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Aug 26 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Jessica A Salvini, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM DAVID BOONE,

APPELLANT

APPELLATE CASE NO. 2025-002170

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

KERSEY A. REYNOLDS
Appellate Defender

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

ATTORNEYS 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	3
ARGUMENT	
The trial court erred in denying Appellant's request to charge the jury on second-degree burglary as a lesser-included offense of first-degree burglary when evidence before the jury supported a finding against the aggravating factors required to establish first-degree burglary.....	4
CONCLUSION.....	8
PETITION TO BE RELIEVED AS COUNSEL	9

TABLE OF AUTHORITIES

South Carolina Cases

<u>Dempsey v. State</u> , 363 S.C. 365, 610 S.E.2d 812 (2005).....	6
<u>Smalls v. State</u> , 422 S.C. 174, 810 S.E.2d 836 (2018)	6
<u>State v. Cottrell</u> , 421 S.C. 622, 809 S.E.2d 423 (2017).....	3
<u>State v. Cutro</u> , 365 S.C. 366, 618 S.E.2d 890 (2005)	3
<u>State v. Johnson</u> , 334 S.C. 78, 512 S.E.2d 795 (1999)	3
<u>State v. Simmons</u> , 384 S.C. 145, 682 S.E.2d 19 (Ct. App. 2009).....	6
<u>State v. White</u> , 361 S.C. 407, 605 S.E.2d 540 (2014).....	3, 6, 7

Other Authorities

S.C. Code Ann. § 16-11-311(A)(1).....	6
S.C. Code Ann. § 16-11-312(A) (2015)	6

STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying Appellant's request to charge the jury on second-degree burglary as a lesser-included offense of first-degree burglary when evidence before the jury supported a finding against the aggravating factors required to establish first-degree burglary?

STATEMENT OF THE CASE

In November of 2024, a Lexington County grand jury indicted Appellant on counts of first-degree burglary, first-degree domestic violence (DV), and obstruction of justice. R. 380-385. His case was called to trial on October 13-15, 2024, before the Honorable Jessica Salvini and a jury. R. 1. On October 15, 2024, the jury convicted Appellant as indicted. R. 363. Judge Salvini sentenced Appellant to concurrent terms of fifteen years' imprisonment for burglary, ten years' imprisonment for obstruction of justice, and five years' imprisonment for DV. R. 376.

This appeal follows.

STANDARD OF REVIEW

"An appellate court will not reverse a circuit court's decision regarding a jury instruction unless there is an abuse of discretion." State v. Cottrell, 421 S.C. 622, 643, 809 S.E.2d 423, 435 (2017). "The standard for submission of charges to the jury is 'any substantial evidence.'" State v. Cutro, 365 S.C. 366, 375, 618 S.E.2d 890, 894 (2005) (quoting State v. Johnson, 334 S.C. 78, 84, 512 S.E.2d 795, 798 (1999); see also State v. White, 361 S.C. 407, 412, 605 S.E.2d 540, 542 (2014) ("A trial judge must charge a lesser included offense if there is any evidence from which the jury could infer the defendant committed the lesser rather than the greater offense.").

ARGUMENT

The trial court erred in denying Appellant's request to charge the jury on second-degree burglary as a lesser-included offense of first-degree burglary when evidence before the jury supported a finding against the aggravating factors required to establish first-degree burglary.

Factual Background

Appellant and Complainant were "companions[]" and had lived together at a property in Gaston. R. 215-216. The charges against Appellant stemmed from a series of events at the Gaston property during the early hours of September 26, 2024. That morning, Complainant made two 911 calls from the property: one at 1:45 a.m. reporting "harassment and threats," and one at 2:51 a.m. reporting a "domestic problem." R. 121, 124, 129. The parties stipulated that at the time of the alleged offenses, Appellant was out on bond for a separate charge of domestic violence of a high and aggravated nature (DVHAN) involving Complainant, with a no-contact order issued as a bond condition. R. 75.

Neither Appellant nor Complainant testified at trial; however, Complainant's second 911 call was published to the jury. R. 133, 206. Officer William Harris, of the Lexington County Sheriff's Department, testified that he responded to both 911 calls. R. 178-179. Upon Officer Harris's first response, Complainant was the only person present at the property. Upon his second response, both Complainant and her friend William Spires were present. R. 203. Officer Harris noted Complainant had a bruise on her right arm and a knot on her left wrist. Inside the residence, Officer Harris observed "things were kind of in disarray;" he noticed a pipe on the bedroom floor but did not collect it because he "didn't know whether it was used." R. 178, 180, 187, 202-203. Harris also indicated he was uncertain whether Complainant's bruise was the

result of physical violence. R. 210. The jury viewed still images from Officer Harris's body-worn camera footage depicting the scene at the time of his second response. R. 187, 193, 196, 198.

Spires testified that earlier during the night in question, Complainant invited him to the Gaston property. R. 140. They arrived there together between 9:00 p.m. and 10:00 p.m. and entered the bedroom. R. 140-141, 159. Spires stated that within minutes, he heard Appellant approaching outside, so he hid in a bathroom because he "knew [Appellant] was gonna get violent." R. 142, 147. From the bathroom, Spires saw Appellant enter the bedroom "raising Cain with a pipe." R. 142. According to Spires, Appellant hit Complainant with the pipe, so Spires emerged from the bathroom and hit Appellant with a baseball bat. R. 145-46. Spires testified Complainant called 911 while he continued fighting Appellant until Appellant ran to avoid the police. R. 146, 149. The jury heard that Spires was previously convicted of DV, providing false information, and a drug offense. R. 150.

