

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

RECEIVED
Aug 21 2026
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WILLIAM DAVID GUNN,

APPELLANT

APPELLATE CASE NO. 2024-001358

ANDERS BRIEF OF APPELLANT

SARAH E. SHIPE
Appellate Defender

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

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUE ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
STANDARD OF REVIEW	4
ARGUMENT	
The trial court erred denying appellant's motion for reconsideration of sentence and appellant's motion for new trial	5
CONCLUSION.....	8
PETITION TO BE RELIEVED AS COUNSEL	9

TABLE OF AUTHORITIES

South Carolina Cases

<i>Lorick & Lowrance</i> , 153 S.C. 309, 150 S.E. 789 (1929).....	4, 7
<i>Wertz v. State</i> , 349 S.C. 291, 562 S.E.2d 654 (2002)	6, 7

STATEMENT OF ISSUE ON APPEAL

Did the trial court err denying appellant's motion for reconsideration of sentence and appellant's motion for new trial?

STATEMENT OF THE CASE

On July 17, 2023, appellant was indicted for burglary, first degree, resisting arrest, malicious injury to real property, and possession of burglary tools. R. 330-337. On April 15-16, 2024, appellant's trial was called before the Honorable R. Scott Sprouse and a jury. R. 1-229. Appellant was represented by Catherine Wyse. R. 2. Bethany Blundy prosecuted for the state. R. 2.

The jury convicted appellant of burglary, second degree, malicious injury to real property, resisting arrest, and possession of burglary tools. R. 215, l. 16—216, l. 7. Judge Sprouse sentenced appellant to an aggregate term of seventeen years' imprisonment. R. 228, ll. 1-8.

On July 22, 2024, Judge Sprouse convened a hearing to hear defense motion for reconsideration of the sentence and defense motion for new trial. The transcript of this hearing was combined with the April trial transcript by the court reporter. R. 229-234. Judge Sprouse denied defense motions by written order on August 6, 2024. R. 238-246.

This case is now on appeal before this Court. During undersigned counsel's review of appellant's trial transcript, she found the transcript was incomplete and littered with deficiencies making meaningful appellate review impossible. R. 247-251.

Based on the deficiencies counsel requested and was granted by this Court remand for reconstruction of the record. R. 247-263. On October 9, 2025, a reconstruction hearing was held before the Honorable R. Scott Sprouse. R. 264-328. Along with testimony court's exhibits 1-3 were admitted.¹ At the conclusion of the hearing Judge Sprouse found the record was reconstructed. R. 326, l. 19—327, l. 8.

¹ Court's exhibits 1-3 are on file with this Court.

This brief follows.

STANDARD OF REVIEW

The verdict of a jury should be upheld when it is possible to do so, and carry into effect what was clearly the intention of the jury. *Lorick & Lowrance v. Julius H. Walker & Co.*, 153 S.C. 309, 319, 150 S.E. 789, 792 (1929). When a verdict is so confused, however, that it is not absolutely clear what the jury intended to do, the safest and best course for the court to pursue is to order a new trial. *Id.* Judges and parties should not be required to guess as to what verdict a jury sought to render. *Id.*

ARGUMENT

The trial court erred denying appellant's motion for reconsideration of sentence and appellant's motion for new trial.

Relevant facts

At trial the state presented evidence that appellant was found around two o'clock in the morning in an unoccupied home. R. 106, ll. 8-24. When appellant was searched officers found a crowbar, pliers, chisel, screwdriver, and a pick. R. 111, ll. 4-16; 134, ll. 6-9. Other evidence included two prior burglary convictions. Appellant pled guilty to burglary, second degree violent in 2005 and pled guilty to burglary, second degree non-violent in 2015. R. 56-57.

After the jury was dismissed defense counsel asked the trial court if there was "any clarification on whether it was the violent or the non-violent." Defense counsel went on to state the law that was presented to the jury was for "violent." The court explained that it was violent because of the aggravating circumstances the crime occurred at night. R. 217, l. 8-23. Everyone agreed that the jury was not instructed on burglary, second non-violent. R. 218, ll. 8-14. Defense counsel informed the trial court that "Mr. Gala² had told me that one of the jurors told him it was the non-violent." R. 218, ll. 15-17. The trial court reiterated that burglary, second degree non-violent was not presented to the jury. R. 219, ll. 1-11.

After trial defense counsel filed a written motion for reconsideration on sentencing and a new trial. R. 236. In the motion defense counsel requests a hearing for the court to reconsider sentencing or in the alternative a new trial. R. 236. Counsel argued the verdict was ambiguous regarding the conviction being burglary, second violent or burglary, second non-violent. R. 237.

