

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Darius Grant Dickey, Appellant.

Appellate Case No. 2024-000145

Appeal From Darlington County
R. Kirk Griffin, Circuit Court Judge

Unpublished Opinion No. 2026-UP-415
Heard May 5, 2026 – Filed August 19, 2026

AFFIRMED

Appellate Defender Joanna Katherine Delany, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, Senior Assistant
Deputy Attorney General Melody Jane Brown, Assistant
Attorney General William Joseph Maye, all of Columbia,
and Solicitor Paul Michael Burch, Jr., of Chesterfield, all
for Respondent.

PER CURIAM: Darius Dickey appeals his convictions of murder and attempted murder and sentence of life imprisonment without the possibility of parole; convictions of two counts of assault and battery of a high and aggravated nature (ABHAN) and concurrent sentences of twenty years' imprisonment for each count; conviction of unlawful carrying of a pistol and sentence of one years' imprisonment; and conviction of possession of a weapon during the commission of a violent crime. Dickey argues the trial court erred in granting the State's motion to quash the first jury panel, admitting a body-camera video, and instructing the jury on accomplice liability. We affirm Dickey's convictions and sentences.

FACTS/PROCEDURAL HISTORY

This case arises out of a shooting at Mac's Lounge in Hartsville on January 26, 2020.¹ Three people were killed and several people were injured. Officer Jeremy Curtis of the Hartsville Police Department testified he arrived on the scene "moments" after the shooting. He described the scene as "chaos" with people running around and screaming. Officer Curtis's body-camera video depicts the chaos, showing dead bodies on the floor of the nightclub and people on the floor wailing and screaming.

The body-camera video showed a distraught witness to the shooting, Angelena Deason, stating she felt a bullet whiz past her and that the shots were meant for her. She said, "Darius walked past me with a gun." She stated shots were then fired. At trial, Deason, a Coker College student at the time of the shooting, testified she saw Dickey enter Mac's Lounge with DiCaprio Collins.^{2,3} Officer Curtis testified at trial that he had firsthand knowledge that Dickey and Collins were friends and associates. Deason testified she saw Dickey pull out a black handgun, cock it, and put it on his hip. Deason stated, "I looked at my friend and I was just like, he had a gun, we need to get out of here. And commotion started and then shots fired and we ran for the door." Deason did not see Dickey fire the gun.

¹ Mac's Lounge has been frequented by Coker University students for over sixty years.

² Collins was under a no-contact order with Deason because he was accused of assaulting her several nights before the shooting. Deason alerted law enforcement but decided to stay at the bar and was standing near Collins.

³ Deason knew the murder victim, Garrett Bakhsh, as a fellow freshman at Coker University. Bakhsh played lacrosse and had mutual friends with Deason.

Once in the parking lot, Deason saw Dickey leaving in a silver car and alerted police.

Dickey's mother testified she rented a gray Nissan Versa that she permitted Dickey to drive on the night of the shooting. She received a phone call from Dickey that night saying the car had been stolen.

Justin Cottingham of the South Carolina Highway Patrol responded to the shooting. He testified that Deason stopped him as he was approaching Mac's Lounge with a rifle and stated he was "letting the shooter get away" in a silver car. Officer Cottingham pursued the car and located it at a nearby residence. He could see spent shell casings inside of it. Dickey was nearby and approached Officer Cottingham and told him "he did not know whose car it was but it was his driveway and he [Cottingham] needed to leave." Officer Morris Goodman investigated the shooting and later processed the Nissan Versa. He found seven 40-caliber shell casings inside.

South Carolina Law Enforcement Division (SLED) agent Tracy Thrower testified that ballistics evidence collected from Mac's Lounge showed there were two firearms used in the shooting. Agent Thrower stated multiple bullets recovered from victims and the scene were fired by a gun recovered from Davijon McCall, who was tried separately from Dickey. Agent Thrower testified that seven 40-caliber shell casings were found to have been fired by a second gun other than McCall's gun. Those seven 40-caliber shell casings matched the shell casings found in the Nissan Versa, and they were all fired by the same weapon. Agent Thrower stated bullet fragments recovered from Bakhsh could not be matched ballistically because of "damage and limited marks of value." She could not rule out the possibility that McCall's gun shot the bullet fragments recovered from victims Bakhsh, Collins, and Brian Robinson.