During the last portion of its case-in-chief, the State published recorded phone calls Appellant made while in pretrial detention. R. 273-277, 280-284. An investigator explained that the calls demonstrated "continu[ed] . . . obstruction of justice." R.278-79, 284-85.

Before a break in proceedings, Appellant requested a lesser-included charge of second-degree burglary, arguing evidence supported a finding against the aggravating factors required to establish first-degree burglary. R. 207. The trial court initially granted a charge on the "entire burglary statute" upon finding it was for the jury to determine whether the necessary aggravating factors were present. R. 310-311. However, when proceedings resumed, the trial court found a second-degree burglary charge was inapplicable and denied the charge. R. 313. After closing arguments, the trial court charged the jury on first-degree DV, first-degree

burglary, and obstruction. R. 347-354. During deliberations, upon a jury request, the trial court charged the jury on both first-degree DV and first-degree burglary for a second time. R. 357-358. Afterwards, the jury convicted Appellant as indicted. R. 363. The trial court then sentenced Appellant to an aggregate fifteen years' imprisonment. R. 376. This appeal followed.

Discussion

The trial court erred in denying Appellant's request to charge the jury on second-degree burglary as a lesser-included offense. "A judge must charge the jury on material issues raised by the evidence." Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 180-81, 810 S.E.2d 836, 839 (2018). "A trial judge must charge a lesser included offense if there is any evidence from which the jury could infer the defendant committed the lesser rather than the greater offense." White, 361 S.C. at 412, 605 S.E.2d at 542 (2014).

Second-degree burglary may be proven by evidence showing that a person "enter[ed] a dwelling without consent and with intent to commit a crime therein." S.C. Code Ann. § 16-11-312(A) (2015). First-degree burglary requires those same elements in addition to at least one of the aggravating circumstances enumerated in section 16-11-311(A)(1) of the South Carolina Code (2015). See § 16-11-311(A)(1) (setting forth aggravating circumstances including that the defendant "is armed with a deadly weapon," "causes physical injury to a person who is not a participant in the crime," and "uses or threatens the use of a dangerous instrument").

In light of the evidence and issues presented at trial, it was for the jury to determine whether second-degree burglary was precluded by any aggravating circumstance. See State v. Simmons, 384 S.C. 145, 178, 682 S.E.2d 19, 36 (Ct. App. 2009) ("In reviewing jury charges for error, [the appellate court] must consider the circuit court's jury charge as a whole in light of the evidence

and issues presented at trial."). The State presented no physical evidence confirming Appellant was present at the Gaston property on the night of the 911 calls. Spires' credibility was severely damaged by evidence of his prior convictions, and his testimony regarding the timeline of events involved in the offense departed from law enforcement testimony and records by several hours.

Notably, Officer Harris indicated he was not informed at the scene that Victim was hit with a pipe. Officer Harris also indicated that when he initially responded to the scene, he found Complainant alone and unhurt; however, when he returned to find Complainant apparently injured, Spires was the only other person present. Therefore, evidence before the jury supported an inference that Appellant did not injure or threaten Complainant, or arm himself at the scene. Compare § 16-11-312(A) with § 16-11-311(A)(1) (indicating lesser-included second-degree burglary may be found absent findings of armed entry, threats, or physical injury). Accordingly, the trial court was obligated to grant Appellant's request for a jury charge on the lesser-included offense of second-degree burglary. See White, 361 S.C. at 412, 605 S.E.2d at 542 (stating "any evidence from which the jury could infer the defendant committed the lesser rather than the greater offense" warrants a charge on the lesser-included offense).

CONCLUSION

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



David Alexander
Deputy Chief Attorney for Capital Appeals

Kersey A. Reynolds
Appellate Defender

This 26th day of August, 2026.

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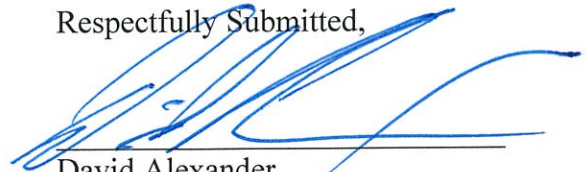
PETITION TO BE RELIEVED AS COUNSEL

Counsel for William David Boone states:

1. He is Deputy Chief Attorney For Capital Appeals for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Jessica A Salvini, which was held on Oct. 13-15, 2025, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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, he asks the Court to relieve him as counsel for William David Boone.

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

Kersey A. Reynolds
Appellate Defender

This 26th day of August, 2026.

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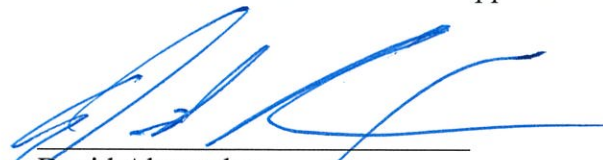
APPELLATE CASE NO. 2025-002170

**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 October 13-15, 2024

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



David Alexander
Deputy Chief Attorney For Capital Appeals

Kersey A. Reynolds
Appellate Defender

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Division of Appellate Defense
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This 26th day of August, 2026.

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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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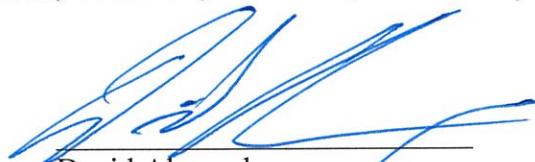
WILLIAM DAVID BOONE,

APPELLANT

APPELLATE CASE NO. 2025-002170

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 Boone, #270459, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 26th day of August, 2026.



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Deputy Chief Attorney For Capital Appeals

Kersey A. Reynolds
Appellate Defender

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