² Although there was a reconstruction hearing, the trial transcript contains numerous deficiencies and this portion before sentencing is littered with errors. From defense counsel's written motion we can see that "Mr. Gala" is deputy public defender John Abdallah. R. 236.

On July 22, 2024, a short hearing on defense motion was held before Judge Sprouse. R. 229-234. Defense counsel analogized this case to *Wertz v. State*,³ which was reversed where the jury's verdict was not clear as to the degree of the defendant's burglary conviction. R. 232, ll. 1-22. The court took the argument under advisement.

On August 6, 2024, the court issued a written order denying both defense motions. The court first discussed the jury charge finding it would have been improper to charge burglary, second degree non-violent because the evidence in the record "undisputedly showed at least one aggravator for first-degree burglary and second-degree burglary 'violent' was met and overwhelming evidence supported finding another aggravator was met." The court found the overwhelming evidence supports two aggravators for burglary, second degree were met and further the evidence coupled with the failure of counsel to request the jury be instructed on burglary, second degree non-violent and burglary, third degree merits the denial of both motions. R. 238-246.

Discussion

In *Wertz v. State*, 349 S.C. 291, 562 S.E.2d 654 (2002), our Supreme Court stated:

A verdict should be certain and import a definite meaning free from ambiguity.

If a party believes there is confusion in the wording of a jury's verdict, that party should call it to the attention of the trial court at the time the verdict is rendered so that any confusion in the verdict's language can be easily cleared up. It is the duty of the trial judge to decide what the verdict meant, and, in reaching his conclusion thereabout, it [is] his duty to take into consideration not only the language of the verdict, but all the matters that occurred in the course of the trial....

A verdict of a jury should be upheld when it is possible to do so, and carry into effect what was clearly the intention of the jury. When a verdict is so confused, however, that it is not absolutely clear what the jury intended to do, the safest and best course for the

³ 349 S.C. 291, 562 S.E.2d 654 (2002).

court to pursue is to order a new trial. Judges and parties should not be required to guess as to what verdict a jury sought to render.

Id. at 296, 562 S.E.2d at 657 (citations and quotation marks omitted) (emphasis added). In that case, the Court found counsel was deficient for failing to get clarification regarding which degree of burglary the jury was finding Wertz was guilty. *Id.* at 297, 562 S.E.2d at 658. The Court found counsel should have called it to the court's attention and further found there was a reasonable probability but for this error the result of trial would have been different. *Id.*

Appellant's entire defense at trial was that this was burglary, second degree and was not burglary, first degree. The jury returned a verdict of burglary, second degree not indicating violent or non-violent. Defense counsel argued prior to sentencing that the jury verdict was unclear. Additionally, Mr. Abdallah made a statement to the court that supported counsel's argument. Abdallah stated that he spoke to the jury after it was released and was told that their verdict was "non-violent." The trial court erred by refusing to grant appellant's motion where the verdict of general burglary, second degree was not clear as to whether it was violent or non-violent. *See Lorick & Lowrance*, 153 S.C. 309, 150 S.E. 789, 793 (1929) (when verdict is so confused, safest and best course for court is to order new trial).

CONCLUSION

Based on the foregoing argument, appellant respectfully requests this Court reverse the trial court's order and remand his case for a new trial.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of August, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for William David Gunn states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge R. Scott Sprouse, which was held on April 15-16, 2024; July 22, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, she asks the Court to relieve her as counsel for William David Gunn.

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments
- (2) Sentence Sheets
- (3) Trial Transcript dated April 15-16, 2024
- (4) Hearing Transcript dated July 22, 2024
- (5) Hearing Transcript dated October 9, 2025
- (6) Court's Exhibit's 1 (Solicitor Blundy's Trial Notes) (to be transported)
- (7) Court's Exhibit 2 (Judge Sprouse's Trial Notes) (to be transported)
- (8) Court's Exhibit 3 (Law Clerk's Trial Notes) (to be transported)

I certify that this designation contains no matter which is irrelevant to this appeal.


Sarah E. Shipe
Appellate Defender

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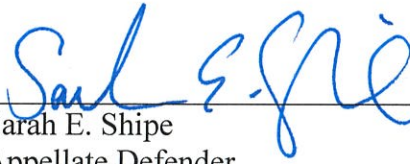
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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on William David Gunn, #308373, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 21st day of August, 2026.


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