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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SUMTER COUNTY
The Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,.....RESPONDENT

v.

DEMETRIUS ALEXANDER BROWN,.....PETITIONER

BRIEF OF RESPONDENT
Appellate Case No. 2022-001360
Supreme Court No. 2025-002378
Unpublished Opinion No. 2025-UP-314

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PETITIONER'S QUESTION PRESENTED

1. In this self-defense case, did the Court of Appeals err in affirming the trial judge's refusal to allow evidence that contradicted the State's main witness's testimony that the decedent had a gun on the day of the shooting?

RESPONDENT'S COUNTER-QUESTIONS PRESENTED

1. Did the Court of Appeals err in affirming the decision of the trial court who decided not to allow testimony presented pursuant to Rule 613(b), SCRE due to the fact the testimony was hearsay, and not falling within any of the hearsay exceptions?

2. Was there sufficient evidence presented by the State even without this statement proving that this was not an act of self-defense, so, even if there was an error disallowing this hearsay statement should be considered harmless?

STATEMENT OF THE CASE

Demetrus Brown (Petitioner) was in a possible partnership deal with George McClain regarding an automotive repair shop called Auto Doctors. (R. p. 27 l. 3-14). The deal between Mr. McClain and the Petitioner was that the Petitioner would help repair cars and would get part ownership in the shop. (R. p. 27 l. 21- p. 28 l. 1). On August 11, 2018, when Mr. McClain was working on another vehicle, Mr. Lonnie Pack (victim) drove up to the business. Riding with the victim was Mr. Anfernee Bradley and another individual with the nickname DV.¹ (R. p. 79 l. 3-23). When they got to the business, they discovered Petitioner sitting inside his Ford Expedition. (R. p. 37 l. 15-18; p. 87 l. 23 – p. 88 l. 2). The victim was taking on his cell phone. When the victim got off his call, he got out of his vehicle and walked up to the Petitioner who was still sitting inside the Expedition. At that time the Petitioner pulled out a handgun and shot the victim twice. (R. p. 88 l. 5-14). After the first gunshot, Mr. Bradley and DV ran from the scene. (R. p. 88 l. 1-5). Petitioner then got into his vehicle and fled the scene. (R. p. 50 l. 12-13).

Prior to the second shot Mr. McClain was looking out the window and saw Petitioner with a gun. Mr. McClain told Petitioner “don’t shoot” and then he saw Petitioner fire his weapon two times. Mr. McClain then saw Petitioner drive off in his vehicle. (R. p. 48 l. 15-18). At that time Mr. McClain ran into his business, making his daughter go into the office for her own safety. (R. p. 32 l. 22-24; p. 33 l. 7). Mr. McClain then dialed 911. (R. p. 33 l. 8).

Investigator Charles Bonner of the Sumter County Sheriff’s Department arrived at the scene. During his investigation he was informed that Mr. Bradley’s I.D. and phone was found in the back seat of the victim’s vehicle. So they suspected that Mr. Bradley was at the scene when the crime occurred. (R. p. 397 l. 5-7). Investigator Bonner spoke to Mr. McClain and his daughter. Mr.

¹ DV was never found by law enforcement; therefore, his identity was never discovered.

McClain informed Investigator Bonner that the Petitioner was involved in the shooting and fled the scene in his vehicle. (R. p. 398 l. 5-10). Law enforcement later found Petitioner in Florida. He was arrested and charged with the offense murder and possession of a firearm during the commission of a violent crime. (R. p. 392 l. 2-9).

During the September 2019 term, the Sumter County Grand Jury indicted Petitioner for both offenses. (R. pp. 675-676). On December 14, 2022, Petitioner's case was called for trial before the Honorable Kristi F. Curtis. Representing the State of South Carolina was Third Circuit Solicitor Ernest A. Finney, III. Representing the Petitioner was attorneys Deborah and Robert Butcher.

Mr. Bradley testified during the trial. He stated that the victim came to his house and asked him if he wanted to ride, and Mr. Bradley accepted. (R. p. 77 l. 16-17). When he got into the victim's vehicle, in the front passenger seat was DV. Mr. Bradley got into the back seat. (R. p. 79 l. 1-6). While they were riding the victim was on the phone. When they got to the garage the victim got off his phone, got out of his vehicle, and walked to the Petitioner who was sitting inside his vehicle. (R. p. 86 l. 21). Mr. Bradley testified that he saw the Petitioner pull out a gun. (R. p. 88 l. 11-16). Mr. Bradley heard gunshots, and he ran. (R. p. 88 l. 5). Mr. Bradley testified that he never saw the victim with a gun. (R. p. 96 l. 6-7).

