RECEIVED
Aug 24 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable R. Kirk Griffin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CAMRIN JAY SMITH,

APPELLANT

APPELLATE CASE NO. 2025-001288

INITIAL REPLY BRIEF OF APPELLANT

LARA M. CAUDY
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 APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

ARGUMENT IN REPLY

The trial court erred by failing to instruct the jury on the lesser included offense of involuntary manslaughter when the evidence presented supported a rational interference that Appellant was only guilty of this lesser offense. 1

CONCLUSION 5

TABLE OF AUTHORITIES

Cases

Douglas v. State, 332 S.C. 67, 504 S.E.2d 307 (1998) 4

In re Spencer R., 387 S.C. 517, 692 S.E.2d 569 (Ct. App. 2010) 2, 3

State v. Cabrera-Pena, 361 S.C. 372, 605 S.E.2d 522 (2004) 1, 3

State v. Gibson, 390 S.C. 347, 701 S.E.2d 766 (Ct. App. 2010) 4

State v. Reese, 370 S.C. 31, 633 S.E.2d 898 (2006) 1, 3

State v. Sams, 410 S.C. 303, 764 S.E.2d 511 (2014) 1

State v. Shank, 447 S.C. 564, 929 S.E.2d 403 (2026) 1

State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996) 1

Statutes

S.C. Code Ann. § 16-3-60 1

S.C. Code Ann. § 16-23-410 ..... 2, 3, 4

ARGUMENT IN REPLY

The trial court erred by failing to instruct the jury on the lesser included offense of involuntary manslaughter when the evidence presented supported a rational interference that Appellant was only guilty of this lesser offense.

The state relied heavily on our Supreme Court's recent opinion in State v. Shank, 447 S.C. 564, 929 S.E.2d 403 (2026), where the Court held that the trial court did not err by refusing to instruct the jury on the lesser included offense of third degree assault and battery, when Shank was tried for assault and battery of a high and aggravated nature, because no evidence supported a rational inference that Shank only committed the lesser offense. The state argued "Appellant can point to no evidence supporting an inference that he is only guilty of the lesser included offense of involuntary manslaughter rather than murder." Brief of Respondent at 17. However, unlike the state argued, the evidence, in the light most favorable to Appellant, supported a jury instruction on involuntary manslaughter. See Shank, 447 S.C. at 569, 929 S.E.2d at 406 (citing State v. Sams, 410 S.C. 303, 308, 764 S.E.2d 511, 513 (2014)) ("In determining whether the evidence requires a charge on a lesser included offense, [this] Court must view the facts in the light most favorable to the defendant.").

"Involuntary manslaughter is the killing of another without malice and unintentionally while engaged in either: (1) an unlawful act not amounting to a felony and not naturally tending to cause death or great bodily harm; or (2) a lawful act with reckless disregard for the safety of others." State v. Reese, 370 S.C. 31, 36, 633 S.E.2d 898, 900 (2006) (citing State v. Cabrera-Pena, 361 S.C. 372, 605 S.E.2d 522 and State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996)); See also S.C. Code Ann. § 16-3-60 (stating a person charged with involuntary manslaughter may

be convicted only upon a showing of criminal negligence "defined as the reckless disregard of the safety of others").

The evidence presented at trial supports a rational inference that Appellant committed *only* the lesser offense of involuntary manslaughter. The evidence demonstrated that Appellant killed Grace without malice and unintentionally while engaged in a lawful act with reckless disregard for the safety of others. As argued extensively in the Brief of Appellant, Appellant was not acting unlawfully because his actions did not constitute pointing or presenting a firearm pursuant to S.C. Code Ann. § 16-23-410, which Appellant will address further below. Moreover, the evidence established that the killing was without malice and unintentional. Appellant did not intend to harm Grace or the unborn baby. Appellant's act of discharging the firearm was also unintentional because Appellant mistakenly believed the firearm was unloaded. One cannot intend to fire a gun he believes is unloaded. However, Appellant acted "with a reckless disregard for the safety of others" because he did not confirm the firearm was unloaded before pointing it at Grace and pulling the trigger.

