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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County

Honorable Vernon F. Dunbar, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRYAN TERRELL MITCHELL,

APPELLANT

APPELLATE CASE NO. 2025-001914

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred by refusing to suppress appellant's statement pursuant to *Jackson v. Denno*, 378 U.S. 368 (1964), where appellant's statement was involuntarily made as it was given only after a promise of leniency by law enforcement?

STATEMENT OF THE CASE

In July of 2025, an amended indictment from the Lancaster County grand jury indicted appellant for one count of murder and one count of possession of a weapon during the commission of a violent crime. R *(Indictment). On September 4, 2025, a *Blair*¹ hearing was held before the Honorable Robert Hood. *Blair* Tr. 1. Melissa McGinnis represented the state, and William Frick represented appellant. *Blair* Tr. 1. Judge Hood found appellant competent to stand trial. *Blair* Tr. 8, ll. 10-19. On September 8, 2025, appellant's case was called to trial before the Honorable Vernon Dunbar and a jury. Tr. 1. Melissa McGinnis and Nicole Wine represented the state, and William Frick represented appellant. Tr. 1. Ultimately, the jury found appellant guilty as indicted. Tr. 733, ll. 1-14. Judge Dunbar imposed a total sentence of thirty-five (35) years' imprisonment, comprised of thirty (30) years as to the murder charge and a five-year consecutive sentence as to the weapons charge. Tr. 766, l. 22 – 767, l. 16. Appellant timely filed a notice of appeal. R. *(Notice of appeal).

This brief follows.

¹ See *State v. Blair*, 275 S.C. 529, 273 S.E.2d 536 (1981).

STANDARD OF REVIEW

When reviewing whether a defendant's statement to law enforcement is voluntarily made, our Courts "agree with those jurisdictions that have found the question of voluntariness presents a mixed question of law and fact." *State v. Collins*, 442 S.C. 444, 453, 900 S.E.2d 426, 431 (2024) (citing *State v. Miller*, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023)). Therefore, our Courts "will review the trial court's factual findings regarding voluntariness for any evidentiary support." *Id.* "However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review." *Id.*

ARGUMENT

The trial court erred by refusing to suppress appellant's statement pursuant to *Jackson v. Denno*, 378 U.S. 368 (1964), where appellant's statement was involuntarily made as it was given only after a promise of leniency by law enforcement.

Relevant facts

Jackson v. Denno hearing

Prior to trial, the trial court held a *Jackson v. Denno* hearing to determine the voluntariness of appellant's statement to law enforcement. Tr. 10, l. 16; *see also* R *(Court's Exhibit 1) (Motion by Defense (Voluntariness of Statement));. The state called Deputy Jodi Moseley, who testified that she was the lead investigator and that she spoke with appellant. Tr. 13, ll. 15-19. Appellant was taken into custody after a 12-hour track and search for him. Tr. 13, ll. 5-7. She testified that she advised appellant of his *Miranda*² rights, and he agreed to speak with her. Tr. 13, ll. 17-19. Appellant was taken into custody around 10:15 a.m., and the interview commenced around 10:30 or 10:45 a.m. Tr. 13, ll. 20-24. Appellant had been evaluated by EMS because he had been in the woods all night, and he was provided with food and water. Tr. 14, ll. 2-12. Appellant was in handcuffs. Tr. 14, ll. 13-18. A shirt was provided to appellant because he did not have a shirt on. Tr. 14, ll. 20-25. Deputy Moseley read appellant his *Miranda* rights from a form. Tr. 15, l. 8 – 16, l. 6. Appellant indicated that he understood his rights and would speak with her. Tr. 16, ll. 5-11.

Deputy Moseley testified that she did not have any concerns that appellant was under the influence of drugs or alcohol, nor did she have any concerns about his mental or physical disabilities. Tr. 16, l. 21 – 17, l. 3. She stated that she did not make any threats to get appellant

² *See Miranda v. Arizona*, 384 U.S. 436 (1966).

to talk, and she did not promise anything in exchange for him making a statement. Tr. 17, l. 22 – 18, l. 2. She testified that she did not have concern about appellant's mental status, and he seemed to clearly understand her questioning. Tr. 18, l. 25 – 19, l. 4.