Mr. McCain also testified during trial. Mr. McClain stated that he was under a vehicle doing repairs when a gray car pulled up. (R. p. 31 l. 16-17). Mr. McClain stated that all he could see was feet exiting the vehicle. (R. p. 32 l. 1). Mr. McClain testified that he then heard a pop. (R. p. 32 l. 6-7). He thought it was a battery explosion. (R. p. 32 l. 19-20). Mr. McClain heard a second pop. He then knew that was a gunshot. (R. p. 32 l. 22-23; p. 33 l. 2). Mr. McClain testified that he saw Petitioner with a gun and told him "don't shoot." (R. p. 48 l. 15-18). Then he saw Petitioner fire

the weapon two more times. After Petitioner shot his weapon Mr. McClain saw Petitioner get into his vehicle and drive off. (R. p. 50 l. 3-13).

During the trial the defense called as a witness, Mr. Bennie Haynesworth. Mr. Haynesworth testified that he knew Mr. Bradley. (R. p. 488 l. 7-9). Defense counsel asked Mr. Haynesworth if he remembered Mr. Bradley telling him that the victim possessed a gun on the day of the offense. Solicitor Finney objected to this line of questioning due to it being hearsay. At that time defense counsel argued that this line of questioning was proper pursuant to Rule 613(b) of the South Carolina Rules of Evidence. The trial judge decided to allow the defense to proffer Mr. Haynesworth's testimony.

During his testimony Mr. Haynesworth stated that he did not remember Mr. Bradley telling him that the victim had a gun in his possession at the time of the offense. Mr. Haynesworth was also asked if he told law enforcement that the victim carries a gun at times when he wants to "get something done." (R. p. 490 l. 24-25). Mr. Haynesworth answered that he did not remember telling law enforcement that either. (R. p. 491 l. 1-2). A recording of Mr. Haynesworth's statement to law enforcement was played before the trial judge. Mr. Haynesworth then explained that he had some head injuries since the incident and he also "felt something" against the victim's family, and that he did not remember giving law enforcement this statement. (R. p. 493 l. 22-25). After questioning, defense counsel argued that this testimony should be presented under Rule 613(b). The trial court denied this request due to the fact this statement was hearsay, and did not fall under any of the exceptions found in Rule 803 and 804 of the South Carolina Rules of Evidence. Therefore this statement is not admissible. The trial court stated that in order for a statement to come into evidence under Rule 613(b) it had to be admissible under the rules. (R. p. 498 l. 13).

After five-days of testimony, Petitioner was found guilty by a jury of his peers for murder and possession of a weapon during the commission of a violent crime. (R. p. 666 l. 18-25). After the reading of the verdict Petitioner appeared before the trial judge for sentencing. Petitioner was sentenced to a thirty-year term of incarceration for the offense of murder, and five-years for possession of a weapon during the commission of a violent crime. The trial judge ordered that both of these sentences were to be served concurrently. (R. p. 673 l. 17-23).

While serving his sentence, the Petitioner filed a timely notice of appeal before the South Carolina Court of Appeals. On September 17, 2025, Judges McDonald, Hewitt, and Turner issued a decision regarding this appeal. This panel unanimously decided that the Petitioner was not allowed to present hearsay evidence pursuant to Rule 613(b) because it was not admissible. After receiving this decision the Petitioner filed a petition for rehearing on October 1, 2025. (App. pp. 33-37). On October 29, 2025, the Court of Appeals issued a decision denying the petition for rehearing. (App. p. 39). A petition for writ of certiorari was filed by the Petitioner on December 11, 2025. Respondent filed their return on January 12, 2026. This court decided to grant certiorari on March 11, 2026. The brief of the Respondent supporting their arguments follows.

