

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

The State, Respondent,

v.

Jamira U. Davis, Appellant.

Appellate Case No. 2023-001215

Appeal From Richland County
Daniel Coble, Circuit Court Judge

Opinion No. 6163
Heard March 3, 2026 – Filed September 9, 2026

REVERSED AND REMANDED

Appellate Defenders Molly M. Keegan and Joanna
Katherine Delany, both 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 Richard Brandon Larrabee, and
Solicitor Byron E. Gipson, all of Columbia, for
Respondent.

VINSON, J.: Jamira Davis appeals her conviction for murder and sentence of thirty-five years' imprisonment, arguing the trial court erred by denying her motion

for a mistrial after she presented evidence that a juror had discussed the case and deliberations with a third party. We reverse and remand for a new trial.¹

FACTS AND PROCEDURAL HISTORY

This appeal arises from Davis's 2023 conviction for murder after she shot and killed Brandon "Boleg" Boden. In the early morning hours of January 22, 2021, the City of Columbia Fire Department responded to a house fire in Hopkins. Sean Carlton Cason, a firefighter who responded to the scene, determined it was "100 percent involved," meaning the fire was in every room and there was no perceived survivability. After the fire was extinguished, firefighters discovered Boden's body in what had been the kitchen.

An autopsy revealed Boden had died from multiple gunshot wounds and was deceased when the fire began. Tests indicated Boden's blood-alcohol level was around 0.24, and he tested positive for a cocaine metabolite and an active ingredient in marijuana.

On February 1, investigators interviewed Davis. Davis had exchanged some of the last known communications with Boden. She had deleted seven phone calls and eleven text messages from her phone in the time surrounding Boden's death.² During the interview, Davis recounted instances of domestic violence between Boden and her mother, who were in an intermittent relationship. Davis said she viewed Boden as a father figure.

Davis initially told investigators at least four different versions of the story: (1) that she had not gone to Boden's home the night of the shooting; (2) that she had gone with her girlfriend; (3) that she had gone with a friend; and (4) that she had gone

¹ Davis also raised the following issues on appeal: (1) whether the trial court erred by failing to grant a directed verdict of acquittal because the State failed to produce sufficient evidence disproving the elements of self-defense; and (2) whether the trial court erred by coercing the jury during deliberations by issuing an *Allen v. United States*, 164 U.S. 492 (1896), charge twice. Because we reverse and remand on the juror misconduct issue, we decline to address Davis's remaining issues on appeal. See *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding "appellate court[s] need not address remaining issues when disposition of prior issue is dispositive").

² Davis later testified she deleted the communications because she was scared and was "trying to remove [herself] from the situation."

by herself. However, after Investigator Brian Godfrey entered the room approximately two hours and fifty-two minutes after the interview began, Davis confessed to the shooting and explained she killed Boden in self-defense after he sexually assaulted her. Throughout the interview but before Investigator Godfrey entered the room, other investigators had asked Davis if there had been any sexual assault, but she did not say yes until Investigator Godfrey entered.

Davis also stated she left the gun at Boden's house, but it was not found by investigators. However, the week before trial, one of Davis's attorneys contacted the investigators and said she had a gun that was relevant to the investigation. The investigators then retrieved the gun. Davis testified during trial that she had thrown it in a lake after initially attempting to sell it on Instagram.

Davis testified in her own defense. She stated that on the day before Boden's death, she had attended the funeral of her girlfriend's grandparent. After the funeral, Davis went to Boden's house to smoke marijuana because he would often give her marijuana for free. Initially, Davis was sitting on Boden's couch in his living room, while he sat a few seats away. The two smoked marijuana, and Davis testified Boden put his hand in his pants. Davis's girlfriend called her asking where she was, so Davis told Boden she was about to leave. Boden then moved to the couch and sexually assaulted her by placing his hands between her legs. Davis got up to leave, but Boden then grabbed her from behind and said, "Let me talk to you. Let me talk to you." Davis fell on or near a large ottoman in the room, grabbed a gun resting on the ottoman, and put it under her arm and shot Boden while he was still on top of her. Davis was afraid Boden was going to rape her. After she fired the shots, Davis no longer felt Boden on top of her and left. Davis lied to investigators previously because she was trying to "remove [herself] from the whole situation." She told Investigator Godfrey the truth because she felt comfortable with him and that he understood her.

The jury began deliberations on a Friday. On the following Monday, Davis told the court that another attorney not affiliated with the case, Ashley Berry, had overheard a conversation at a public pool concerning the deliberations over the weekend. Davis stated the man speaking at the pool appeared to have gotten his information from Juror No. 285. Davis argued this was clear evidence that Juror No. 285 had violated her oath. Davis renewed her motion for a mistrial. The trial court denied the motion, stating that, based on the information presented to it, it did not believe the juror's actions violated her oath.

After a recess, the court heard the testimony of Ashley Berry outside the presence of the jury. Berry testified that she had overheard two men talking at the Woodlands Golf and Country Club. Berry said she heard one of the men say "jury" and "trial," and so she began listening more intently. She explained,

And then I've overheard [the] gentleman say, "Well, she said that she can't talk about the case. But I know -- but the defendant is 20." And then did not hear the rest of that. And then a little bit later, I heard him say, "Well, she can't -- she told me that she can't discuss the facts of the case." And then, I didn't hear something. And then he said, "The victim was shot." And then, I didn't hear the rest of it.

Then he said, "She's really upset about it. Because it's a fairly straightforward case. But there are two people that just will not be reasonable. And they've told the rest of the jury that no matter what the discussions are, they're not going to change their opinion." Then there was some -- some more. And the two of them were talking about how it was 10 to 2. And I kept hearing them say 10 to 2 over and over again.

