

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Florence County
Honorable H. Steven DeBerry IV, Circuit Court Judge

Opinion No. 2026-UP-204 (S.C. Ct. App. Filed May 6, 2026)

Lower Court Case No. 2023-GS-21-00480

THE STATE,

RESPONDENT,

V.

WILLIE JAMES SMITH,

PETITIONER.

APPELLATE CASE NO. 2024-000879

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS

KATHRINE H. HUDGINS
Senior Appellate Defender

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

ATTORNEY FOR PETITIONER

RECEIVED

Jun 26 2026

SC Court of Appeals

INDEX

INDEX	i
CERTIFICATE OF COUNSEL	1
QUESTION PRESENTED	2
STATEMENT OF THE CASE	3
STANDARD OF REVIEW	4
REASON WHY CERTIOARI SHOULD BE GRANTED	5
ARGUMENT	
In this murder trial where there was evidence that Petitioner acted in self-defense, the Court of Appeals erred in affirming the trial judge's refusal to charge self-defense to the jury.....	6
CONCLUSION.....	12

CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on June 10, 2026.

QUESTION PRESENTED

In this murder trial where there was evidence that Petitioner acted in self-defense, did the Court of Appeals err in affirming the trial judge's refusal to charge self-defense to the jury?

STATEMENT OF THE CASE

In March of 2023,¹ the Florence County Grand Jury indicted Petitioner, Willie Smith, for murder, indictment #2023-GS-21-00480. On May 13, 2024, Petitioner proceeded to jury trial before the Honorable H. Steven DeBerry, IV. William Foster “Josh” Edgeworth, III, represented Petitioner at trial. J. Ryan White prosecuted the case. The jury found Petitioner guilty of murder. Judge DeBerry sentenced Petitioner to life without parole. A timely notice of intent to appeal was served on May 22, 2024, and the direct appeal perfected. On May 6, 2026, the South Carolina Court of Appeals affirmed the conviction. State v. Willie James Smith, Op. No. 2026-UP-204 (S.C. Ct. App. filed May 6, 2026). A petition for rehearing was timely filed and then denied on June 10, 2026. This petition for writ of certiorari follows.

¹ There appears to be an error with the year of the term of the grand jury listed on the indictment as March 9, **2022**, but the incident is alleged in the indictment to have taken place on June 9, 2022. The indictment number and true bill date reflect March 9, **2023**.

STANDARD OF REVIEW

“An appellate court will not reverse the trial judge's decision regarding jury charges absent an abuse of discretion. Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000); State v. Williams, 367 S.C. 192, 624 S.E.2d 443 (Ct.App.2005).” State v. Santiago, 370 S.C. 153, 159, 634 S.E.2d 23, 26 (Ct. App. 2006).

REASON WHY CERTIORARI SHOULD BE GRANTED

This Court should grant the petition for writ of certiorari to emphasize that words accompanied by hostile acts, may, depending on the circumstances, be sufficient to require a jury instruction on self-defense.

ARGUMENT

In this murder trial where there was evidence that Petitioner acted in self-defense, the Court of Appeals erred in affirming the trial judge's refusal to charge self-defense to the jury.

The jury found Petitioner guilty of the fatal stabbing of his roommate, James McNamara on June 9, 2022. Petitioner and McNamara both worked for an asphalt paving company and the two men were sharing a motel room while they worked on a job in Florence. (R. pp. 174-177). The incident took place inside the motel room. A short time after the incident Petitioner called 911 and was still at the motel when first responders arrived. (R. p. 48, lines 1-17; p. 64, lines 1-25).

Petitioner provided a statement to investigators and a video of the interview was admitted in evidence, without objection, as State's exhibit #50. (R. p. 240, lines 4-8). Petitioner told the investigators that McNamara came into the room at 4:00 AM making noise and woke him up. McNamara told Petitioner that he was his "pet nigger." (State's exhibit #50 at 14:21). When the investigator asked if McNamara came at Petitioner physically Petitioner said McNamara came off the bed and Petitioner came off the bed. (State's exhibit #50 at 17:54). Petitioner said McNamara jumped up toward him and Petitioner jumped up toward McNamara and he guessed McNamara did not see that Petitioner had a knife. (State's exhibit #50 at 18:05). When asked if Petitioner saw if McNamara had any weapons Petitioner said he did not have time to look because when McNamara jumped up, Petitioner jumped up. (State's exhibit #50 at 18:15). Petitioner told the investigators that while he had never seen McNamara with a gun, he knew he carried a box cutter or blade or some sort of a weapon. (State's exhibit #50 at 22:24). Petitioner told the investigators that he knew it was all bad for him and indicated it was his fault.

