellant's many charges. (R. p. 13).

[4] In referencing the other circuit court judge's order, defense counsel failed to note that other circuit court judge twice denied Appellant's request for bond on at least two occasions *after* the ninety-day period referenced in his speedy trial order had elapsed. (R. pp. 29-30).

connection to the other charges. (R. pp. 54-55). The solicitor further explained the State promptly sought to resolve the matter as soon as the forensic results, which were favorable to Appellant, had been obtained and attempted to reach a "global resolution" of *all* Appellant's pending charges through plea offers that were extended—and rejected—in September of 2023 and November of 2023. (R. p. 53). Furthermore, the solicitor affirmed he promptly worked to get Appellant's case scheduled for trial once the final plea offer was rejected but was unable to do so for a period of months because Charleston County's trial docket had already been filled with other cases by that point. (R. p. 54). However, he confirmed Appellant's case was placed on the trial docket earlier, including just two months prior to date of trial, and was just not reached until the November 2024 term of court due to the high volume of the trial docket. (R. p. 56).

After listening to the arguments of counsel, the trial judge took the matter under advisement overnight to research and consider it. (R. p. 57). Thereafter, on the following morning, the trial judge denied the speedy trial dismissal motion. (R. p. 62). In so ruling, he concluded the length of the delay involved warranted consideration of the pertinent speedy trial factors and proceeded to conduct the applicable analysis. (R. p. 60). As to the length of the delays and the reasons for them, he found one of the reasons was the global pandemic, which shut down trials in Charleston County for more than a year *and* resulted in a case backlog that was still causing issues years later. (R. pp. 60-61). Additionally, he found some of the delays were caused by Appellant agreeing to continuances at several points throughout the proceedings and some resulted from Appellant's commission of yet another crime while incarcerated, which "complicated matters" and weighed against him. (R. p. 61). Beyond that, he found some the delays were caused by the issues with SLED and, significantly, determined—consistent with

what both the solicitor and defense counsel had asserted—none of the delays involved were intentional on the part of the State, which led him to conclude the reason for the delays was "a wash between the parties." (R. pp. 61-62). Meanwhile, as to Appellant's assertion of his rights, he found Appellant asserted his speedy trial rights by seeking a speedy trial in early 2023 but was still not tried for over a year after that. (R. p. 62). Finally, as to prejudice, he noted Appellant's argument concerning prejudice was focused exclusively on the length of the delays but delay alone was not dispositive. (R. p. 62). Accordingly, based on his weighing of all the pertinent factors, the trial judge determined Appellant's speedy trial rights were not violated and declined to dismiss the case. (R. p. 62).

Following that, Appellant's trial proceeded forward, and, during the course of it, defense counsel did not at any point suggest Appellant's defense had been adversely impacted by the delays involved in bringing the case to trial. (R. pp. 63-199; pp. 203-290). At the conclusion of trial, the jury convicted Appellant of ABHAN and failure to stop for a blue light and acquitted him of attempted unlawful taking of a firearm or weapon from a law enforcement officer. (R. p. 295). The trial judge then sentenced Appellant for his convictions and, significantly, granted him full credit toward his aggregate sentence for the entirety of the time he spent in pre-trial custody awaiting trial. (R. p. 305).

Standard of Review

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). When conducting appellate review of a ruling on a dismissal motion predicated upon an alleged speedy trial violation, the appellate court reviews the trial judge's ruling under an abuse of discretion standard. State v. Hunsberger, 418 S.C. 335, 342, 794 S.E.2d 368, 371-372 (2016); see State v. Reaves, 414 S.C. 118, 132, 777 S.E.2d 213,

220 (2015) ("[A] trial court's decision as to whether to dismiss an indictment based on speedy trial grounds is reviewed for an abuse of discretion."). "An abuse of discretion occurs when the trial court's ruling is based upon an error of law, such as application of the wrong legal principle; or, when based upon factual conclusions, the ruling is without evidentiary support; or, when the trial court is vested with discretion, but the ruling reveals no discretion was exercised; or when the ruling does not fall within the range of permissible decisions applicable in a particular case, such that it may be deemed arbitrary and capricious." State v. Allen, 370 S.C. 88, 94, 634 S.E.2d 653, 656 (2006); see United States v. Summers, 666 F.3d 192, 197 (4th Cir. 2011) (instructing an appellate court will not find a trial judge's ruling constituted an abuse of discretion unless it was arbitrary and irrational).

Analysis

Pursuant to both the United States Constitution and the South Carolina Constitution, an accused in a criminal prosecution has a constitutionally-guaranteed right to a speedy trial. See U.S. Const. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial[.]"); S.C. Const. art. I, § 14 ("Any person charged with an offense shall enjoy the right to a speedy and public trial[.]"). That right is designed to protect against anxiety stemming from public accusation of a crime, to limit the possibility of a lengthy pre-trial delay impairing an accused's defense, and to prevent undue pre-trial impairment of liberty. State v. Langford, 400 S.C. 421, 440, 735 S.E.2d 471, 481 (2012); see United States v. Loud Hawk, 474 U.S. 302, 312 (1986) ("[T]he Speedy Trial Clause's core concern is impairment of liberty[.]"). Critically though, the criminal trial process is designed to move at a deliberate pace due to the many procedural safeguards involved, and, thus, the essential guarantee provided by the right to a speedy trial is the orderly expedition of a charge as opposed to mere speedy expedition. United

States v. Ewell, 383 U.S. 116, 120 (1966); see Beavers v. Haubert, 198 U.S. 77, 87 (1905) ("The right of a speedy trial is necessarily relative. It is consistent with delays and depends upon circumstances. It secures rights to a defendant. It does not preclude the rights of public justice.").