On cross-examination, Deputy Moseley testified that the shooting incident occurred around 10:00 p.m. the night prior, and her interview with appellant was at roughly 10:00 a.m. the next morning. Tr. 20, ll. 8-16. She agreed appellant was in the woods for approximately 12 hours. Tr. 20, ll. 17-21. She agreed that questioning with appellant began before he was fed. Tr. 21, ll. 13-15. She agreed that appellant made statements that his "ghost did it," and stated, "Have you ever had a voodoo curse." Tr. 22, ll. 1-6. She explained that when those statements were made, they were "pretty far into the interview," and she "took it as him coming up with things to try to explain a way of what happened." Tr. 22, ll. 7-13.

On redirect examination, Deputy Moseley explained that, regarding statements about sentencing and prison, appellant initiated those inquiries, and she responded to him. Tr. 26, ll. 13-17. She testified that her statement, "If you don't tell me what happened, you're going to get the max," was in response to a back and forth with appellant. Tr. 27, ll. 8-12.

Defense counsel provided copies of *Collins* and *Miller* to the trial court and noted that waiving one's *Miranda* rights did not necessarily mean that the statement given continued to be voluntary. Tr. 28, l. 18 – 29, l. 7. He argued that it was the state's burden to prove by a preponderance of the evidence that the rights were waived voluntarily. Tr. 29, ll. 7-9. Citing *Collins*, defense counsel contended that the totality of the circumstances analysis included background, experience, conduct of the accused, age, length of custody, police misrepresentation, isolation of a minor from parents, threats of violence, and promises of leniency. Tr. 29, ll. 10-17. Counsel noted that appellant was "all over the place" during his

interview by talking about a ghost and a voodoo curse. Tr. 29, ll. 18-24. Moreover, he argued that the statement about the sentencing was akin to telling appellant, “If you tell us the statement, we won’t seek the death penalty.” Tr. 30, ll. 3-10. He asserted it was an inappropriate statement promising leniency which rendered appellant’s statement involuntary. Tr. 30, ll. 11-18. After a clarifying question by the trial court, defense counsel noted that appellant did not make any statements about his involvement in the case until law enforcement made a promise of leniency. Tr. 31, ll. 10-25.

The state responded that the statement “If you don’t want the max, now is the time,” in isolation “could potentially be problematic.” Tr. 32, ll. 3-6. However, the state argued that watching the interview and the back-and-forth showed that Deputy Moseley’s statements were made only in response to appellant’s comments about not wanting to go to prison. Tr. 32, l. 6 – 33, l. 1. The state argued that the statement was not a promise of leniency, and when watched in context, it was an interview tactic in response to what appellant brought up. Tr. 33, ll. 2-11.

After a recess, the trial court found that, after watching the interview, the statement was freely and voluntarily given. Tr. 34 ll. 9-25. The trial court concluded that the totality of the circumstances showed that law enforcement did not pressure, force, or place appellant under any undue influence with regard to his confession. Tr. 35, ll. 1-4. As to defense counsel’s contention of a promise of leniency, the trial court found that appellant brought those items to the attention of the interviewing officer, and thus, denied the defense’s motion. Tr. 35, ll. 5-13.

State’s Exhibit 54

Law enforcement conducted an interview with appellant on August 28, 2022, which was approximately two hours long. R. State’s Exhibit 54 (Interview (Defendant)) (on file with this Court). Appellant was read his *Miranda* rights, and he agreed to speak with law enforcement. R

State's Exhibit 54 at 11:27:18 – 11:27:40. For approximately the first hour of his interview, appellant told law enforcement that he did not have a gun, he informed the officers that he was legally blind, and he stated that he did not shoot anyone. R. State's Exhibit 54 at 11:28:36; 11:33:47; 11:35:37; 11:38:07 – 11:38:20; 11:51:59; 12:00:29; 12:06:15 – 12:07:32; 12:11:42; 12:13:29; 12:15:18; 12:19:15 – 12:19:33; and 12:25:55. Law enforcement informed appellant that several witnesses saw him with a gun and showed him photographs from a gas station near the racetrack where he appeared to have a gun in his back pocket. R. State's Exhibit 54 at 11:29:29; 11:34:24; 11:36:33 – 11:38:07; 11:45:30; 11:55:48; and 12:14:00. While discussing the three kids that appellant spoke to at the racetrack, he informed the law enforcement officer that he needed some sleep. R. State's Exhibit 54 at 11:52:18 – 11:53:39 and 11:55:00. At another portion of the interview, while appellant denied that he shot anyone at the racetrack, the law enforcement officer asked him if he thought someone who shot somebody should go to jail. R. State's Exhibit 54 at 11:42 and 12:12:40 – 12:12:45. At another point, after law enforcement asked appellant to share his side of the story, appellant stated that he could not do five years, he could not do ten years, and that he could not have another felony because of his disability. R. State's Exhibit 54 at 12:24:14 – 12:24:20. Law enforcement stated that if appellant did not want to go to prison, it was his time to talk. R. State's Exhibit 54 at 12:24:21 – 12:24:26. Later, appellant stated that if he shot someone, he would think it was a curse. R. State's Exhibit 54 at 12:26:52 – 12:27:40.