STANDARD OF REVIEW

In criminal cases the appellate court sits to review errors in law only. *State v. Wilson*, 345 S.C. 1, 545 S.E.2d 827, 829 (2001). The admission or exclusion of evidence is left to the sound discretion of the trial judge, whose discretion will not be reversed on appeal absent an abuse of discretion. *State v. Tucker*, 319 S.C. 425, 428, 462 S.E.2d 263, 265 (1995). An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, without evidentiary support. *Clark v. Cantrell*, 339 S.C. 389, 529 S.E.2d 528, 539 (2000). Hearsay is a statement, which may be written, other than one made by the declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted. *State v. Brockmeyer*, 406 S.C. 324, 351, 751 S.E.2d 645, 659 (2013).

Error is harmless when it could not reasonably have affected the result of the trial. *State v. Simmons*, 423 S.C. 552, 556, 816 S.E.2d 566, 573 (2018). The harmless error doctrine recognizes the principle that the central purpose of a criminal trial is to decide the factual question of the defendant's guilt or innocence, and promote public respect for the criminal process by focusing on the underlying fairness of the trial rather than on the virtually inevitable presence of immaterial error. *Delaware v. VanArsdall*, 475 U.S. 673, 681, 106 S.Ct. 1431, 1436 (1986)(internal citations omitted).

ARGUMENTS

- 1. The Court of Appeals did not err in deciding that the lower court was correct in not allowing a previous statement into evidence pursuant to Rule 613(b) SCRE due to the fact the statement presented was hearsay, and not within any of the hearsay exceptions, therefore not inadmissible.**

Petitioner argues that in the decision of *State v. Blalock* the Court of Appeals decided that the trial court has wide latitude to allow extrinsic evidence in proving a statement. *State v. Blalock*, 357 S.C. 74, 80, 591 S.E.2d 632, 636 (2003). The Court of Appeals never decided that this latitude grants the court to allow inadmissible evidence. The evidence presented was a statement from Mr. Haynesworth that he was told by Mr. Bradley that the victim had a gun that day. This is clearly hearsay as defined by the rules of evidence. As stated in Rule 801, “Hearsay’ is a statement other than one made by the declarant testifying at the trial or hearing offered in evidence to prove the truth of the matter asserted.” Rule 801(c), SCRE. Mr. Haynesworth testified that he was told by Mr. Bradley that the victim had a weapon that day. During his testimony Mr. Bradley never stated this, actually he said the opposite that the victim never possessed a weapon. This testimony also did not fall under any of the hearsay exceptions found in Rules 803 and 804 so it is not admissible.

The Petitioner argues that the Court of Appeals erred affirming the decision of the trial court in not allowing hearsay testimony into evidence pursuant to Rule 613(b). Rule 613(b) of the South Carolina Rules of Evidence states:

Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is advised of the substance of the statement, the time and place it was allegedly made, and the person to whom it was made, and is given the opportunity to explain or deny the statement. If a witness does not admit that he has made the prior inconsistent statement, extrinsic evidence of such statement is admissible.

Rule 613(b), SCRE.

There is nothing within this rule that allows hearsay testimony unless the testimony falls under the exception of an admission of a party opponent. Rule 613(b) states, “This provision does not apply to admissions of a party-opponent as defined in Rule 801(d)(2). Rule 613(b), SCRE. This is the only instance of hearsay that is mentioned within this rule. If hearsay was allowed, this only exception would not have been mentioned. The rule would have allowed all hearsay testimony to be allowed under this rule. Even though this rule allowed extrinsic evidence to be admitted, inadmissible hearsay evidence is not allowed in any circumstance unless it falls under one of the hearsay exceptions. This hearsay evidence does not fall under any of the hearsay exceptions so, it is not admissible. Hearsay is not admissible unless there is an applicable exception. *Brockmeyer*, 406 S.C. at 351, 751 S.E.2d at 659.

Hearsay is a statement, other than the one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. *Simmons*, 423 S.C., at 564, 816 S.E.2d at 573), *quoting*, Rule 801(c), SCRE. Petitioner is attempting to enter into evidence a statement made by Mr. Haynesworth, who he did not even remember what Mr. Bradley told him. Petitioner is attempting to get into evidence a statement that was made to the witness about matters that he did not actually witness because he was not at the scene when the crime was committed. Petitioner is attempting to get into evidence that the victim was armed at the time the offense occurred. This is an attempt to get into evidence something that was stated out of court, to be testified in court, to prove its truth of the matter asserted. The exact definition of hearsay. The only testimony that is allowed by extrinsic evidence is testimony by one that was seen by the person testifying or a statement made by another person that falls under one of the hearsay exceptions. This testimony is neither, so it is not admissible.