In order to trigger a speedy trial analysis, a criminal defendant's trial must have been delayed for a period of time that is presumptively prejudicial, which is necessarily dependent on the particular circumstances of each individual case. Langford, 400 S.C. at 442, 735 S.E.2d at 482. Notably, "a simple prosecution for ordinary street crime may have a lower threshold for a presumptively prejudicial delay than a more complex conspiracy case." Id. In South Carolina, a delay of over two years—under normal circumstances—has previously been found to be sufficient to trigger a speedy trial analysis. State v. Waites, 270 S.C. 104, 108, 240 S.E.2d 651, 653 (1978). Likewise, the United States Supreme Court has suggested a delay of roughly one year could—in certain circumstances—be presumptively prejudicial. See Doggett v. United States, 505 U.S. 647, 652 n.1 (1992) ("Depending on the nature of the charges, the lower courts have generally found postaccusation delay 'presumptively prejudicial' at least as it approaches one year."). However, even where a delay that is presumptively prejudicial exists, a speedy trial determination "is *not based on the passage of a specific period of time*" and delay alone is not singularly dispositive. State v. Pittman, 373 S.C. 527, 549, 647 S.E.2d 144, 155 (2007) (emphasis added); see State v. Brazell, 325 S.C. 65, 75, 480 S.E.2d 64, 70 (1997) (recognizing "delay alone is not dispositive"); see also Ratchford v. State, 785 A.2d 826, 828 (Md. Ct. Spec. App. 2001) ("Along the delay continuum, the trigger of 'constitutional dimensions' is not itself part of the ultimate merits of a speedy trial claim. It simply marks the minimal point, short of which a court will dismiss a claim summarily and will not waste its time even inquiring into such

things as reason for delay, demand-waiver, or prejudice. Beyond that minimal or triggering point, however, the claim may not necessarily have merit, but it is worthy at least of thoughtful consideration. The trigger of 'constitutional dimensions' is exclusively a procedural phenomenon that justifies a further analysis and then drops out of the picture.").

Ultimately, once a speedy trial analysis has been triggered, the question of whether a defendant's speedy trial rights have been violated is necessarily dependent on the specific circumstances of the defendant's particular case. State v. Robinson, 335 S.C. 620, 625, 518 S.E.2d 269, 272 (Ct. App. 1999). When attempting to answer that question, several factors should be considered. State v. Kennedy, 339 S.C. 243, 249, 528 S.E.2d 700, 703-704 (Ct. App. 2000), aff'd, 348 S.C. 32, 558 S.E.2d 527 (2002). Specifically, a court analyzing a speedy trial claim should consider: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of his right; and (4) whether any prejudice was suffered by the defendant as a result of the delay. Barker v. Wingo, 407 U.S. 514, 530 (1972). Notably though, none of the four factors is alone necessary or sufficient for a finding of a speedy trial violation. Id. at 533. Instead, "they are related factors and must be considered together with such other circumstances as may be relevant." Id. "In sum, these factors have no talismanic qualities; courts must still engage in a difficult and sensitive balancing process." Id.

In the case at bar, a period of roughly six years and four months elapsed between Appellant's June 2018 arrest in connection to *three separate incidents*, including one that occurred when officers tried to apprehend him, and his November 2024 trial on the charges stemming from his dangerous efforts to avoid being caught. Looking to that period of delay, it was—just as the trial judge recognized—sufficiently lengthy to warrant consideration of the relevant speedy trial factors by the circuit court judges. See id. at 530 ("Until there is some delay

which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance."); Brazell, 325 S.C. at 75, 480 S.E.2d at 70 (recognizing the length of the delay may be sufficient to trigger review of the relevant speedy trial factors); cf. Waites, 270 S.C. at 108, 240 S.E.2d at 653 (finding a delay of twenty-eight months sufficient to warrant review of the pertinent factors in a speedy trial analysis). However, it was mitigated to some extent by the fact an unexpected global pandemic occurred in the midst of Appellant's case, which had a significant long-term impact on the courts of our state both during *and after* the pandemic. Cf. Elias v. Superior Ct., 294 Cal. Rptr. 3d 178, 190 (Cal. Ct. App. 2022) ("Courts have recognized that health quarantines to prevent the spread of infectious diseases have long been recognized as good cause for continuing a trial date. A contrary holding would require trial court personnel, jurors, and witnesses to be exposed to debilitating and perhaps life-threatening illness. Public health concerns trump the right to a speedy trial. We acknowledge the unfortunate hardship to defendant from the delays in this case, but . . . neither the prosecution nor the court is responsible for the emergency that has overwhelmed the nation and much of the world." (citations, brackets, and internal quotations omitted)). As a result, the length of the delay involved—the first of the relevant factors in a speedy trial analysis—did not and should not weigh heavily against the State for purposes of a speedy trial analysis.

Turning to the second of the relevant factors, some portion of the delay *prior to* the onset of the global pandemic was incurred as part of the normal process involved in getting any criminal case ready to go to trial and could not legitimately be held against the State for speedy trial purposes. See Ratchford, 785 A.2d at 830 (explaining the initial seven-month period of time between the date of the arrest and the case initially being scheduled for trial was "necessary for the orderly administration of justice and is not considered an unreasonable delay that calls for

further accounting"); see also State v. Smith, 307 S.C. 376, 380, 415 S.E.2d 409, 411 (Ct. App. 1992) (finding the defendant bears the burden of showing a speedy trial delay was due to the neglect and willfulness of the State's prosecution). And, the complexity of Appellant's case—and, thus, the time needed to prepare it for trial—was enhanced by the fact Appellant's charges stemmed not from a single incident but from *four* independent crimes, including one he allegedly committed at the detention center over three years after he was first arrested. See Kennedy, 339 S.C. at 251, 528 S.E.2d at 704 (recognizing the complexity of a case can constitute a legitimate reason for delay). Additionally, some portion of delays was caused by difficulties obtaining forensic testing results—which, critically, both parties agreed were essential to the preparation of Appellant's various cases for trial—due to SLED's immense backlog, which did not constitute an *intentional* effort to delay Appellant's case on the part of the State and was not something that would or should weigh heavily against the State. See State v. Uhl, 717 S.W.3d 117, 131-132 (Tex. App. 2025) (recognizing delay caused by a forensic laboratory testing backlog will weigh against the State "but *not* heavily" (emphasis added)). Similarly, as a result of the global pandemic, the trial courts in Charleston County were shut down from March of 2020 until September of 2021, which was a circumstance entirely beyond the control of the solicitor, the court, or Appellant himself and was not something that could be fairly held against *any* party for purposes of a speedy trial analysis. See State v. Paige, 977 N.W.2d 829, 838 (Minn. 2022) ("[W]e conclude that trial delays due to the statewide orders issued in response to the COVID-19 global pandemic do not weigh against the State."); Vlahos v. State, 518 P.3d 1057, 1072 (Wyo. 2022) ("Delays due to COVID-19 pandemic are neutral because the pandemic was an extraordinary circumstance not attributable to either the State or [the defendant]." (citation and internal quotations omitted)). Along with that, some portion of the delays was caused by