Then, appellant stated that guilt would get thirty years to life. R. State's Exhibit 54 at 12:32:20 – 12:32:30. Appellant stated that he did not need another felony charge, and law enforcement replied that he also did not need to walk away looking like a cold-blooded murderer. R. State's Exhibit 54 at 12:32:37 – 12:32:47. Law enforcement again inquired if

appellant wanted to walk away looking like a cold blooded murderer or someone who had remorse. R. State's Exhibit 54 at 12:32:52 – 12:33:03. Appellant stated that when you murder someone, it is thirty years to life, and that he could not do thirty years. R. State's Exhibit 54 at 12:33:56. Law enforcement stated that if appellant did not want the max sentence, it was the time to tell them what happened. R. State's Exhibit 54 at 12:34:01 – 12:34:14. Appellant first stated that the deceased had been shot by his ghost and discussed voodoo, but he later stated that he pulled the trigger two-to-three times. R. State's Exhibit 54 at 12:34:54; 12:40:39; and 12:40:50. He agreed that he was remorseful. R. State's Exhibit 54 at 12:48:16. He also replied, "yup," to law enforcement asking if he shot that man. R. State's Exhibit 54 at 12:55:20 – 12:55:38. Appellant stated that the gun was a Smith & Wesson. R. State's Exhibit 54 at 12:57:50. He later agreed to take law enforcement to the gun. R. State's Exhibit 54 at 13:05:57.

During trial, the state sought to enter State's Exhibit 54 during Deputy Moseley's testimony, and defense counsel objected based on the prior objection. Tr. 501, l. 4.

Trial

During trial, the state presented evidence concerning a shooting incident at the racetrack in Lancaster County on August 27, 2022. Christopher Whitmore, appellant's brother-in-law, testified that he met appellant at the racetrack. Tr. 126, ll. 3-10. While he was waiting for appellant to use the bathroom so they could leave, he drove closer to the gate and saw appellant talking to the deceased. Tr. 128, ll. 3-24. He rolled down his window to tell appellant to come, and he saw appellant pull out a gun and shoot the deceased. Tr. 131, ll. 2-4. He saw two shots fired. Tr. 132, ll. 8-10. He called 911. Tr. 133, ll. 1-3. He clarified that the deceased was sitting in a chair when he was shot. Tr. 135, ll. 7-23.

Several individuals who were at the racetrack testified about their interactions with appellant and the shooting incident. C.J. testified that he met appellant in the parking lot, appellant asked him to add him on Facebook, and he noticed a pistol in appellant's back pocket. Tr. 149, ll. 5-23; 151, ll. 24-25. Later, he saw appellant pull a gun out of his back pocket and shoot the security guard who was sitting with his arms crossed. Tr. 158, ll. 3-21. Another witness, J.A., testified he heard two-to-three shots, Tr. 185, ll. 8-9, but he did not see what happened before the shots were fired, Tr. 194, ll. 18-20. D.S. then testified that appellant approached him and asked if he wanted to buy a chain. Tr. 199, l. 25 – 200, l. 7. Appellant pulled up his Facebook on C.J.'s phone. Tr. 201, ll. 3-14. D.S. testified that he felt uneasy because he saw appellant reach in his back pocket, and he thought appellant had a gun. Tr. 202, ll. 6-12. He testified that gunshots went off, and he saw the deceased slumped over. Tr. 207, ll. 13-25; 212, ll. 12-13. Deputy Moseley later testified that appellant was developed as a suspect after talking to the juveniles at the scene. Tr. 486, ll. 22-24.

