

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

Melissa M. Frazier, Family Court Judge
Benjamin H. Culbertson, Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2025-000749

THE STATE,

Respondent,

v.

JERELLE HICKSON,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Appellant's Issue Statement

- I. "Whether the Family Court erred by transferring jurisdiction of Appellant's charges to the General Sessions court where the greater weight of the *Kent* factors and the pre-waiver evaluation favored keeping Appellant's case in juvenile court?" (Int. App. Br. 1).
- II. "Whether the trial court erred in charging 'the hand of one is the hand of all' where the evidence in the case did not support the charge?" (Int. App. Br. 1).
- III. "Whether the trial court erred in providing a vague response to a jury question that asked about the necessity of applying the "hand of one is the hand of all" during deliberations?" (Int. App. Br. 1).

STATEMENT OF THE CASE

On March 21, 2023, Appellant appeared before the Honorable Melissa M. Frazier in Horry County Family Court concerning a juvenile transfer hearing on juvenile petitions for murder, two counts of attempted murder, and assault and battery of a high and aggravated nature (ABHAN). (I Tr. 4).

At the juvenile transfer hearing, Christopher White, a detective with Myrtle Beach Police Department, testified that Appellant was involved in a shooting that took place during the early morning hours of April 24, 2022. (I Tr. 6-12). He stated that the individuals shot were not involved in any dispute with Appellant, his co-defendant, or others present. (I Tr. 8). White believed the intended victims were other individuals who knew someone in Appellant's group. (I Tr. 9). During law enforcement's investigation, they identified vehicles associated with the shooting and identified suspects from there. (I Tr. 11). White stated that those suspects gave consistent versions of events and readily identified other individuals involved in the events but all reluctantly identified Appellant after initially not being forthcoming about his involvement. (I Tr. 11-26). White testified a Ring camera video from the condo Appellant was staying in showed Appellant returning to the condo after the incident carrying a gun and a bottle of liquor. (I Tr. 28). White confirmed Appellant displayed demeanor similar to many adults he had interviewed. (I Tr. 36).

Miracle Griffith, a county director for Horry County Department of Juvenile Justice, testified that the family court had previously ordered a competency evaluation for Appellant, which did not raise concerns about Appellant's competency to stand trial. (I Tr. 37). After the family court found Appellant competent to stand trial, the waiver process to transfer Appellant's juvenile petitions to general sessions began. (I Tr. 38). Griffith was not aware of anyone contacting the competency evaluators after Appellant's waiver evaluation came back with an IQ of 54. (I Tr. 38).

However, the State contacted the competency evaluator, who provided an addendum discussing why IQ is not a realistic indication of intellectual abilities. (I Tr. 38-39). Griffith confirmed that the addendum included Appellant's school records and his individual education plan, which did not indicate anyone had concerns regarding Appellant's intellectual abilities. (I Tr. 39).

Griffith confirmed Appellant told the waiver evaluator that he had lived with his father, where he had no rules, for two years preceding the incident. (I Tr. 39). She also confirmed that Appellant's mother stated Appellant split time between her house and Appellant's father's house in contradiction to Appellant's statement. (I Tr. 39). The evaluator did not follow up on this. (I Tr. 39). Griffith confirmed the waiver evaluation process had been delayed because of multiple appointments cancelled by Appellant's mother and the inability to reach Appellant's father. (I Tr. 40). Griffith stated the waiver evaluation was based on nothing more than Appellant's version of events and his mother's version of her home life with Appellant. (I Tr. 40). She agreed that Appellant's mother's story might be missing information if Appellant had not lived with her in two years. (I Tr. 40).

Griffith confirmed that during the waiver evaluation, both Appellant and his mother stated he was enrolled in school until he was detained. (I Tr. 43). However, his school records indicate that he was last enrolled in school approximately five months before the incident and last attended school more than six months before the incident. (I Tr. 43). Griffith stated the waiver evaluator did not talk to Appellant or his mother about his school records because they were not obtained until after the evaluation. (I Tr. 43-44).