continuances which were granted with the agreement of defense counsel, including one in August of 2021 that directed Appellant's case would be removed from any trial dockets and not rescheduled until February of 2022 at the earliest. See Vermont v. Brillon, 556 U.S. 81, 92-93 (2009) (recognizing delays caused by defense counsel's actions are attributable to the defendant and not the State when conducting a speedy trial analysis); Barker, 407 U.S. at 535 (considering a defendant's acquiescence to delay when conducting a speedy trial analysis); see also State v. Dukes, 256 S.C. 218, 223, 182 S.E.2d 286, 288 (1971) ("The delay must be attributable to the State before the appellants can complain."). Beyond that, some portion of the delay resulted from the need to reassign Appellant's case to a new solicitor following the departure of the original one handling the matter while Appellant *also* elected to retain new defense counsel roughly three years after he was arrested, which created a legitimate need for additional time to allow new counsel for both parties to familiarize themselves with all *four* of the matters giving rise to Appellant's many pending charges and, thus, was not a period of delay that could fairly be held against the parties. See Strunk v. United States, 412 U.S. 434, 436 (1973) (instructing factors leading to unintentional delays such as "understaffed prosecutors" should be weighed less heavily than intentional delays in a speedy trial analysis); Manix v. State, 895 So. 2d 167, 176 (Miss. 2005) ("The State's discretion as to which prosecutor will try a particular case is a basic tenet of our criminal justice system. This Court has never held that the State's replacement of prosecutors amounts to a speedy trial violation warranting a reversal of a criminal conviction. Therefore, this factor is slightly weighed against the State."); Hallowell v. State, 178 A.3d 610, 628 (Md. Ct. Spec. App. 2018) (finding the resignation of the original prosecutor assigned to the case, which resulted in delays that were needed for a new prosecutor to get familiar with and prepare the case for trial, constituted a more neutral reason for delay in a speedy trial analysis

and only weighed slightly against the State). Likewise, some of the delays incurred after jury trials resumed in Charleston County in September of 2021 resulted from the post-pandemic condition of the docket, which the trial judge—in declining to dismiss Appellant's case—expressly recognized was something that would require *years* to fully remedy. See Langford, 400 S.C. at 444, 735 S.E.2d at 483 (recognizing the limited availability of terms of court can constitute a valid reason for delays); see also Wheeler v. State, 247 S.C. 393, 400, 147 S.E.2d 627, 630 (1966) ("A speedy trial does not mean an immediate one; it does not imply undue haste, for the state, too, is entitled to reasonable time in which to prepare its case; it simply means a trial without unreasonable and unnecessary delay."); cf. State v. Chapman, 289 S.C. 42, 45, 344 S.E.2d 611, 613 (1986) ("A portion of the delay was caused by the normal condition of the docket. . . . The constitutional guarantee of a speedy trial affords protection only against unnecessary or unreasonable delay."). Finally and most significantly, *none* of the delays—just as defense counsel conceded to the trial judge—resulted from any intentional, willful, or bad-faith[5] efforts on the part of the State to delay Appellant's case. See Reaves, 414 S.C. at 130, 777 S.E.2d at 219 (explaining deliberate attempts to create delay to injure the defense should be weighed heavily against the State while neutral reasons, such as *mere negligence*, should be

[5] For the first time on appeal, Appellant asserts the solicitor did, in fact, act in bad faith by allegedly purposefully and expressly "disobey[ing]" the circuit court judge's February 2022 order granting a speedy trial. (App. Br. pp. 16-17). However, defense counsel did *not* argue to the trial judge the solicitor acted in bad faith in support of his speedy trial motion and, instead, conceded he was "not arguing at any sort of intent level" or suggesting the solicitor acted maliciously. (R. p. 56). Accordingly, Appellant's newly-conceived claim of bad faith was not properly preserved for appellate review since it was neither raised to nor considered by the trial judge when evaluating the speedy trial issue. See State v. Bryant, 372 S.C. 305, 315-316, 642 S.E.2d 582, 588 (2007) (explaining an issue conceded at trial cannot be asserted later on appeal); State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) (explaining an appellant "is limited to the grounds raised at trial"); State v. Thomason, 355 S.C. 278, 288, 584 S.E.2d 143, 148 (Ct. App. 2003) ("[A] party cannot argue one theory at trial and a different theory on appeal.").

weighed *less* heavily); cf. Hunsberger, 418 S.C. at 352, 794 S.E.2d at 376 (holding—in a sharply-divided opinion—Hunsberger's speedy trial rights were violated where the State was responsible for an eight-year delay between arrest and trial and that period of delay was "intentional" on the State's part). Therefore, when considering the actual reasons underlying all the delays involved, the non-willful and non-intentional period of delay incurred prior to Appellant's trial did not warrant a finding Appellant's speedy trial rights were infringed.

Turning to the third of the relevant factors, Appellant unquestionably did assert his speedy trial rights at various points, but, significantly, he waited to first do so until over four years after he was initially arrested and after he had already agreed to a number of continuances, including for the express purpose of obtaining forensic testing results. See Waites, 270 S.C. at 109, 240 S.E.2d at 653 (considering the length of time Waites waited before first attempting to assert his speedy trial rights and characterizing it as "significant" when conducting a speedy trial analysis); see also Langford, 400 S.C. at 440, 735 S.E.2d at 481 (recognizing delay is not an uncommon defense tactic); cf. Arnett v. State, 551 So. 2d 1158, 1160 (Ala. Crim. App. 1989) (instructing "the fact that [the defendant] waited over one year to assert his rights weighs heavily against him" in a speedy trial analysis and further instructing a defendant "cannot delay the assertion of his rights for as long as possible and then claim he was harmed by the delay"); Hunsberger, 418 S.C. at 350, 794 S.E.2d at 375 ("While Alex's assertion of his right to a speedy trial three times was sufficient to demonstrate Alex's desire for a speedy resolution of his charges, we find his seven-year silence renders this factor *largely neutral* in our overall evaluation." (emphasis added)). And, once those test results were finally obtained and attempts to reach a global resolution of all the pending charges failed, the State promptly began attempting to get Appellant's case on a trial docket, and he was ultimately tried just under a year

after rejecting the State's last plea offer. Cf. Robinson, 335 S.C. at 626, 518 S.E.2d at 272 (considering the fact "Robinson's trial began only ten months after his first motion [asserting his right to a speedy trial] was filed" in finding no speedy trial violation occurred in Robinson's case). Thus, considering the delayed nature of Appellant's initial assertion of his speedy trial rights, Appellant's assertion of his speedy trial rights did not weigh convincingly in his favor and, instead, was a largely neutral factor.