Jeremy Grantham was the owner of Mac's Lounge on the night of the shooting. He was standing behind the bar and saw gunfire coming from near the pool table going towards the main entrance. Angelica Garcia was a patron at Mac's Lounge that night and saw gunfire coming from near the pool table going towards the main entrance. Mac's Lounge patron A.J. Wright stated he saw Collins, Dickey, and someone else walking towards the pool table/stage area when a "lot of commotion went on." Wright stated Dickey had his hands in his pants in a strange way as he was walking. Wright ran into the parking lot after the shooting and saw Dickey "jumping up and down asking who did it with the gun in his hand."

Dickey's cousin, Zyrig Thomas, went to Mac's Lounge with Dickey the night of the shooting. Although he denied it at trial, Thomas told police on the night of the shooting that Dickey was shooting at McCall across the bar and moved towards the patio. Thomas told police "Darius . . . grabbed [McCall] from the back . . . pulled his gun out and started shooting." Thomas later tried to recant his statement to police. Thomas stated at trial that Collins and McCall started fighting in Mac's Lounge near the pool tables. He could not remember anything else.

Along with ABHAN and weapons charges, Dickey was charged and convicted for the murder of Bakhsh, and the attempted murder of McCall. The trial court sentenced him to life imprisonment without the possibility of parole for murder and attempted murder. Dickey also received concurrent sentences of twenty years' imprisonment for each ABHAN conviction and one year's imprisonment for one weapons charge. This appeal followed.

ISSUES ON APPEAL

- I. Did the trial court err in granting the State's motion pursuant to *Batson v. Kentucky*⁴ to impanel a new jury?
- II. Did the trial court err in admitting a body-camera video?
- III. Did the trial court err in instructing the jury on accomplice liability?

STANDARD OF REVIEW

"In criminal cases, appellate courts sit to review errors of law only, and are therefore bound by the trial court's factual findings unless clearly erroneous." *State v. Robinson*, 410 S.C. 519, 526, 765 S.E.2d 564, 568 (2014). An appellate court's review "is limited to determining whether the trial court abused its discretion." *State v. Edwards*, 384 S.C. 504, 508, 682 S.E.2d 820, 822 (2009).

LAW/ANALYSIS

A. *Batson* Motion

Dickey argues the trial court erred in finding Dickey did not offer race neutral reasons for striking two jurors in the first jury pool. We disagree.

⁴ 476 U.S. 79 (1986).

After the first jury was drawn, the State objected under *Batson* to the striking of Juror no. 20 and Juror no. 152, both white females. Dickey stated both jurors exhibited a "conservative demeanor." The trial court stated, "I don't know how one exhibits a conservative demeanor. . . . I don't know . . . that there's been anything offered to me to display why that conclusion was made by the defense. It just seems like a pretextual reason for strikes." The jury was redrawn, and one juror struck by Dickey in the first jury selection was seated as an alternate on the second panel. However, the alternate was excused before deliberation.

"The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits the striking of a [juror] on the basis of race or gender." *State v. Inman*, 409 S.C. 19, 25, 760 S.E.2d 105, 108 (2014) (alteration in original) (footnote omitted) (quoting *McCrea v. Gheraibeh*, 380 S.C. 183, 186, 669 S.E.2d 333, 334 (2008)). "The trial court's findings regarding purposeful discrimination are accorded great deference and will be set aside on appeal only if clearly erroneous." *State v. Blake*, 442 S.C. 295, 301, 898 S.E.2d 184, 187 (Ct. App. 2024). "Under *Batson*, once a prima facie case of discrimination has been shown by a [party], the [proponent] must provide race-neutral reasons for its peremptory strikes. The trial judge must determine whether the [proponent's] stated reasons were the actual reasons or instead were a pretext for discrimination." *Id.* at 303, 898 S.E.2d at 188 (quoting *Flowers v. Mississippi*, 588 U.S. 284, 298 (2019)). "Under some circumstances, the explanation given by the proponent may be so fundamentally implausible the trial judge may determine the explanation was mere pretext, even without a showing of disparate treatment." *Edwards*, 384 S.C. at 509, 682 S.E.2d at 822.

Here, Dickey's "conservative demeanor" reason was mere pretext. While "[t]he demeanor of a prospective juror is generally a race-neutral reason for employing a peremptory challenge," the reason employed here was not descriptive or clear enough for the trial court to consider it. We agree with the trial court that a "conservative demeanor" is not definable and is not similar to a demeanor that would indicate a reluctance to serve as a juror or a demeanor that would evince a particular disposition towards favoring the State. No other explanation was offered by Dickey. Therefore, the trial court did not err in granting the State's *Batson* motion. *See State v. Cochran*, 369 S.C. 308, 317, 631 S.E.2d 294, 299 (Ct. App. 2006) ("An express finding by the trial court will, unless clearly erroneous, trump counsel's stated perception of a prospective juror's demeanor and disposition.").