And then the gentleman said one of the holdouts was a cop. And then he corrected himself and said, "Well, not, she's not actually a cop, but a correctional officer or something or," and then, I didn't hear the rest of what he said about that.

Berry then said she thought she heard one of the men mention the woman's name and say she was his wife, but that she might have misheard that part of the conversation. The trial court later stated that it would deny the motion for a mistrial because it "believe[d] it does not rise to that level."

The jury found Davis guilty of murder. Davis renewed all mistrial motions and objected to the court not questioning Juror No. 285. The court denied all the motions. The court sentenced Davis to thirty-five years' imprisonment. This appeal followed.

ISSUE ON APPEAL

Did the trial court err by failing to question Juror No. 285 after evidence was introduced to show Juror No. 285 spoke with non-jurors about the case and deliberations?

STANDARD OF REVIEW

"A denial of a new trial based on alleged jury misconduct is reviewed for an abuse of discretion." *Hassell v. City of Columbia*, 430 S.C. 620, 626, 846 S.E.2d 373, 376 (Ct. App. 2020) (quoting *State v. Galbreath*, 359 S.C. 398, 402, 597 S.E.2d 845, 847 (Ct. App. 2004)). An abuse of discretion occurs when the trial court's decision is unsupported by the evidence or controlled by an error of law. *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012).

LAW AND ANALYSIS

Davis argues the trial court erred by failing to remove or question Juror No. 285 after evidence was produced that Juror No. 285 had discussed the case outside of deliberations. Davis asserts the trial court should have questioned Juror No. 285 about any discussions she may have had outside of deliberations, instead of only relying upon Berry's testimony. Davis avers that once Berry provided her testimony, it was presumptively prejudicial against Davis under *Remmer v. United States*.³ Because the State did not rebut this presumption and Juror No. 285 was never questioned, Davis argues her conviction should be reversed and her case be

³ 347 U.S. 227, 229 (1954) ("In a criminal case, any private communication, contact, or tampering directly or indirectly, with a juror during a trial about the matter pending before the jury is . . . deemed presumptively prejudicial The presumption is not conclusive, but the burden rests heavily upon the Government to establish . . . that such contact with the juror was harmless to the defendant."); *see also State v. Green*, 427 S.C. 223, 236, 830 S.E.2d 711, 717 (Ct. App. 2019) ("When there is evidence of a substantive communication by a third party with a juror, the *Remmer* presumption applies, shifting the burden to the State to prove there is no reasonable possibility the improper communication influenced the verdict."), *aff'd as modified*, 432 S.C. 97, 99, 851 S.E.2d 440, 440 (2020); *State v. Murdaugh*, 448 S.C. 1, 16, 931 S.E.2d 294, 301 (2026) ("*Remmer* established a separate, but related requirement that a defendant be entitled to a hearing when the defendant presents a credible allegation of communications or contact between a third party and a juror concerning the matter pending before the jury." (quoting *Barnes v. Joyner*, 751 F.3d 229, 243 (4th Cir. 2014))).

remanded for a new trial. We agree the trial court erred by failing to question Juror No. 285.

"Our federal and state constitutions guarantee a criminal defendant the right to a trial by an impartial jury." *Green*, 427 S.C. at 235, 830 S.E.2d at 716 (first citing U.S. Const. amend. VI; and then citing S.C. Const. art. I, §§ 3, 14). "[I]n criminal cases, 'the right of trial by jury shall be preserved inviolate.'" *State v. Hurd*, 325 S.C. 384, 389, 480 S.E.2d 94, 97 (Ct. App. 1996) (quoting S.C. Const. art. I, § 14)).

The trial court erred when it failed to question Juror No. 285. *See id.* (holding "it is incumbent upon the trial court to conduct a probing a tactful inquiry to determine whether a sworn juror is unqualified" (quoting *People v. Valerio*, 529 N.Y.S.2d 350, 351 (N.Y. App. Div. 1988))). It is uncontroverted that Juror No. 285 had a conversation about the trial and deliberations with a third party, but the testimony presented to the trial court did not indicate precisely what information the juror conveyed to the third party about the deliberations or whether the third party made any statements to the juror in response. Although Berry's testimony was not sufficient on its own to warrant a mistrial, we find the trial court was unable to make an informed decision as to whether a *Remmer* hearing was necessary or whether Juror No. 285 had violated her oath and whether such misconduct prejudiced Davis because the trial court did not question Juror No. 285 regarding the alleged misconduct. *See id.* at 390, 480 S.E.2d at 97 (holding "[i]t is the duty of the trial judge to assure himself that each and every prospective juror is unbiased, fair, and impartial" (alteration in original) (quoting *State v. Holland*, 261 S.C. 488, 495, 201 S.E.2d 118, 122 (1973))). Because the trial court did not question the juror, the trial court could not have determined whether the alleged misconduct went to "the heart of the merits of the case." *See Green*, 432 S.C. at 100, 851 S.E.2d at 441 (joining "the court of appeals in commending the trial court for its 'deft handling of the issue'" when it "questioned each juror and bailiff, which proved 'there was no reasonable possibility the [bailiff's] comments influenced the verdict'" (alteration in original) (quoting *Green*, 427 S.C. at 236, 830 S.E.2d at 717))). Therefore, we hold the trial court abused its discretion when it failed to question Juror No. 285 about any communications the juror had with any third party regarding deliberations. *See Black*, 400 S.C. at 16, 732 S.E.2d at 884 (holding an abuse of discretion occurs when the trial court's decision is controlled by an error of law). Accordingly, we reverse Davis's conviction and remand for a new trial.

CONCLUSION

We reverse and remand for a new trial based upon the trial court's failure to question the juror regarding the alleged juror misconduct.

REVERSED AND REMANDED.

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