Finally, turning to the fourth of the relevant factors, Appellant's claims of prejudice were—and continue to be—focused exclusively on non-particularized prejudice resulting from the abnormal length of delays involved. Importantly, defense counsel did not point to any impairment to the defense that occurred as a result of the delay, and Appellant has likewise not done so on appeal. See Pittman, 373 S.C. at 550, 647 S.E.2d at 155-156 (explaining "the most serious interest to be protected by the guarantee to a speedy trial is the possibility of impairment of the defense"). Meanwhile, "not every lengthy delay results in presumptive prejudice" sufficient to warrant dismissal without a showing of actual prejudice, and that is particularly true in a case like Appellant's where no intentional delays were involved, some of the delays resulted from agreed-upon continuances and changes in counsel on both sides, and another substantial period of delay resulted from a global pandemic. See Hunsberger, 418 S.C. at 352, 794 S.E.2d at 376 (instructing "not every lengthy delay results in presumptive prejudice" but nevertheless finding prejudice was demonstrated in Hunsberger's case in light of the intentional nature of the delays and the fact there was "some evidence of actual prejudice"); Brazell, 325 S.C. at 75, 480 S.E.2d at 70 (explaining "delay alone is not dispositive"). Furthermore, although Appellant remained incarcerated from the time of his arrest until his trial due to the volume and seriousness of his pending charges, Appellant did receive full credit toward his sentence for *all* the time he

was incarcerated between his arrest and trial, which helped to minimize any harm that could have resulted from the delays in his case. Cf. Millard v. Lynaugh, 810 F.2d 1403, 1406-1407 (5th Cir. 1987) (concluding the prejudice resulting from pre-trial incarceration was mitigating by the fact Millard received credit for the time served in pre-trial detention towards his sentence); State v. Monroe, 262 S.C. 346, 350, 204 S.E.2d 433, 435 (1974) (considering the fact Monroe received full credit for the time he spent incarcerated prior to his trial in finding his speedy trial rights were not violated). Therefore, because defense counsel did not even attempt to suggest Appellant's defense was hampered by any of the delay involved and because Appellant did not suffer any undue prejudice as a result of the delays, Appellant was not sufficiently prejudiced by the period of delay between his arrest and trial to justify a finding his constitutional speedy trial rights were violated.

Accordingly, since the relevant circumstances in Appellant's case—including the fact it had to be prosecuted during a global pandemic that caused significant long-term issues—did not support a conclusion the six-year-and-four-month period of delay involved was the result of any intentional or willful actions on the part of the State or resulted in any undue prejudice to Appellant, Appellant's speedy trial rights were not violated. Cf. Loud Hawk, 474 U.S. at 317 ("We cannot hold, on the facts before us, that the delays asserted by respondents weigh sufficiently in support of their speedy trial claim to violate the Speedy Trial Clause. They do not justify the severe remedy of dismissing the indictment."); Brazell, 325 S.C. at 76, 480 S.E.2d at 70-71 ("Although the delay was lengthy and the justification was unsatisfactory, Brazell's right to a speedy trial was not denied when one balances the Barker factors. The long delay was negated by the lack of prejudice to the defense. There is no evidence that the delay was willful or intentional."); Robinson, 335 S.C. at 626-627, 518 S.E.2d at 272 (finding—despite a total

period of delay of five years—no speedy trial violation occurred when Robinson was tried within one year of his first assertion of his speedy trial rights, adequate justification was presented for delay, and no evidence of actual prejudice was introduced). Based on that, the trial judge did not abuse his broad discretion by refusing to impose the extreme sanction of dismissal in Appellant's case. See Langford, 400 S.C. at 442, 735 S.E.2d at 482 ("A court's decision on whether to dismiss on speedy trial grounds is reviewed for an abuse of discretion."); cf. State v. Evans, 386 S.C. 418, 425-426, 688 S.E.2d 583, 587 (Ct. App. 2009) (finding no error in the denial of a motion to dismiss based on an alleged speedy trial violation where the delay prior to trial was approximately *twelve years*); State v. Cooper, 386 S.C. 210, 217-218, 687 S.E.2d 62, 66-67 (Ct. App. 2009) (affirming the denial of Cooper's speedy trial motion where the delay in bringing the case to trial was at least forty-four months). Appellant's convictions should be affirmed.

II.

The trial judge did not err either by declining to grant a directed verdict on the assault and battery of a high and aggravated nature charge or by refusing to instruct the jury on specific intent when defining that offense because: (1) specific intent was not an element of the offense; and (2) the evidence and testimony presented during trial supported a rational and logical conclusion Appellant—while acting with a criminally-culpable mental state of recklessness—unlawfully injured another person through a volitional act likely to cause death or great bodily injury and, thus, was guilty of all the actual elements of assault and battery of a high and aggravated nature.

Appellant contends the trial judge reversibly erred by refusing to: (1) grant a directed verdict on the ABHAN charge; and (2) instruct the jury a conviction for ABHAN requires proof of a specific intent to injure. As support for that contention, Appellant maintains ABHAN cannot be established without proof of a specific intent to injure or at least strike another because the version of the offense for which he was prosecuted "functions like an attempt[.]" (App. Br. p. 33). Thus, in his view, no matter how recklessly he *intentionally* drove in his dangerous attempt to avoid arrest, no matter how much he jeopardized the lives of others, and no matter how great the risks he consciously and unjustifiably chose to disregard, he could not be convicted of ABHAN for the non-fatal injury he caused unless he *meant* to crash his car into his victim's vehicle. Importantly though and just as the trial judge aptly recognized, Appellant's envisioned specific intent requirement appears nowhere in the statutory provision defining ABHAN. Instead, when given their plain and ordinary meaning, the words used by our legislature to define that offense allow for an ABHAN to be committed with specific *or* general criminal intent, which would encompass the mental state of recklessness. Therefore, since the evidence and testimony presented during Appellant's trial supported a conclusion Appellant unlawfully injured another while acting in a criminally-culpable reckless manner and that injury was accomplished by means likely to cause death or great bodily injury, a rational factfinder could find Appellant guilty of each and every element of ABHAN, including the requisite mens

rea. Under such circumstances, the trial judge correctly denied the directed verdict motion and correctly declined to instruct the jury on specific intent. Appellant's convictions, including his ABHAN conviction, should be affirmed.