Regardless, even if "a trial court improperly grants the State's *Batson* motion, but none of the disputed jurors serve on the jury, any error in improperly quashing the jury is harmless because a defendant is not entitled to the jury of her choice." *Edwards*, 384 S.C. at 509, 682 S.E.2d at 823; *see also State v. Rayfield*, 369 S.C. 106, 112–13, 631 S.E.2d 244, 247–48 (2006) (finding no reversible error even though trial court erred in granting the State's *Batson* motion because second jury contained no juror struck from first panel).⁵ Here, even if the trial court erred in granting the State's *Batson* motion, Dickey cannot demonstrate prejudice because no disputed jurors served on the deliberating jury.

B. Body-Camera Video

Dickey argues the trial court erred in admitting Officer Curtis's body-cam video because it had no probative value and was prejudicial. He argues the video was "incredibly emotional" and unnecessary because other witnesses testified about the scene. We disagree.

The trial court ruled the video was admissible as an excited utterance under Rule 803(2), SCRE. We note that Dickey does not raise this as error, and the video is a textbook example of an excited utterance.⁶ The trial court further found the video

⁵ In *Rayfield*, the court found a "conservative appearance" explanation was gender neutral because there was no evidence a juror was struck because he was a male. There, however, the court looked at the totality of the jurors struck and found there was no pattern of discrimination against men. The court stated "[t]he record does not reveal a pattern of striking male jurors or any other evidence to support a finding that Petitioner's explanation was a pretext. Petitioner struck only one out of ten prospective male jurors." *Id.* at 113, 631 S.E.2d at 248. Here, race was a factor because eleven out of twelve jurors excused from the first jury by the defense were white.

⁶ For a statement to be admitted as an excited utterance exception to the hearsay rule under Rule 803(2), SCRE, the following elements must be met: (1) the statement must relate to a startling event or condition; (2) the statement must have been made while the declarant was under the stress of excitement; and (3) the stress of excitement must be caused by the startling event or condition. *State v. Sims*, 348 S.C. 16, 21, 558 S.E.2d 518, 521 (2002). "The excited utterance exception is based on the rationale that 'the startling event suspends the declarant's process of reflective thought, reducing the likelihood of fabrication.'" *State v. Ladner*, 373 S.C. 103, 116, 644 S.E.2d 684, 691 (2007) (quoting *State v. Dennis*, 337 S.C. 275, 284, 523 S.E.2d 173, 177 (1999)).

was admissible under Rule 403, SCRE, as probative of the orientation of the victims, noting it did not contain any prejudicial commentary from Officer Curtis.

"A trial court's ruling on the admissibility of evidence will not be reversed on appeal absent an abuse of discretion or the commission of legal error that results in prejudice to the defendant." *State v. Cuevas*, 365 S.C. 198, 201, 616 S.E.2d 718, 720 (Ct. App. 2005). "The appellate court should examine the record to determine whether there is any evidence to support the trial court's ruling." *Id.* "If there is any evidence in the record, the appellate court should affirm." *Id.*

"All relevant evidence is admissible." Rule 402, SCRE. Relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Rule 403, SCRE. "If the offered [evidence] serves to corroborate testimony, it is not an abuse of discretion to admit it." *State v. Nance*, 320 S.C. 501, 508, 466 S.E.2d 349, 353 (1996). "The trial court [i]s not required to exclude relevant evidence merely because it [i]s unpleasant or offensive." *Davis v. Traylor*, 340 S.C. 150, 155, 530 S.E.2d 385, 387 (Ct. App. 2000).

Here, the video had high probative value with regards to helping the jury understand the size of Mac's Lounge and the placement of the pool table, deck, stage, and main entrance. The video was also corroborative of witness testimony. *See Nance*, 320 S.C. at 508, 466 S.E.2d at 353 ("If the offered [evidence] serves to corroborate testimony, it is not an abuse of discretion to admit it."). While the video depicted the disturbing aftermath of a violent shooting with multiple victims, this type of scene is not unexpected in the immediate wake of such an event.

"Courts must often grapple with disturbing and unpleasant cases, but that does not justify preventing essential evidence from being considered by the jury, which is charged with the solemn duty of acting as the fact-finder." *State v. Collins*, 409 S.C. 524, 535, 763 S.E.2d 22, 28 (2014). Accordingly, we hold the trial court did not err in admitting the video.

C. Accomplice Liability Jury Instruction

Dickey argues the trial court erred in charging the jury on accomplice liability because there was no evidence that "if Dickey was not the shooter then he was

aiding and abetting another person who was the shooter." Dickey states the instruction was "hopelessly confusing."⁷ We disagree.