Respectfully, the state's focus on whether the language of the pointing and presenting statute is disjunctive or conjunctive is a red herring, merely used to distract this Court from the underlying merits of the legal argument Appellant raised. The state claimed Appellant "turns the statute on its face by phrasing or discussing it in conjunctive terms—i.e. that Appellant must have pointed *and* presented the firearm at Grace in order for him to be culpable under the statute." Brief of Respondent at 18-19 (emphasis in original) (citing Brief of Appellant at 10-11). No where did Appellant argue that the state was required to prove Appellant both pointed *and* presented a firearm. Rather, Appellant's argument relied on this Court's opinion in In re Spencer R., 387 S.C. 517, 520, 692 S.E.2d 569, 571 (Ct. App. 2010), where this Court held,

based on our Supreme Court's discussions in State v. Reese, 370 S.C. 31, 36, 633 S.E.2d 898, 900 (2006) and State v. Cabrera-Pena, 361 S.C. 372, 605 S.E.2d 522 (2004), that the phrase "to present" in § 16-23-410 means "to offer to view in a threatening manner, or to show in a threatening manner." Id. at 521-23, 692 S.E.2d at 572. Based on this Court's holding In re Spencer R., Appellant argued he was not pointing or presenting a firearm pursuant to § 16-23-410 because the evidence presented at trial established that Appellant did not point, aim, display, show, or present (or whatever verb the state chooses to use) the firearm at Grace "in a threatening manner." Rather, Appellant pointed the gun at Grace to make her "happy" based on the ongoing joke the two shared. See Tr. 463, ll. 14-17. Appellant maintained that Grace was sexually "turned on by it" and "wanted" Appellant to engage in such conduct. Tr. 461, ll. 9-19.

In a footnote, the state further maintained that "Appellant appears to abandon the argument made at trial that the statute has a 'threatening manner requirement' for both presenting and/or pointing a firearm." Brief of Respondent at 19 n. 6 (citing Tr. 491-492). However, this assertion is respectfully, but clearly, wrong. The thrust of Appellant's argument on appeal was that there was evidence to support the lesser included offense of involuntary manslaughter because Appellant was not pointing or presenting a firearm, thereby acting unlawfully, because he did not point and present the firearm at Grace in a threatening manner. Appellant very clearly raised the argument asserted at trial on appeal and included supporting case law. See Brief of Appellant at 9-12; See specifically Brief of Appellant at 11 ("Based on this Court's holding in In re Spencer R., Appellant was not pointing and presenting a firearm as the state argued at trial and as the trial court found. Appellant testified that he did not point and present the firearm at Grace to threaten her. Rather, he did it to make her "happy" based on the ongoing joke the two shared.

Tr. 463, ll. 14-17. Appellant maintained that Grace was sexually "turned on by it" and "wanted" Appellant to engage in such conduct. Tr. 461, ll. 9-19.").

Rather than address the merits of Appellant's underlying claim that there was no evidence Appellant pointed or presented a firearm pursuant to § 16-23-410 because he did not do so in a threatening manner, the state distracts this Court with its arguments that Appellant "conflated disjunctives" and abandoned the argument on appeal. Significantly, the state never disputed that Appellant did not act in a threatening manner when he pointed the gun at Grace and therefore was not pointing or presenting a firearm pursuant to § 16-23-410, or acting unlawfully.

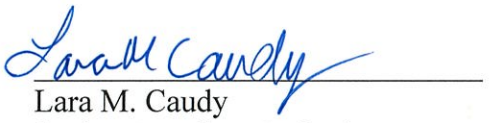
Because there was evidence that Appellant was acting lawfully, but with reckless disregard for the safety of others, and unintentionally fired the gun, he was entitled to a jury instruction on involuntary manslaughter. See Douglas v. State, 332 S.C. 67, 74, 504 S.E.2d 307, 310 (1998) (stating "involuntary manslaughter is at its core an unintentional killing"); State v. Gibson, 390 S.C. 347, 357, 701 S.E.2d 766, 771 (Ct. App. 2010) (stating "the essence of involuntary manslaughter is the involuntary nature of the killing").

Respectfully, this Court should hold the trial court erred by refusing to instruct the jury on involuntary manslaughter when there was evidence to support the charge, reverse Appellant's convictions, and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his convictions and remand for a new trial.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of August, 2026.