Relevant Facts

As previously noted and as was established during trial by the evidence and testimony presented, Appellant *intentionally* chose to erratically drive his vehicle at a speed between 90 to 100 miles per hour, which was more than double the posted speed limit, while unpredictably veering and weaving along—and off—the roadway in a frantic effort to avoid arrest. (R. p. 82; p. 86; pp. 130-132; p. 134; p. 222). Through that volitional act on Appellant's part, Appellant, who was consciously acting to operate his car in that manner, crashed into another person's vehicle and caused it to flip and roll over, which injured its driver—Officer Bishop. (R. p. 86; p. 132; p. 134; p. 141; p. 162; pp. 194-195; p. 223-224). And the injuries Appellant's actions caused to the officer were only not more grievous due to sheer luck on Appellant's and the officer's parts. (R. p. 195). Indeed, expert testimony was presented during trial establishing what Appellant did could have resulted in serious bodily injury or death to the officer *and* the officer was "more than lucky" to have not suffered such an outcome. (R. pp. 192-193; pp. 195-196).

Based on his egregious actions, Appellant was indicted for ABHAN, and, at various points during his trial, the parties debated what level of intent was sufficient to establish that statutory offense. (R. p. 41; pp. 206-216; pp. 233-249). The solicitor argued ABHAN was a general intent crime and could be established through proof of recklessness or criminal negligence. (R. p. 206; pp. 238-239; p. 243). Conversely, defense counsel—while conceding Appellant's actions during the incident *could* be deemed reckless—suggested ABHAN required

proof of a specific intent not only to injure but to cause great bodily injury or death to another. (R. p. 209; p. 235). Significantly, in his view, the version of ABHAN for which Appellant was indicted—unlawfully injuring another through an act accomplished by means likely to cause death or great bodily injury—was "an attempt statute" since it purportedly "talk[ed] about things that didn't happen[.]" (R. p. 234). And, if not an attempt statute, defense counsel asserted the ABHAN statute was "overbroad" and "burden shifting" because the defense would have to "argue against hypotheticals" concerning "what could have happened[.]"[6] (R. p. 210).

[6] Relying on that particular argument made by defense counsel in support of his request for a jury instruction on specific intent, Appellant now contends on appeal subsection (B)(1)(b) of the ABHAN statute should be declared unconstitutionally vague because it purportedly does not "communicate to the average citizen what conduct is prohibited" since "[a]n invariable number of acts *could* be likely to produce death or great bodily injury." (App. Br. pp. 34-35). There are multiple problems with Appellant's vagueness-based challenge to the constitutionality of the ABHAN statute. First, the trial judge—perhaps because defense counsel never at any point argued the statute was unconstitutionally vague—never actually made any rulings on the issue of whether the ABHAN statute was unconstitutionality vague, and, therefore, that particularly issue was plainly not properly preserved for appellate review pursuant to well-established South Carolina law. See In re Care & Treatment of McCracken, 346 S.C. 87, 92, 551 S.E.2d 235, 238 (2001) (declining to address a constitutional challenge to a legislative act that was not sufficiently preserved for appellate review based on the "firm policy to decline to rule on constitutional issues unless such a ruling is required"); State v. Watts, 321 S.C. 158, 167, 467 S.E.2d 272, 278 (Ct. App. 1996) ("To be preserved for appellate review, an issue must be both presented to and passed upon by the trial court. If the issue is raised but not ruled on, it is not preserved for appeal."); see also State v. Short, 483 So. 2d 10, 11 (Fla. Dist. Ct. App. 1985) ("[A]lthough lawyers and courts frequently interchange the terms 'vague' and 'overbroad,' the doctrines of vagueness and overbreadth are separate and distinct."). Second, even if Appellant's newly-advanced constitutional issue was somehow properly preserved for appellate review, Appellant certainly did not meet—and has not met—his heavy burden of proving the ABHAN statute was unconstitutionally vague purely by pointing out there are many different conceivable means likely to cause death or great bodily injury. See State v. Jones, 344 S.C. 48, 58, 543 S.E.2d 541, 546 (2001) ("Appellants have the burden of proving the statute unconstitutional."); State v. Ross, 185 S.C. 472, 477, 194 S.E. 439, 441 (1937) ("A Court should not declare a statute unconstitutional unless its invalidity is manifest beyond a reasonable doubt, and the burden to show its unconstitutionality rests upon the one making the attack."). Critically, as is true with many penal statutes, the statute prohibiting ABHAN in South Carolina applies to a broad variety of conduct. S.C. Code Ann. § 16-3-600(B)(1). But that breadth is a matter of necessity and practicality since that statute is designed to protect against *any* potentially-deadly unlawful acts causing injury to others, which can take a wide variety of forms; indeed, it would not be possible

Based on his interpretation of the ABHAN statute, defense counsel argued the trial judge was required to grant a directed verdict in Appellant's case since no proof was presented establishing Appellant intended to strike Officer Bishop's vehicle or specifically intended to cause death or great bodily injury to the officer. (R. pp. 233-235; p. 237; p. 240). Relatedly, defense counsel asked the trial judge to instruct the jury ABHAN required proof of an intent to injure and an intent to inflict death or great bodily injury. (R. pp. 248-249).

Ultimately, after considering the arguments of counsel, the trial judge denied the directed verdict motion, concluding there was some evidence from which the jury could find Appellant was guilty of the indicted offense. (R. p. 236; p. 245). Likewise, because the ABHAN statute did not include any language requiring an intent to injure or setting out any other specific intent requirement, the trial judge declined to add such language to his jury instructions on ABHAN and rejected defense counsel's requested specific intent instructions. (R. pp. 248-249).