⁷ We disagree with Dickey that the instruction was confusing. "A jury charge which is substantially correct and covers the law does not require reversal." *State v. Brandt*, 393 S.C. 526, 549, 713 S.E.2d 591, 603 (2011). The trial court's instruction on accomplice liability follows:

If a crime is committed by two or more people who are acting together in committing a crime the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the common plan or purpose. If two or more people are together acting together, assisting each other in committing the crime, the act of one is the act of all or as it is sometimes said, the hand of one is the hand of all. Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime even if the defendant is present when the crime is committed, is not sufficient to convict the defendant as a principal. Guilt as a principal is shown by actual or constructive possession at the scene and the State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one, is hand of all. A principal in a crime is one who either actually commits the crime or who is present, aiding, abetting, or assisting in the committing of the crime. When a person doesn't act in the presence of and with the assistance of another, the act is done by both where two or more acting in a common plan or intent are present at the commission of a crime, it does not matter who actually commits the crime, all are guilty. The hand of one is the hand of all.

The trial court also instructed the jury on self-defense and defense of others, as requested by Dickey.

"In reviewing jury charges for error, this Court must consider the circuit court's jury charge as a whole in light of the evidence and issues presented at trial." *State v. Taylor*, 434 S.C. 365, 369, 862 S.E.2d 924, 927 (Ct. App. 2021) (quoting *State v. Simmons*, 384 S.C. 145, 178, 682 S.E.2d 19, 36 (Ct. App. 2009)). "An appellate court will not reverse the trial judge's decision regarding a jury charge absent an abuse of discretion." *State v. Marin*, 415 S.C. 475, 482, 783 S.E.2d 808, 812 (2016) (quoting *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010)). "If there is any evidence to support a jury charge, the trial judge should grant the request." *State v. Brown*, 362 S.C. 258, 262, 607 S.E.2d 93, 95 (Ct. App. 2004).

The law of accomplice liability provides . . . that a person may be guilty of a crime even though he did not personally commit the criminal act. . . . [I]n a murder case involving a gunshot, the trial court should charge the law of accomplice liability when there is any evidence (1) the defendant had a mutual plan or agreement with another person to commit the murder, and (2) the other person in the mutual plan or agreement fired the fatal shot.

State v. Johnson, 444 S.C. 442, 449–50, 908 S.E.2d 102, 106 (2024). "Accomplice liability can be proven by circumstantial evidence." *State v. Campbell*, 443 S.C. 182, 193, 904 S.E.2d 441, 446 (2024). "[T]he State need not prove a formal expressed agreement, but rather can prove the same by circumstantial evidence and the conduct of the parties." *Id.* at 193, 904 S.E.2d at 447 (quoting *State v. Gibson*, 390 S.C. 347, 354, 701 S.E.2d 766, 770 (Ct. App. 2010)).

Both Dickey and the State refer to each party's evidentiary inferences in closing argument as reasons the trial court should or should not have instructed the jury on accomplice liability. The State contends Dickey opened the door to the need for the accomplice liability charge because its closing argument "put into the minds of the jurors the very factual dispute that warranted the charge in the first place, and he inadvertently conceded that the 'any evidence' standard had been met." We note that Dickey argued in his closing that "Darius did not start any fight. That beef was between Davijon McCall and DiCaprio Collins. Darius Dickey did not fire the first shot that killed DiCaprio Collins." Dickey further stated in closing argument that "Davijon McCall actually pulled out a gun and shot his friend in front of him."

In concert with the self-defense and defense of others charges, there was evidence to support the trial judge's decision to charge accomplice liability. Dickey arrived

at Mac's Lounge with Collins. Angelena Deason stated, "the shots were meant for her" and identified Dickey as walking by her with a gun immediately before the shooting started. She was standing next to Collins. Officer Curtis stated Dickey and Collins were friends. Zyrig Thomas stated that Collins and McCall were fighting and Dickey began shooting at McCall. Ballistics evidence showed it was possible that McCall's gun shot the bullet fragment recovered from victims Bakhsh, Collins, and Brian Robinson. Therefore, "the hand of one is the hand of all" charge was appropriate in this case, as there was circumstantial evidence that Collins and Dickey were accomplices and that Bakhsh and the other victims were caught in the crossfire between Collins, Dickey, and McCall.

Accordingly, Appellant's convictions and sentences are

AFFIRMED.

WILLIAMS, C.J., and KONDUROS and VINSON, JJ., concur.