The school records indicated Appellant and his mother did not provide correct information to the evaluator concerning Appellant's schooling. (I Tr. 44). Appellant's school records showed he repeated third grade because he was not enrolled for a period of time. (I Tr. 44). His school

records also indicate a lengthy history of truancy and disciplinary issues throughout his schooling. (I Tr. 44-46). A significant portion of his disciplinary issues were for disrespect but his school records also included issues regarding aggressive behavior and threats against teachers. (I Tr. 45-46).

Griffith indicated that Appellant's individual education plan was prepared without input from his parents and was finalized the month after Appellant stopped attending school. (I Tr. 46). She confirmed the school records indicate Appellant possessed the ability to do well in school if he wanted. (I Tr. 47). She confirmed the evaluation report stated Appellant told the evaluator about being in numerous fights at school and in the community because he liked fighting. (I Tr. 47). Appellant mentioned stomping on someone's head during his school's homecoming, which was around the time he stopped attending school. (I Tr. 47). Appellant told the evaluator that he would continue to fight even if the other person was on the ground because if the other person started it, he would finish it. (I Tr. 47-48). The evaluator did not ask him about the contradiction of saying he would never hurt anyone while also saying he got into fights and stomped on someone's head. (I Tr. 49). The evaluation mentioned Appellant stating he had only been involved in one fight while in custody despite DJJ records indicating he had been involved in at least ten. (I Tr. 48).

Griffith testified about DJJ reports from Appellant's time pending trial. (I Tr. 50). She stated Appellant had been involved in 22 total events, of which ten were assaults, two were threats, and one was a major disturbance. (I Tr. 50). Appellant had also been a victim of assault five times. (I Tr. 51). Griffith confirmed Appellant seemed to be involved in at least one incident per week while in DJJ. (I Tr. 56).

After the testimony concluded, Appellant walked through the eight *Kent*¹ factors. (I Tr. 71-79). As to the first factor, Appellant stated his actions were serious. (I Tr. 71). As to the second factor, Appellant argued that his action of shooting into a crowd in a parking lot was not premeditated. (I Tr. 72). As to the third factor, Appellant stated this crime was committed against both people and property. (I Tr. 72). As to the fourth factor, Appellant asserted there was a question regarding probable cause because of the manner in which his co-defendants identified him and the inability to identify him on video footage produced by the State. (I Tr. 72). As to the fifth factor, Appellant stated that his co-defendant was an adult whose case was in general sessions. (I Tr. 73). As to the sixth factor, Appellant asserted that his documented history of trouble in school and in DJJ indicate a lack of maturity and sophistication because "little boys fight." (I Tr. 74). He discussed his evaluation results as further indication of lack of maturity and sophistication. (I Tr. 74-76). As to the seventh factor, Appellant stated he did not have a prior criminal record. (I Tr. 76). And as to the eighth factor, Appellant argued that his evaluation indicted that he possessed a likelihood of reasonable rehabilitation using family court services and was willing to seek treatment for his ADHD. (I Tr. 77).

¹ *Kent v. United States*, 383 U.S. 541 (1966); *see also State v. Pittman*, 373 S.C. 527, 559, 647 S.E.2d 144, 160 (2007) (stating the *Kent* factors as follows: "(1) The seriousness of the alleged offense. (2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner. (3) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted. (4) The prosecutive merit of the complaint. (5) The desirability of trial and disposition of the entire offense in one court. (6) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living. (7) The record and previous history of the juvenile, including previous contacts with law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation, or prior commitments to juvenile institutions. (8) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available").