Thereafter, the trial continued forward, and the parties presented their closing arguments to the jury. (R. pp. 250-275). Through his, the solicitor contended Appellant acted with the requisite criminally-culpable mental state of recklessness when he fled down a roadway in the

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to draft a statute that expressly listed every conceivable means capable of causing death or great bodily injury through which someone could unlawfully injure another. See Smith v. Goguen, 415 U.S. 566, 581 (1974) ("There are areas of human conduct where, by nature of the problems presented, legislatures simply cannot establish standards with great precision."). Nevertheless, a person of common intelligence would not have to guess at what is prohibited by that statute, which is unlawfully injuring another person through an act likely to result in death or great bodily injury, and, therefore, the statute is not unconstitutionally vague. See State v. Green, 397 S.C. 268, 280, 724 S.E.2d 664, 670 (2012) (recognizing all the terms of penal statute do not have to be expressly defined in order to survive a vagueness challenge to the constitutionality of the statute so long as "a person of common intelligence would not have to guess at what conduct is prohibited by the statute"); cf. State v. Michau, 355 S.C. 73, 78, 583 S.E.2d 756, 758-759 (2003) (recognizing penal statutes can survive a constitutional vagueness challenge "even though the statutes do not define with specificity the conduct which is prohibited" and concluding the phrase "endangering the morals or health" was not too vague for a person of ordinary intelligence to understand what conduct was prohibited by it).

wrong direction going approximately 100 miles per hour, which was an act readily capable of causing death or great bodily injury to another, before foreseeably crashing into and injuring Officer Bishop. (R. pp. 255-259). Contrastingly, through his, defense counsel—while characterizing what occurred as simply "an accident"—contended the State had failed to establish Appellant's guilt for ABHAN because there was allegedly no proof Appellant intended the result that occurred or intended to ram into Officer Bishop's vehicle. (R. p. 264; pp. 267-269; p. 274). Furthermore, since Officer Bishop only suffered minor abrasions, defense counsel maintained Appellant's actions were not actually likely to have caused great bodily injury or death. (R. pp. 270-271).

Following that, the trial judge instructed the jury on the applicable law, including on the State's burden to prove Appellant's guilt for all the elements of each offense—including ABHAN—beyond a reasonable doubt. (R. pp. 275-289). Additionally, as part of his jury charge, the trial judge provided the following instructions on criminal intent:

> In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances existing at that time.
>
> . . .
>
> Criminal intent is a mental state of conscious wrongdoing. You must determine that the Defendant intend or what the intent defendant intended to do based on the circumstances existing at that time. Criminal intent can arise from action or failure to act. It may arise from negligence, recklessness, or an indifference to duty or to consequences that are considered by the law to be the equivalent of criminal intent.

(R. pp. 279-280). Beyond that, the trial judge instructed the jury on the elements of ABHAN pursuant to the statutory language that expressly defined that offense and—at defense counsel's request—further instructed the jury on the lesser-included offenses of first-degree, second-degree, and third-degree assault and battery. (R. p. 216; pp. 283-284).

Thereafter, the case was submitted to the jury, and the jurors began their deliberations. (R. p. 290). Roughly thirty minutes later, the jurors asked the trial judge to again define criminal intent for them, and the trial judge did so in a manner consistent with his earlier instructions. (R. pp. 290-293). Approximately forty-five minutes after that, the jury convicted Appellant of ABHAN as indicted.[7] (R. pp. 294-295).

Standard of Review

On appeal from the denial of a directed verdict, the appellate court must view the evidence and all reasonable inferences in the light most favorable to the State. State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must affirm the trial judge's ruling. State v. Cherry, 361 S.C. 588, 593-594, 606 S.E.2d 475, 478 (2004); see Cavazos v. Smith, 565 U.S. 1, 2 (2011) ("[I]t is the responsibility of the jury—not the court—to decide what conclusions should be drawn from evidence admitted at trial. A reviewing court may set aside the jury's verdict on the ground of insufficient evidence only if no rational trier of fact could have agreed with the jury."). In other words, "unless there is a total failure of evidence tending to establish the charge laid in the indictment, the trial judge's ruling upon a motion for a directed verdict must stand absent an error of law." State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986); see United States v. Ashley, 606 F.3d 135, 138

[7] As previously noted, the jury also convicted Appellant of failure to stop for a blue light. (R. p. 295).

(4th Cir. 2010) ("Reversal for insufficient evidence is reserved for the rare case where the prosecution's failure is clear." (citation and internal quotations omitted)).

Meanwhile, when reviewing a trial judge's jury charge on appeal, an appellate court must view the charge as a whole and in light of the evidence and issues from trial. State v. Simmons, 384 S.C. 145, 178, 682 S.E.2d 19, 36 (Ct. App. 2009); see Todd v. State, 355 S.C. 396, 402, 585 S.E.2d 305, 308 (2003) ("[J]ury charges should be examined in their entirety and not in isolation in analyzing whether the defendant's due process rights have been violated."). Significantly, an appellate court will only reverse a trial judge's decision regarding jury instructions when that decision constitutes an abuse of discretion resulting in actual prejudice. Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000).

Analysis

When presented with a motion for a directed verdict challenging the sufficiency of the evidence, the question before the trial judge is simply whether any rational juror could find the essential elements of the crime beyond a reasonable doubt from the evidence viewed in a light most favorable to the State. State v. Bennett, 415 S.C. 232, 237, 781 S.E.2d 352, 354 (2016); see Jackson v. Virginia, 443 U.S. 307, 319 (1979) ("[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."). Significantly, if there is *any* direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused or from which guilt may be fairly or logically deduced, the trial judge should deny a directed verdict motion and submit the case to the jury. State v. Robinson, 310 S.C. 535, 538, 426 S.E.2d 317, 319 (1992); see State v. Littlejohn, 228 S.C. 324, 329, 89 S.E.2d 924, 926 (1955) ("[O]n a motion for direction of verdict, the trial judge is concerned with the existence or

non-existence of evidence, not with its weight; and, although he should not refuse to grant the motion where the evidence merely raises a suspicion that the accused is guilty, it is his duty to submit the case to the jury if there be any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced.").

Meanwhile, the purpose of a trial judge's jury instructions is "to enlighten the jury and to aid it in arriving at a correct verdict." State v. Leonard, 292 S.C. 133, 137, 355 S.E.2d 270, 273 (1987). To carry out that purpose, a trial judge is required to charge the jury on the current and *correct* South Carolina law applicable to the case based on the evidence presented. State v. Taylor, 356 S.C. 227, 231, 589 S.E.2d 1, 2 (2003). In doing so, the trial judge is only required to instruct the jury on the substance of the law and does not have to use any particular verbiage. State v. Burkhart, 350 S.C. 252, 261, 565 S.E.2d 298, 302 (2002). Importantly, so long as the trial judge's jury instructions are substantially correct, adequately cover the applicable law, and do not run afoul of the constitutional prohibition against comments on the facts, those instructions are considered to be appropriate and not erroneous. State v. Foust, 325 S.C. 12, 16, 479 S.E.2d 50, 52 (1996); see State v. Deas, 202 S.C. 9, 14, 23 S.E.2d 820, 822 (1943) ("Of course, under our Constitution and practice the jury are the sole judges of the facts in criminal trials and it is error for the Judge to communicate his views of them to the jury.").