Petitioner argues that the court had wide latitude to allow such extrinsic evidence proving this statement. The appellate courts, nor the rules of evidence, have ever given the trial courts so much latitude then they can completely ignore the rules of evidence allowing hearsay testimony. Petitioner is attempting to get into evidence a statement that was not made by the person testifying to prove the truth of the matter asserted, clearly hearsay, which it not admissible. The Court of Appeals was correct in their assessment within their opinion that the rules do not allow this. This includes any evidence any party attempts to admit under Rule 613(b). In all decisions relating to Rule 613(b) the extrinsic evidence was relating to something the previous witness denied stating or fell under one of the hearsay exceptions which made the statement admissible. *State v. Barnes*, 421 S.C. 47, 804 S.E.2d 301 (2017)(mother denies identifying son on surveillance video and investigator who took statement was called to verify mother's identification), *State v. Fossick*, 333 S.C. 66, 508 S.E.2d 32 (1998)(witness denied threat made to girlfriend, co-worker who heard this threat was called as extrinsic evidence), *State v. Bixby*, 388 S.C. 528, 698 S.E.2d 572 (2010)(mother of defendant denies law enforcement begged her to speak to her husband and son to give themselves up, investigator who begged her to make this call testified to verify this attempt), *State v. McLeod*, 362 S.C. 73, 606 S.E.2d 215 (2004) (Investigator denied an agreement was offered to a witness, another officer present during the questioning was called to testify as to what was said to this witness), *State v. Stokes*, 381 S.C. 390, 673 S.E.2d 434 (2009)(defendant's uncle denies a statement from the defendant about an armed robbery he committed, which is a statement against interest, an hearsay exception), *State v. Lynn*, 277 S.C. 222, 284 S.E.2d 786 (1981)(victim's statement to law enforcement was questioned when she testified about it differently on the witness stand). None of these cases allowed hearsay testimony into evidence without an exception being applicable. Rule 613(b) does allow for extrinsic evidence only if the

evidence is admissible. If Petitioner was attempting to introduce extrinsic evidence because of a denial made by Mr. Bradley during his testimony that would be lawful under 613(b); however, Petitioner attempted to place into extrinsic evidence a statement Mr. Bradley supposedly made to Mr. Haynesworth, this definitely constitutes hearsay. Mr. Haynesworth testified that he had head injuries prior to his testimony and animosity against the victim's family when he gave that statement. This was clearly hearsay testimony; under the rules these statements were not admissible. Within Rule 613(b) there are no exceptions for hearsay testimony; therefore, the Court of Appeals made the correct decision in affirming the decision of the trial court not allowing this statement into evidence.

2. If this Court determines that Court of Appeals decision was made in error then it should be considered harmless due to the fact there was additional evidence presented revealing that the State proved beyond a reasonable doubt that this was not a case of self-defense.

Respondent maintains that no error was committed by the trial court nor in the affirmation by the Court of Appeals in not allowing inadmissible hearsay evidence under Rule 613(b). Respondent argues that if this testimony was allowed it would not have changed the outcome. The State proved beyond a reasonable doubt this was not self-defense. So if this Court rules that there was error, that error should be considered harmless.

Petitioner argues that he shot the victim in self-defense. Petitioner testified that the victim drove up to his shop, that he walked up to him with his cell phone on speaker and the victim asked the person on the phone "I got that nigga D right here, what you want me to do with him?" (R. p. 505 l. 19-20). The person on the line supposedly stated, "why the F you calling me. Do what I tell you to do." (R. p. 505 l. 20-21). According to Petitioner the victim told him to get out the car. (R. p. 506 l. 5). Then the victim pulled out a gun and they started "tussling." (R. p. 506 l. 8-11). The

only person that testified to this fight over this gun was the Petitioner. No other witness stated that there was a fight over a gun.