(State's exhibit #50 at 24:21).

During the charge conference the judge asked the parties about charging voluntary manslaughter. (R. p. 270, lines 7-8). The assistant solicitor said, "I think there's enough in the records for a charge on manslaughter, Judge." (R. p. 270, lines 9-10). Petitioner objected to the charge on voluntary manslaughter. (R. p. 270, line 12 – pp. 271 – 274, lines 1-6). The judge ruled, "I'll tell you what. Everybody be prepared to argue both charges, murder and voluntary manslaughter. And if I decide any differently, then I'll certainly let you know before we reconvene at 2 o'clock." (R. p. 274, lines 7-10).

Counsel for Petitioner asked about a self-defense charge. (R. p. 277, lines 8-9). The judge said:

Well, this is the first time it's been brought up, but, no, I don't think - - you know, at this point in time, there's been no evidence of the elements of self-defense except for the one of, you know, that he may have been coming at him.

There's been absolutely no evidence that your client was afraid for his life. There's been no evidence in the record that he thought he was armed, you know, that would – I mean, now certainly he was in his hotel room where he had a right to defend himself. He didn't have the duty to retreat. So I'm not, you know, considering that element of self-defense, but I don't think as we stand right now with what's in the record that - -that there's the evidence - - the existence of evidence that would justify a self-defense charge.

(R. p. 277, lines 10-23).

In closing argument the assistant solicitor stated, without objection, "They admit it's not a self-defense case. You won't hear any law about self-defense." (R. p. 290, lines 1-3). The judge charged the jury with the law of voluntary manslaughter but not self-defense. (R. pp. 307-309). The jury convicted Petitioner of murder. The trial judge erred in refusing to instruct the jury on the law of self-defense.

In State v. Williams, 400 S.C. 308, 314–15, 733 S.E.2d 605, 608–09 (Ct. App. 2012), the

South Carolina Court of Appeals wrote:

“A jury charge is correct if, when the charge is read as a whole, it contains the correct definition and adequately covers the law.” State v. Mattison, 388 S.C. 469, 478, 697 S.E.2d 578, 583 (2010) (internal citations omitted). “The law to be charged must be determined from the evidence presented at trial.” State v. Cole, 338 S.C. 97, 101, 525 S.E.2d 511, 512 (2000) (internal citations omitted); see also Mattison, 388 S.C. at 478, 697 S.E.2d at 583 (stating appellate courts should “consider the court's jury charge as a whole in light of the evidence and issues presented at trial”). When reviewing the circuit court's refusal to deliver a requested jury instruction, appellate courts must consider the evidence in a light most favorable to the defendant. Cole, 338 S.C. at 101, 525 S.E.2d at 512–13.

“If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the [circuit court's] refusal to do so is reversible error.” State v. Day, 341 S.C. 410, 416–17, 535 S.E.2d 431, 434 (2000).

In State v. Jackson, 384 S.C. 29, 35–36, 681 S.E.2d 17, 20 (Ct. App. 2009), the South Carolina Court of Appeals wrote:

“If there is any evidence of record from which it can be reasonably inferred that an accused justifiably inflicted a wound in self-defense, then the accused is entitled to a charge on the law of self-defense.” State v. Wigington, 375 S.C. 25, 31, 649 S.E.2d 185, 188 (Ct.App.2007). When any evidence in the record entitles the accused to a jury charge on self-defense, a trial judge's refusal to give the charge is reversible error. State v. Muller, 282 S.C. 10, 10, 316 S.E.2d 409, 409 (1984).

Viewing the evidence in the light most favorable to Petitioner, there is evidence from which it could reasonably be inferred that Petitioner acted in self-defense. The trial judge's refusal to charge self-defense is reversible error. In State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011), the South Carolina Supreme Court wrote:

A person is justified in using deadly force in self-defense when:

- (1) The defendant was without fault in bringing on the difficulty;
- (2) The defendant ... actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger;
- (3) If the defense is based upon the defendant's actual belief of imminent danger, a

reasonable prudent man of ordinary firmness and courage would have entertained the same belief ...; and

(4) The defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

In the present case there is evidence of the first three elements of self-defense. Petitioner was without fault in bringing on the difficulty. Petitioner was asleep in his hotel room at 4:00 AM when his roommate loudly entered the room, waking Petitioner. The roommate then referred to Petitioner using a highly offensive racial slur. The highly offensive words accompanied by the roommate coming at Petitioner support Petitioner's reasonable belief that he was in imminent danger of sustaining serious bodily injury. Those words accompanied by the hostile act of coming at Petitioner show that a reasonably prudent person would have had the same belief. "A person has the right to act on appearances, even if the person's belief is ultimately mistaken. State v. Fuller, 297 S.C. 440, 443–44, 377 S.E.2d 328, 331 (1989)." State v. Dickey, 394 S.C. 491, 501, 716 S.E.2d 97, 102 (2011). As to the fourth element, the trial judge correctly found that Petitioner had no duty to retreat from the motel room he shared with the deceased. Petitioner was entitled to a self-defense instruction that included language that words accompanied by hostile acts, may, depending on the circumstances, establish a plea of self-defense.