With those principles in mind, there can be no real dispute Appellant acted in a criminally reckless manner at the time of the incident in the case at bar. Indeed, defense counsel readily acknowledged as much to the trial judge during trial, and no real argument to the contrary could reasonably be made. See State v. Bryant, 372 S.C. 305, 315-316, 642 S.E.2d 582, 588 (2007) (explaining an issue conceded at trial cannot be asserted later on appeal). Nonetheless, as he did at trial, Appellant continues to insist he still could not properly have been convicted of the

statutory offense of ABHAN based on the shocking things he did because, in his view, the version of the offense for which he was prosecuted can only be established through proof of a specific intent to hit another *and* cause great bodily injury or death.[8] Appellant is wrong.

With the enactment of the Omnibus Crime Reduction and Sentencing Reform Act of 2010, various statutory assault and battery offenses—including ABHAN—were created. Act No. 273, 2010 S.C. Acts & Joint Resolutions; State v. Hernandez, 428 S.C. 257, 260, 834 S.E.2d 462, 463 (2019). ABHAN is statutorily defined as follows:

> A person commits the offense of assault and battery of a high and aggravated nature if the person *unlawfully injures* another person, and:
>
> (a) great bodily injury to another person results; or
>
> (b) the act is accomplished by means likely to produce death or great bodily injury.

S.C. Code Ann. § 16-3-600(B)(1) (emphasis added). Thus, as is true with most of South Carolina's other statutory assault and battery offenses, ABHAN is committed by "unlawfully injur[ing]" another. Id. Meanwhile, what primarily distinguishes that offense from lesser assault and battery offenses—such as second-degree assault and battery—is the level of bodily injury that "results" or the nature of act that actually caused the injury. Id.; see S.C. Code Ann. § 16-3-600(D)(1) (setting out the offense of second-degree assault and battery, which—pursuant to one manner by which the offense can be committed—occurs when a person unlawfully injures another and moderate bodily injury results); S.C. Code Ann. § 16-3-600(E)(1) (setting out the offense of third-degree assault and battery, which occurs when a person either unlawfully injures another or offers or attempts to injure another with the present ability to do so).

[8] Significantly, defense counsel conceded ABHAN's great bodily injury element was "probably" something that could be satisfied with proof of general intent, and Appellant seems to be in agreement with that qualified concession on appeal. (R. p. 210; App. Br. p. 33).

Looking to statutory language largely identical in most ways to the statutory language setting out the offense of ABHAN, our Supreme Court concluded the offense of second-degree assault and battery—along with its accompanying "unlawfully injures" element—"may be committed with general criminal intent, including the mental state of recklessness[.]" United States v. Clemons, 442 S.C. 670, 676, 901 S.E.2d 280, 283 (2024). And, since no logical reason could exist for ABHAN to be treated differently simply because it can result in the imposition of a higher penalty than could second-degree assault and battery, a person can validly be convicted of ABHAN based on proof establishing a reckless mental state due to the plain and ordinary meaning of the words "unlawfully injures" coupled with the fact the legislature elected *not* to include a specific—and more-restrictive—mental state requirement with that language. See Black's Law Dictionary 251 (9th ed. 2009) (defining "cause" as "[t]o bring about or effect"); Collins English Dictionary 1004 (13th ed. 2018) (defining "injure" as "to cause physical or mental harm or suffering to; hurt or wound" or "to offend, esp by an injustice"); see also State v. Smith, 430 S.C. 226, 234 n.9, 845 S.E.2d 495, 499 n.9 (2020) (explaining "ABHAN is a general-intent crime"); cf. Voisine v. United States, 579 U.S. 686, 698-699 (2016) (concluding, when "naturally read," the phrase " 'use . . . of physical force' . . . encompasses acts of force undertaken recklessly—i.e., with conscious disregard of a substantial risk of harm."); Jones v. United States, 36 F.4th 974, 986 (9th Cir. 2022) (instructing the federal crime of assault resulting in serious bodily injury "can be committed recklessly"); United States v. Eagle, 586 F.2d 1193, 1196 (8th Cir. 1978) (explaining a federal statute criminalizing "[a]ssault resulting in serious bodily injury" did not require proof of specific intent and, instead, "require[d] only that the assault shall have resulted in serious bodily harm; the assault need not have been committed with a dangerous weapon, or with intent to do bodily harm").

Further supporting a conclusion ABHAN can be established without proof of a specific intent to injure, South Carolina has a long history of criminalizing volitional acts—including ones similar in many ways to Appellant's—that result in death or injury regardless of whether those acts were committed in a reckless or even just criminally-negligent manner. See State v. Mouzon, 231 S.C. 655, 662, 99 S.E.2d 672, 675 (1957) (concluding evidence establishing Mouzon struck and killed a pedestrian while intoxicated and driving a vehicle at a speed of 70 to 80 miles per hour in an area with a posted speed limit of 35 miles per hour supported a conviction for *murder*); State v. Sussewell, 149 S.C. 128, __, 146 S.E. 697, 703 (1929) (affirming Sussewell's common law ABHAN conviction after concluding his act of striking a pedestrian with his car while driving at a "rapid rate of speed" could support findings of gross negligence, recklessness, or willfulness and could not support a conclusion he was only guilty of simple assault and battery); see also State v. Ferguson, 302 S.C. 269, 272, 395 S.E.2d 182, 183 (1990) (recognizing the following mental states may be sufficient to prove a crime in South Carolina depending on the particular offense involved: (1) purpose or intent; (2) knowledge; (3) recklessness; and (4) criminal negligence); William Shepard McAninch et al., The Criminal Law of South Carolina 212 (5th ed. 2007) (expressing the view there is no reason why both simple battery and aggravated battery should not be capable of being committed via criminal negligence in South Carolina and explaining that "appears to be the rule in the majority of jurisdictions"); William Shepard McAninch et al., The Criminal Law of South Carolina 243 (6th ed. 2013) (expressing the same view for the same reasons *after* the enactment of the Omnibus Crime Reduction and Sentencing Reform Act of 2010); cf. S.C. Code Ann. § 16-3-60 ("With regard to the crime of involuntary manslaughter, criminal negligence is defined as the reckless disregard of the safety of others."); S.C. Code Ann. § 16-3-95 (recognizing the felony offense of infliction of