Jessica Bowers, who was working extra duty at Lancaster Motor Speedway, testified that the scene was very chaotic, and she found some shell casings near the deceased's body. Tr. 233, ll. 17-25; 240, l. 25 – 241, l. 2. Paul Greer, an expert in firearms identification, testified that he received two fired 9mm Luger cartridge cases, one Smith & Wesson model M&P Shield 2.0 semiautomatic pistol with a magazine, seven unfired 9mm Luger cartridges, and two fired bullets. Tr. 461, ll. 2-7. He opined that the two fired cartridge casings were fired by the Smith & Wesson firearm. Tr. 471, ll. 6-12. Dr. Erin Presnell, an expert in forensic pathology, testified that the deceased had two gunshot wounds: one in his right upper arm and one in his right collarbone. Tr. 543, l. 25 – 544, l. 2. She opined they were close-range gunshots. Tr. 550, ll. 9-10.

After the shooting incident, appellant was tracked in the woods for roughly twelve hours. Jordan Wilson, an Exxon employee, testified that around 3:00 a.m., a gentleman came in asking to hide in the bathroom. Tr. 336, ll. 1-8. Moseley testified that surveillance from the gas station showed appellant with an item sticking out of his pocket that appeared to be the grip of a handgun. Tr. 495, ll. 8-11.

Investigator Matthew Snoody testified that he was advised that appellant wanted to take law enforcement to where the gun was located. Tr. 409, ll. 22-24. The gun was not located that day with appellant. Tr. 410, ll. 19-21. However, K9 officer Sultan later located the gun a few days later where appellant had fled to. Tr. 313, l. 25 – 314, l. 13.

Appellant testified in his own defense. He explained that he was legally blind and had macular degeneration. Tr. 602, ll. 2-14. He left the races to go to the bathroom and saw three kids. Tr. 605, ll. 7-22. The security guard asked him to see his ticket. Tr. 606, ll. 15-16. He showed his ticket to the security guard, and the guard grabbed his hand and pulled on it with force. Tr. 606, l. 6 – 607, l. 18. Appellant could not pull away from the security guard because the security guard was bigger than him. Tr. 608, ll. 2-13. He agreed that he had a gun in his pocket. Tr. 608, ll. 14-15. He testified that he thought he only shot twice or that the gun went off twice. Tr. 609, ll. 23-25. He explained that he went into the wood line because he was scared. Tr. 613, ll. 2-6. He further explained that when he was interviewed, he was hungry, tired, and scared. Tr. 629, ll. 2-7.

Discussion

Under *Jackson v. Denno*, a defendant “is entitled to a reliable determination as to the voluntariness of his confession by a tribunal other than the jury charged with deciding his guilt or innocence.” *See id.*, 378 U.S. at 392; *see also State v. Fortner*, 266 S.C. 223, 226, 222 S.E.2d

508, 510 (1976) (“In South Carolina, the trial judge makes this initial determination of voluntariness required by *Jackson v. Denno*.”). “There are two constitutional bases that require statements admitted into evidence to be voluntarily made: (1) the Due Process Clause of the Fourteenth Amendment, and (2) the Fifth Amendment right against self-incrimination.” *Collins*, 442 S.C. at 454, 900 S.E.2d at 431 (citing *Miller*, 441 S.C. at 120, 893 S.E.2d at 313 and *Dickerson v. United States*, 530 U.S. 428, 433 (2000)). “A criminal defendant is deprived of due process if his conviction is founded, in whole or in part, upon an involuntary confession.” *State v. Johnson*, 442 S.C. 439, 455, 812 S.E.2d 739, 747 (Ct. App. 2018) (citing *State v. Pittman*, 373 S.C. 527, 565, 647 S.E.2d 144, 164 (2007)); see also *Jackson v. Denno*, 378 U.S. at 385 (citing *Rogers v. Richmond*, 365 U.S. 534 (1961)). Moreover, The Fifth Amendment requirement of *Miranda* warnings does not dispense with the voluntariness inquiry. *Dickerson*, 530 U.S. at 444.

“[T]he State must show the statement was voluntarily made by a preponderance of the evidence.” *State v. Dye*, 384 S.C. 42, 47, 681 S.E.2d 23, 26 (Ct. App. 2009). “A preponderance of the evidence is evidence that convinces the fact finder as to its truth.” *Pascoe v. Wilson*, 416 S.C. 628, 640, 788 S.E.2d 686, 693 (2016).

In South Carolina, a court must examine the totality of the circumstances surrounding the custodial statement. The examining court must answer the question: did totality of the circumstances surrounding the custodial statement defeat the defendant’s will? *State v. Moses*, 390 S.C. 502, 513, 702 S.E.2d 395, 401 (Ct. App. 2010). Appropriate factors that may be considered in a totality of the circumstances analysis include:

background; experience; conduct of the accused; age; maturity;
physical condition and mental health; *length of custody or detention*;
police misrepresentations; isolation of a minor from his or her parent;
the lack of any advice to the accused of his constitutional rights;

threats of violence; direct or indirect promises, however slight; lack of education or low intelligence; repeated and prolonged nature of the questioning; exertion of improper influence; and the use of physical punishment, such as the deprivation of food or sleep.