The State indicated it agreed on a number of the factors. (I Tr. 79). The State mentioned that under the second factor, an indication of premeditation existed because Appellant did not have to be armed that night. As to the fourth factor, the State indicated that probable cause was not as cloudy as Appellant made it seem because other individuals present in the parking lot during the incident made no question of his involvement. (I Tr. 79-80). The State indicated that this issue might come down to the sixth factor on maturity and sophistication. (I Tr. 80). The State indicated that the evidence Appellant argued showed a lack of sophistication was actually evidence of a lack of empathy or concern. (I Tr. 80). The State noted that the risk scores Appellant mentioned did not consider the numerous incidents he participated in while in DJJ. (I Tr. 81). The State also noted that while Appellant did not have a criminal record, he discussed actions that could have resulted in criminal charges. (I Tr. 81). The State had concerns about the evaluation indicating rehabilitation was possible because Appellant and his parents had failed to follow up on any attempts to get services despite Appellant's continuing violent behavior. (I Tr. 81-82).

At the end of the hearing, the family court took the matter under advisement. (I Tr. 86). Three days later, the family court issued an order transferring the charges to general sessions. (Or. 10). In its order, the family court determined that the State established probable cause relating to Appellant's involvement in the alleged crimes. (Or. 4). The family court pointed to evidence showing Appellant was in proximity of the shooting, witnesses identifying Appellant as a shooter, and Ring doorbell footage showing Appellant had a weapon in his possession shortly thereafter. (Or. 4).

As to the first factor—the seriousness of the alleged offense to the community and whether protection of the community requires transfer—the family court noted that Appellant did not dispute the serious and violent nature of the alleged offenses. (Or. 5). The family court expressed

concern about the short amount of time Appellant would spend in DJJ if found delinquent and stated that the public would not be adequately protected. (Or. 5).

As to the second factor—whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner—the family court found that the alleged crimes were committed as such. (Or. 5-6). It stated Appellant went to the beach with a weapon and was unconcerned with the safety or lives of others when he chose to shoot into a parking lot. (Or. 6).

As to the third factor—whether the alleged offense was against persons or property, greater weight being given to offenses against persons especially if personal injury resulted—the family court stated that the charged offenses were against both property and persons, with one victim dead as a result. (Or. 6)

As to the fourth factor—the prosecutive merit of the complaint, *i.e.*, whether there was evidence upon which a grand jury may be expected to return an indictment—the family court found it was "extremely likely" that a grand jury would return an indictment based on the facts of this case. (Or. 6).

As to the fifth factor—the desirability of trial and disposition of the entire offense in one court when the juvenile's associated in the alleged offense are adults—the family court noted this was not a controlling factor and that at least one other co-defendant had been charged in general sessions regarding this matter. (Or. 6). Therefore, according to the family court, judicial economy would be served and the impact on the victim's family would be lessened to have these charges heard in the same court. (Or. 6).

As to the sixth factor—the sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living—the family court first stated that Appellant primarily lived with his mother, who provided a more

structured home, before moving in with his father, who provided a home without rules or structure.

(Or. 7). The family court noted that Appellant denied gang activity but also noted that Appellant had gang related paraphernalia confiscated while in DJJ. (Or. 7). The family court stated:

This Court reviewed in detail the psychological and intellectual testing results of [Appellant]. [His] intellectual testing revealed that he tested in the extremely low average in most areas. The evaluator also stated that he experienced attention problems and difficulty with concentration, likely due to his ADHD diagnosis. He is currently not taking medication for the ADHD at the time of testing. [Appellant] had an IEP for a learning disability at his school, however he was not diagnosed with an intellectual disability by the school system. [Appellant's] intellectual testing at the Preadjudicatory Transfer Evaluation appears to be extremely low. In reviewing the Forensic Evaluation on the issue of competence, it was reported that [Appellant's] thought processes and speech were logical, coherent and organized. Additionally, upon reviewing all of the other evidence presented, [Appellant] appears to be [a] very street smart and sav[v]y individual.