great bodily injury upon a child, which is defined simply as "inflict[ing] great bodily injury upon a child," does not apply to a traffic accident "*unless* the accident was caused by the driver's *reckless disregard for the safety of others*" (emphasis added)). And, South Carolina's long history in that regard is fully consistent with that of most other jurisdictions. See Voisine, 579 U.S. at 695 ("Then, as now, a significant majority of jurisdictions—34 States plus the District of Columbia—defined such misdemeanor offenses to include the reckless infliction of bodily harm. That agreement was not coincidence. Several decades earlier, the Model Penal Code had taken the position that a mens rea of recklessness should generally suffice to establish criminal liability, including for assault." (citations omitted)); see also State v. Guderyon, 438 S.C. 476, 494, 884 S.E.2d 202, 211 (Ct. App. 2022) (citing to a legal encyclopedia for the principle "battery is a general intent crime, and thus the required mental state entails only an intent *to do the act that causes the harm*" (emphasis added and internal quotations omitted)), rev'd on other grounds, Op. No. 2025-MO-028 (S.C. Sup. Ct. filed Feb. 12, 2025); Model Penal Code § 2.02(3) ("When the culpability sufficient to establish a material element of an offense is not prescribed by law, such element is established if a person acts purposely, knowingly or recklessly with respect thereto.").

Accordingly, with that in mind, the proof presented during Appellant's trial established Appellant "unlawfully injure[d]" Officer Bishop while committing a *volitional* act of unlawfully driving at an exceedingly-high rate of speed—including on the wrong side of the road in the direction of oncoming traffic—and dangerously veering across the roadway while engaged in a desperate attempt to avoid arrest. During the course of his dangerous headlong flight in a several-thousand-pound machine, Appellant—based on the evidence and testimony presented—was intentionally weaving in and out of traffic as he recklessly rocketed along the roadway, and

he violently and forcefully slammed into Officer Bishop's vehicle after intentionally veering his vehicle across a grass median in an effort to escape from his lawful pursuers. Furthermore, notwithstanding the obvious risk of serious injury or death such driving carried, testimony was presented supporting a conclusion Appellant's shocking actions were likely to cause serious bodily injury or death since an expert opined Officer Bishop was "more than lucky" not to have been seriously injured or killed by the crash Appellant caused.

From that evidence and testimony, a rational factfinder could reasonably conclude Appellant: (1) unlawfully injured another through a volitional act committed with the criminally-culpable mental state of recklessness; and (2) the volitional act that caused the victim's injuries was one that was committed through means likely to cause death or great bodily injury. S.C. Code Ann. § 16-3-600(B)(2); see Clemons, 442 S.C. at 676, 901 S.E.2d at 283 (recognizing a person acts recklessly by consciously disregarding a substantial and unjustifiable risk to such a nature and degree that the person's actions constitute a gross deviation from the standard of conduct that a law-abiding person would observe in the same situation); see also State v. Rowell, 326 S.C. 313, 315, 487 S.E.2d 185, 186 (1997) ("Reckless disregard for the safety of others signifies an indifference to the consequences of one's acts. It denotes a conscious failure to exercise due care or ordinary care or a conscious indifference to the rights and safety of others or a reckless disregard thereof."). And, since ABHAN's "means likely to produce death or great bodily injury" element is focused on the *type and nature of act* committed, that element in no way transformed the charged version of ABHAN into an attempt crime, which our legislature certainly knew how to create when it intended to do so based on how it defined *other* types of statutory assault and battery. See, e.g., S.C. Code Ann. § 16-3-600(C)(1) (setting out the offense of first-degree assault and battery, which—pursuant to one manner by which the offense can be

committed—occurs when a person "offers or attempts" to injure another person with the present ability to do so and the act is accomplished by means likely to cause death or great bodily injury). Thus, the proof presented during Appellant's trial was sufficient to establish each and every element of ABHAN, including the requisite mens rea. Cf. Clemons, 442 S.C. at 676, 901 S.E.2d at 283 (concluding second-degree assault and battery can—under some circumstances—be committed with the mental state of recklessness and instructing courts have to be careful to avoid narrowing the prosecutorial reach of a statute "designed to widely sweep").

Because the evidence and testimony presented during trial supported a fair and reasonable conclusion Appellant was guilty of all the elements of ABHAN, the trial judge was required to submit Appellant's case to the jury so it could carry out its fact-finding role. See State v. Al-Amin, 353 S.C. 405, 411, 578 S.E.2d 32, 35 (Ct. App. 2003) (recognizing the trial judge is "required" to submit a case to the jury when substantial evidence is presented reasonably tending to prove the guilt of the accused or from which the accused's guilt may be fairly and logically deduced), overruled on other grounds by State v. Broadnax, 414 S.C. 468, 779 S.E.2d 789 (2015). Relatedly, because a specific intent to injure or strike another was and is *not* an element of the statutory offense of ABHAN in South Carolina, the trial judge obviously did not err by refusing to instruct the jury on something that would not have constituted a correct statement of the law. Cf. Foust, 325 S.C. at 16, 479 S.E.2d at 52 ("Foust sought only a specific intent to kill charge. As that is not the law of this State, the charge was properly refused.").

Accordingly, the trial judge both correctly declined to grant a directed verdict in Appellant's case and correctly declined defense counsel's request for an inaccurate jury instruction on specific intent. See Bennett, 415 S.C. at 236-237, 781 S.E.2d at 354 ("[W]hen ruling on a directed verdict motion, the trial court views the evidence in the light most favorable

to the State and *must* submit the case to the jury if there is any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced." (emphasis added and citation and internal quotations omitted)); Taylor, 356 S.C. at 231, 589 S.E.2d at 3 (explaining "the trial judge is required to charge *only* the current and *correct* law of South Carolina" (emphasis added)). Appellant's convictions, including his ABHAN conviction, should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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April 17, 2026