See id., at 513–14, 702 S.E.2d at 401 (emphasis added). The test requires consideration of “totality of all the surrounding circumstances – both the characteristics of the accused and the details of the interrogation.” *Dickerson*, 530 U.S. at 434 (citations omitted).

Notably, “[a] statement may not be ‘extracted by any sort of threats or violence, [or] obtained by any *direct or implied promises, however slight*, [or] obtained by the exertion of improper influence.’” *State v. Miller*, 375 S.C. 370, 386, 652 S.E.2d 444, 452 (Ct. App. 2007) (quoting *State v. Rochester*, 301 S.C. 196, 200, 391 S.E.2d 244, 247 (1990)) (emphasis added). “A statement induced by a promise of leniency is involuntary only if so connected with the inducement as to be a consequence of the promise.” *Id.* (internal quotation marks omitted). In addition, “[i]f a suspect’s will is overborne and his capacity for self-determination critically impaired, use of the resulting confession offends due process.” *Collins*, 442 S.C. at 455, 900 S.E.2d at 432 (citing *State v. Saltz*, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001) and *Schneckloth v. Bustamonte*, 412 U.S. 218, 225 (1973)). “Ultimately, the determination will depend upon a weighing of the circumstances of pressure against the power of resistance of the person confessing.” *Id.* (citing *Miller*, 441 S.C. at 110, 893 S.E.2d at 314 and *Dickerson*, 530 U.S. at 434) (internal quotation marks omitted).

“It is generally recognized that the police may use some psychological tactics in eliciting a statement from a suspect.” *Id.* at 456, 900 S.E.2d at 432 (citing *State v. Parker*, 381 S.C. 68, 89, 671 S.E.2d 619, 630 (Ct. App. 2008)). “However, certain interrogation techniques, either in isolation, or as applied to the unique characteristic of a particular suspect, are so offensive to a civilized system of justice that they must be condemned under the Due Process Clause of the

Fourteenth Amendment.” *Id.* (citing *Miller*, 441 S.C. at 120, 893 S.E.2d at 813) (internal quotation marks omitted). “Coercion is determined from the perspective of the suspect.” *Id.* (citing *State v. Goodwin*, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009)).

In appellant’s case, the trial court erred by denying appellant’s motion to exclude his statement and admitting it into evidence because his statement was involuntarily made. Tr. 34 ll. 9-25; Tr. 501, l. 4. Although appellant was advised of his *Miranda* rights and waived them, his will was overborne by the circumstances of his interrogation and law enforcement’s promises of leniency, such that his resulting confession offends due process. Tr. 13, ll. 17-19, 28, l. 18 – 29, l. 7; *Collins*, 442 S.C. at 455, 900 S.E.2d at 432; *Saltz*, 346 S.C. at 136, 551 S.E.2d at 252. Nor does the issuance of *Miranda* warnings dispense with the voluntariness inquiry. *Dickerson*, 530 U.S. at 444. Looking to the voluntariness of appellant’s interview: first, appellant’s lengthy two-hour interview was conducted at 10 a.m. the morning following the incident at the racetrack after he had been in the woods for approximately twelve hours. Tr. 13, ll. 5-7; Tr. 20, ll. 8-21; R. State’s Exhibit 54 (Interview (Defendant)) (on file with this Court). In fact, appellant alerted law enforcement during his interview that he needed some sleep, yet he continued to be questioned. R. State’s Exhibit 54 at 11:55:00; *See Moses*, 390 S.C. at 513, 702 S.E.2d at 401 (explaining factors to be considered in a totality of the circumstances analysis, specifically, “the use of physical punishment, such as the deprivation of . . . sleep.”). Likewise, appellant testified during trial that he was questioned while he was hungry, tired, and scared. Tr. 629, ll. 2-7.