(Or. 7). The family court noted Appellant's "extensive" school disciplinary record and his equally "extensive" number of incidents while housed at DJJ. (Or. 7-8). The family court stated that the most recent reports indicate that "things have gotten worse on the DJJ Hall since [Appellant] and another youth had arrived on that hall." (Or. 8). The family court then discussed his testing:

[Appellant's] psychological testing revealed that he is anxious and worried, which are most likely due to his current situation. His overall level of sophistication and maturity fell within the low range. [Appellant's] level of criminal sophistication and dangerousness appeared relatively low as did his psychopathic features. His tendency to act in a violent and aggressive manner was comparable to other youths within the juvenile justice system, while his planned and extensive criminality fell within the low range. The evaluator reported that [Appellant] was amenable to treatment and his motivation to change fell in the middle range or slightly higher than other adjudicated youth. He exhibits both negative and positive factors regarding the likelihood of reasonable rehabilitation. [Appellant] appears to have a minimal level of insight and empathy. Additionally, his mental health issues may be a negative factor for rehabilitation. The positive factors include his lack of prior DJJ involvement, his family involvement and his willingness to get help.

(Or. 8).

As to the seventh factor—the record and previous acts of the juvenile—the family court noted Appellant's lack of prior criminal record and stated "it is clear that [Appellant] has a history of prior violent acts [from which] he has somehow escaped prosecution." (Or. 8). The family court stated its concern about Appellant's self-admitted stomping of another person's head during homecoming several months before this incident. (Or. 8-9).

As to the eighth factor—the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile—the family court noted the seriousness of his charges and how short his potential incarceration could be if his charges stayed with the family court. (Or. 9). The family court found any member of the public could be at risk from harm by Appellant based on his circumstances and who he has chosen to associate himself with. (Or. 9-10). The family court made note of Appellant's "extremely long DJJ Event Report" and evidence suggesting Appellant could benefit from further treatment efforts before expressing concern that the treatment goals could not be accomplished before Appellant would age out of DJJ. (Or. 10).

The family court concluded that the seriousness of the offenses, the violence and loss of life, and the protection of the public were of great concern to the family court if it retained jurisdiction and Appellant was found delinquent and sentenced to an indeterminate sentence not to exceed his twenty-second birthday. (Or. 10). Therefore, the family court waived jurisdiction and transferred Appellant's charges to general sessions. (Or. 10).

In August 2023, an Horry County grand jury indicted Appellant for murder, ABHAN, and two counts of attempted murder. (Indictment Nos. 2023-GS-26-03150, -03151, -03153, & -03154). The State proceeded only on the indictment for murder and *nolle prossed* the remaining

indictments after Appellant's conviction. Appellant was tried jointly with his co-defendant, Tai'Yuan Ja'Rel Jackson.² (III Tr. 1).

At trial, Mya Goodman testified she was in Myrtle Beach for spring break when the incident happened. (III Tr. 99-100). She witnessed the shooting from her car. (Tr. 100). She testified she heard gunshots and her car was hit. (Tr. 101-02). Goodman did not see anyone with a gun. (Tr. 102).

Shakira Hickson testified that both Appellant and his co-defendant, Tai'Yuan Jackson, were her cousins. (Tr. 134). She went to Myrtle Beach with them and some other people in April 2022. (Tr. 135). They stayed at a condo on the beach. (Tr. 135). Shakira stated that individuals in the group had a gold Tahoe and a black Tahoe. (Tr. 136). During the incident, she was inside one of the Tahoes and did not see anything. (Tr. 138). However, Shakira testified that she heard gunshots. (Tr. 138). She stated Jackson was in one car and Appellant was in the other. (Tr. 143). The shooting happened in a parking lot. (Tr. 145). Shakira identified the Tahoes on security camera footage from a storefront near the parking lot. (Tr. 166-68). She stated Appellant and Jackson were in the parking lot with the Tahoes. (Tr. 168). Shakira identified them both in the security camera footage. (Tr. 175). Shakira testified that after the shooting, the group went back to the condo. (Tr. 146-47). She testified that Appellant returned to the condo as part of the group. (Tr. 157). She identified Appellant returning from the shooting on Ring video footage from the condo. (Tr. 181-82).