In State v. Fuller, 297 S.C. 440, 444, 377 S.E.2d 328, 331 (1989), the South Carolina Supreme Court wrote:

Moreover, the trial judge erred in not charging the jury that "words accompanied by hostile acts, may, depending on the circumstances, establish a plea of self-defense" as this court stated in State v. Harvey, 220 S.C. 506, 68 S.E.2d 409 (1951), and previously in State v. Mason, 115 S.C. 214, 105 S.E. 286 (1920). Like the appearances charge, Fuller was entitled to the above set forth charge. Testimony presented at trial revealed that Dixon stated "he was going to take care" of Fuller; that Dixon grabbed Fuller by the throat; and, that Dixon and Phillips called Fuller a "nigger." Testimony also revealed that Dixon and Phillips

rammed Fuller's car with their truck. Because of the evidence presented at trial, we find that the trial judge should have charged the jury that words accompanied by hostile acts may establish self-defense.

Petitioner was entitled to a full self-defense charge to include words accompanied by hostile acts may establish self-defense as discussed in Fuller. There is evidence in the record from which it can be reasonably inferred that Petitioner acted in self-defense. The trial judge erred in refusing to charge self-defense.

The error in failing to charge self-defense requires reversal “See, e.g., State v. Slater, 373 S.C. 66, 70, 644 S.E.2d 50, 52 (2007) (‘If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial judge's refusal to do so is reversible error.’ (citing State v. Muller, 282 S.C. 10, 10, 316 S.E.2d 409, 409 (1984)))” State v. Stoots, 445 S.C. 127, 132, 912 S.E.2d 248, 251 (2025). The error was compounded by the assistant solicitor’s closing argument falsely claiming that “they” admitted it was not a self-defense case. (R. p. 290, lines 1-3). The jury should have been given the option of determining if Petitioner acted in self-defense or not. The trial judge abused his discretion in refusing to charge self-defense. The error requires reversal.

In affirming the conviction the Court of Appeals wrote, “We hold the trial court did not abuse its discretion in refusing Smith's request for a self-defense jury instruction. Viewing the evidence in a light most favorable to Smith, there was no evidence presented at trial showing Smith was, or believed he was, in actual imminent danger of losing his life or sustaining serious bodily injury.” State v. Smith, Op. No. 2026-UP-204 (S.C. Ct. App. filed May 6, 2026). The Court of Appeals overlooked the fact that, viewing the evidence in the light most favorable to Petitioner, the racial slurs accompanied by the hostile act of jumping up toward Petitioner is

evidence from which Petitioner reasonably believed he was in imminent danger of sustaining great bodily injury. This evidence satisfies the “any evidence” standard requiring a charge on self-defense. The jury should have been given the opportunity to decide if Petitioner reasonably believed he was in imminent danger of sustaining great bodily injury.

CONCLUSION

Based on the above argument, this Court should grant the petition for writ of certiorari to allow further briefing on the issue.

Respectfully Submitted,



Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 26th day of June, 2026.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Florence County
Honorable H. Steven DeBerry IV, Circuit Court Judge

RECEIVED

Jun 26 2026

SC Court of Appeals

Opinion No. 2026_UP-204 (S.C. Ct. App. Filed May 6, 2026)

Lower Court Case No. 2023-GS-21-00480

THE STATE,

RESPONDENT,

V.

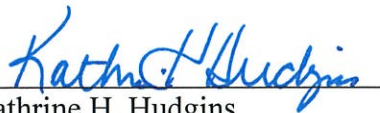
WILLIE JAMES SMITH,

PETITIONER.

APPELLATE CASE NO. 2024-000879

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the petition for writ of certiorari to the Court of Appeals and appendix in the above-referenced case has been served upon MacKinnon Westraad, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and the South Carolina Court of Appeals; and on Willie James Smith, #394161, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 26th day of June, 2026.



Kathrine H. Hudgins
Senior Appellate Defender

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