In addition, as trial counsel noted below, appellant was “all over the place” during his interview and made several references to a curse and voodoo, and Deputy Moseley agreed that appellant made statements that a “ghost did it” and discussed a voodoo curse. Tr. 22, ll. 1-6; Tr. 29, ll. 18-24; R State’s Exhibit 54 at 12:26:52 – 12:27:40; 12:40:50; and 12:47:57). All of these

circumstances were relevant to the consideration of the voluntariness of appellant's statement. *See Goodwin*, 384 S.C. at 601, 683 S.E.2d at 507 (citing *Withrow v. Williams*, 507 U.S. 680, 693 (1993) ("[T]he court . . . should consider not only the crucial element of police coercion; *the length of the interrogation*; its location; *its continuity*; the defendant's maturity; education; *physical condition*; and *mental health*.")) (internal quotations omitted and emphasis added).

Perhaps most offensively, law enforcement made a promise of leniency to appellant during his interview. Roughly an hour into the interview, during which appellant maintained his innocence, law enforcement again asked appellant to share his side of the story. R. State's Exhibit 54 at 12:24:14 – 12:24:20. Appellant told the officer that he could not serve five or ten years, and the officer told appellant if he did not want to go to prison, it was time to talk. R. State's Exhibit 54 at 12:24:14 – 12:24:20. Appellant mentioned that guilt would receive a thirty-year to life sentence, to which the law enforcement officer twice inquired of appellant if he wanted to walk away looking like a "cold-blooded murderer." R. State's Exhibit 54 at 12:32:20 – 12:32:30; 12:32:37 – 12:32:47; and 12:32:52 – 12:33:03. Appellant repeated that murder would receive a thirty-year-to-life sentence and that he could not do thirty years. R. State's Exhibit 54 at 12:33:56. Law enforcement told appellant that if he did not want the max sentence, it was the time to tell the officers what happened R. State's Exhibit 54 at 12:34:01 – 12:34:14.

Only after law enforcement's promise of leniency did appellant agree that he shot the deceased and admit that he had a gun. R. State's Exhibit 54 at 12:34:54; 12:40:39; 12:40:50; 12:55:20 – 12:55:38; and 12:57:50. As trial counsel argued below, law enforcement's statement about sentencing was akin to telling appellant 'if you provide a statement, we will not seek the death penalty.' *See* Tr. 30, ll. 3-10; *See State v. Peake*, 291 S.C 138, 352 S.E.2d 487 (1987) (holding that the state failed to meet its burden of showing the statement was voluntary and not

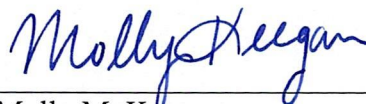
the product of the officer's promise of leniency where the officer was in a position of apparent authority and told appellant the state would not ask for the death penalty if he gave a statement). The record thus supports that it was law enforcement's promise to appellant which extracted his confession. *See Malloy v. Hogan*, 378 U.S. 1, 7 (1964) (when government obtains a confession, it "must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence"); *see also Rochester*, 301 S.C. at 200, 391 S.E.2d at 246. Moreover, although appellant does make statements about what sentence he might receive and his inability to serve those sentences, *see* R. State's Exhibit 54 at 12:24:14 – 12:24:20; 12:32:37 – 12:32:47; and 12:33:56, it was law enforcement's promise that a statement was the only thing that could prevent a maximum sentence that compelled his confession. R. State's Exhibit 54 at 12:34:01 – 12:23:14. Moreover, law enforcement first brought up the concept of jail by asking appellant if he thought someone that shot somebody should go to jail. R. State's Exhibit 54 at 12:12:40 – 12:12:45. Accordingly, law enforcement exploited appellant's concern about serving a prison sentence because of his disability by offering a promise of leniency, and the trial court erred by determining that the context demonstrated that it was an interview tactic in response to what appellant himself brought up. Tr. 33, ll. 2-11; *Collins*, 442 S.C. at 453, 900 S.E.2d at 431.

Considering the totality of the circumstances—a two-hour interview after appellant had been in the woods for twelve hours, the repeated and prolonged nature of questioning, sleep deprivation, appellant's physical condition and mental health, and law enforcement's promise of leniency—the trial court erred by finding appellant's statement was freely and voluntarily given. Therefore, because appellant's conviction was founded, in whole or in part, upon an involuntary

confession, he was deprived of due process. *Johnson*, 442 S.C. at 455, 812 S.E.2d at 747;
Jackson v. Denno, 378 U.S. at 385.

CONCLUSION

Based on the foregoing argument, appellant respectfully requests that this Court reverse his convictions and sentence and remand to the Court of General Sessions of Lancaster County for a new trial.



Molly M. Keegan
Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of August, 2026.