Nikera McAlister testified that she knew Appellant and Jackson. (Tr. 221). She stated she was part of the spring break group that stayed in a condo in April 2022. (Tr. 222). McAlister

² Jackson appealed his convictions, and his appeal was pending at the time this brief was filed. *See State v. Tai'Yuan Ja'Rel Jackson*, Appellate Case No. 2025-000769.

stated she was in the parking lot with Appellant and Jackson when she heard gunshots. (Tr. 223-24). McAlister indicated that she saw Appellant shoot a gun during the incident. (Tr. 225). McAlister confirmed she did not initially tell police she saw Appellant shoot a gun. (Tr. 228).

Damonni Clayton testified she was in the parking lot during the incident in April 2022 when she saw Quay Dickens. (Tr. 256-57). She was in the parking lot for less than ten minutes when the shooting started. (Tr. 258). Dickens got into the car as the shooting started and got hit by a bullet. (Tr. 258). She drove, trying to find a hospital before ending up in an alleyway on the phone with 911. (Tr. 258-60). Dickens was unarmed throughout the entire incident. (Tr. 260). She and Dickens did not know either Appellant or Jackson. (Tr. 261). Clayton confirmed Dickens did not survive. (Tr. 262).

James Green, a forensic firearms examiner at South Carolina Law Enforcement Division and an expert in firearms identification, testified that twenty casings found in the parking lot were fired by Jackson's weapon. (Tr. 433). Green confirmed at least two firearms were fired based on the casings found at the scene but only one gun was submitted to him for examination. (Tr. 435). He stated the bullet fragment collected from Dickens body did not come from Jackson's weapon. (Tr. 445-46).

During the charge conference, Jackson argued that the trial court's proposed "hand of one" jury charge was not appropriate because the State did not present evidence that he and Appellant had a plan or an agreement. (Tr. 549). Appellant agreed and joined Jackson's objection to the jury charge, stating "I don't think there is any evidence in the record of a common plan, common design, joint plan or any of those things." (Tr. 549). The State responded that Appellant and Jackson came to Myrtle Beach together, as indicated by a photograph of them together holding guns. (Tr. 549).

The State pointed to Shakira's testimony that Appellant and Jackson were riding around the strip together and that they arrived in the parking lot together. (Tr. 549-50). The State noted the video evidence, which showed Appellant and Jackson both firing guns together before getting back into the same vehicle and arriving at the condo together. (Tr. 550). The State asserted that the evidence showed they were acting in concert throughout the entirety of the incident. (Tr. 550). The trial court denied the motion. (Tr. 550).

The trial court charged the jury on "the hand of one" as follows:

Now, 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 a common plan or purpose.

For example, two people can be guilty of burglary when only one of the two enters a dwelling and steals property while the other waits outside the house as a lookout and assists in the crime. If two or more people are together, acting together, assisting each other in committing the offense, 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 principle. Guilt as a principle is shown by actual or constructive presence at the scene as a result of a prior arrangement. Therefore, a finding of a prior arranged plan or common scheme is necessary for a finding of guilt as a principle.

The State must prove beyond a reasonable doubt by competent evidence the theory of "the hand of one is the 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 a crime. When a person does an act in the presence of and with the assistance of another, the act is done by both. When two [or] more, acting with 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.

"Present at the commission of a crime" means to be sufficiently near to aid and abet and assist in the commission of the crime; however, mere presence at the scene of a crime is not sufficient to convict one as a principal on the theory of aiding and abetting. Intent is also a necessary element for there must have been committed pursuant thereto with the person aiding and abetting by some overt act.

(Tr. 619-21).