Mr. Bradley testified that the Petitioner was the first to pull out a gun from his truck. He then heard a gunshot and then decided to run. (R. p. 88 l. 5-16; p. 89 l. 11-12). Mr. Bradley also testified that he was with the victim all day and never saw him with a gun. (R. p. 96 l. 6-7). Mr. McClain testified that he was working on a car and saw feet get out of a car, heard a little noise for five minutes then a pop. (R. p. 32 l. 1-7). Mr. McClain also testified that he saw the Petitioner with the gun and told him “don’t shoot” Petitioner shot a couple more times then he got into his truck and drove off. (R. p. 50 l. 3-13).

When a defendant is claiming self-defense the State is required to disprove the elements of self-defense beyond a reasonable doubt. *State v. Jackson*, 384 S.C. 29, 35, 681 S.E.2d 17, 21 (2009). To establish self-defense in South Carolina, four elements must be present:

(1) he was without fault in bringing on the difficulty, (2) he actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, (3) a reasonably prudent person of ordinary firmness and courage would have entertained the same belief, and (4) he had no other probable means of avoiding the danger other than to act as he did.

State v. Dennis, 447 S.C. 323, 926 S.E.2d 250 (2026).

According to the evidence provided by the State, the victim did not bring on the difficulty by just walking up to Petitioner as he was sitting in his vehicle. There is no evidence that the victim was armed, no gun was found on his body, nor in the vehicle he was driving. Both Mr. McCain and Mr. Bradley testified that only Petitioner was armed, and he was the one that shot. All of the evidence presented revealed that victim was not armed, so the Petitioner should not have any belief that he could have sustained any bodily injury. Since the evidence presented revealed that the victim approached while unarmed, a reasonably prudent person should not have been allowed to shoot

the victim. According to all witnesses, the victim only wished to talk. So Petitioner shooting the victim was not in self-defense. The addition of the statement made by Mr. Haynesworth was hearsay. This statement did not reveal if the victim had a weapon since Mr. Bradley was the person that was present and testified the victim never had a weapon. No evidence was found by law enforcement revealing that the victim ever had a weapon. So if this testimony was allowed, no evidence revealed that the statement by Mr. Haynesworth was truthful.

The Petitioner also fled the scene after the event occurred. Flight from prosecution is admissible as guilt. *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 266 (2006). The Petitioner was not apprehended until the authorities found him in Florida. This reveals that the Petitioner ran in an attempt to avoid arrest and prosecution. This is further evidence that could be used to prove guilt. The critical factor to the admissibility of evidence of flight is whether the totality of the evidence creates an inference that the defendant had knowledge that he was being sought by the authorities. *Id.*, at 209.

The State presented evidence from two eyewitnesses that Petitioner was the person that had the weapon and the one who shot the unarmed victim. The only evidence Petitioner attempted to present otherwise was hearsay testimony from a witness that was not present at the scene. Mr. Haynesworth could not even remember making his statement because he had a head injury since that event. Mr. Haynesworth also testified that he had some dislike for the victim's family. All of the eyewitnesses stated that the victim shot first and that the victim was unarmed. There is also no dispute that the Petitioner fled the scene and was later found in Florida. Due to the overwhelming evidence proving the Petitioner's guilt beyond a reasonable doubt the Respondent would argue that even if the court finds the decision made by the Court of Appeals was in error that error must be considered harmless.

CONCLUSION

Based on the forgoing reasons Respondent submits the Court of Appeals was correct in affirming the decision of the trial court. The Respondent would respectfully request the decision of the Court of Appeals be affirmed.

Respectfully submitted,

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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SUMTER COUNTY
Honorable Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2025-002378

THE STATE.....RESPONDENT

v.

DEMETRIUS ALEXANDER BROWN.....APPELLANT

PROOF OF SERVICE

The undersigned certifies that pursuant to Rule 262(c)(3), SCACR and the Supreme Court order of April 24, 2024, the Brief of Respondent has been forwarded to Appellant’s counsel, David Alexander., via email today, June 10, 2026, to dalexander@sccid.sc.gov, and Mr. Alexander’s legal assistant, Dan Bast to dbast@sccid.sc.gov

I further certify that all parties required by Rule to be served have been served. This is the 10th day of June 2026.

s/Tommy Evans, Jr.
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Jun 10 2026

SC Court of Appeals

Dear Mr. Alexander,

Please find attached the Brief of Respondent, together with the Proof of Service. These documents will be filed today, June 10, 2026 with the South Carolina Supreme Court along with a copy of this email. Thank you.

Sincerely,

Brandy Rankin

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