During its deliberations, the jury sent a question to the trial court. (Tr. 631). The jury asked, "Is 'hand of one, hand of all' a law that has to be followed?" (Tr. 631). The trial court indicated that it was inclined to simply answer "yes." (Tr. 631). Jackson stated his position and that of Appellant was that the response should be if the jury finds the "hand of one, hand of all" appropriate in this case given the facts and evidence presented, then it has to be followed. (Tr. 631-32). The State responded that the court should tell the jury that everything that was charged is the law and must be followed. (Tr. 632). The trial court indicated it would respond to the question with: "All charges on the law by the Court have to be followed." (Tr. 632). Jackson reiterated that if the jury found the evidence showed the State met its burden of proof beyond a reasonable doubt that hand of one, hand of all applied, then the jury must apply it. (Tr. 632). Appellant agreed with Jackson. (Tr. 632-33). The trial court noted its concern based on the wording of the jury's question that any response mentioning reasonable doubt might be taken by the jury to mean that the court believed the State had met its burden, which is why the trial court answered the jury's question simply as: "You must follow the law as it was charged to you by the Court." (Tr. 634-35).

The jury found Appellant guilty of the lesser included offense of voluntary manslaughter. (III Tr. 637-38). The trial court sentenced Appellant to thirty years' imprisonment. (III Tr. 654; Sentencing Sheet).

This appeal followed.

ARGUMENT

I. The family court properly exercised its discretion in transferring Appellant's charges to the Court of General Sessions because the family court's order is supported by evidence in the record and the *Kent* factors support the transfer of jurisdiction.

A. Standard of Review

"[An] appellate court will affirm a transfer order unless the family court has abused its discretion." *State v. Miller*, 363 S.C. 635, 641, 611 S.E.2d 309, 312 (Ct. App. 2005). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006).

B. Discussion

Appellant's argument regarding the family court's waiver of jurisdiction to general sessions consists of two main assertions. First, Appellant asserts the family court put too much weight on the seriousness of Appellant's offenses. Second, Appellant asserts that the family court disregarded his rehabilitation potential. These assertions are mystifying. Appellant was charged with *multiple* serious offenses, including murder, two counts of attempted murder, and ABHAN. (I Tr. 4). The family court considered all the evidence before it, including the evidence Appellant contends the family court disregarded, and decided its jurisdiction should be waived to general sessions. (Or. 1-10). As there is evidence in the record to support the family court's determination, the family court did not abuse its discretion.

The family court has exclusive jurisdiction over children who are accused of criminal activity. S.C. Code Ann. § 63-3-510(A)(4). However, a family court may waive jurisdiction over a criminal matter and transfer its jurisdiction to the court of general sessions. S.C. Code Ann. § 63-19-1210(5) & (6). Upon a motion to transfer jurisdiction, the family court is required to determine if it is in the best interests of both the child and the community before granting a transfer request. *State v. Kelsey*, 331 S.C. 50, 64, 502 S.E.2d 63, 70 (1998). The family court is further

required to consider eight factors, as outlined by the United States Supreme Court in *Kent v. United States*, 383 U.S. 541 (1966). *State v. Pittman*, 373 S.C. 527, 558-59, 647 S.E.2d 144, 160 (2007).

Our supreme court has listed those factors as:

- (1) The seriousness of the alleged offense.
- (2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
- (3) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted.
- (4) The prosecutive merit of the complaint.
- (5) The desirability of trial and disposition of the entire offense in one court.
- (6) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living.
- (7) The record and previous history of the juvenile, including previous contacts with law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation, or prior commitments to juvenile institutions.
- (8) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available.

Id. at 559, 647 S.E.2d at 160.

The family court must provide a sufficient statement of the reasons for the transfer in its order. *State v. Avery*, 333 S.C. 284, 293, 509 S.E.2d 476, 481 (1998). "The order should be sufficient to demonstrate that the statutory requirement of full investigation has been met and that the question has received full and careful consideration by the family court." *Id.* The decision to transfer jurisdiction lies within the discretion of the family court. *Id.* at 292, 509 S.E.2d at 481. Further, our supreme court has stated that "[i]n evaluating whether the family court has abused its

discretion, we consider the *Kent* factors and emphasize that the serious nature of the offense is a major factor in the transfer decision." *State v. Corey D.*, 339 S.C. 107, 118, 529 S.E.2d 20, 26 (2000).

Here, the family court conducted a thorough investigation as statutorily required. During the waiver hearing, the family court heard testimony about the incident leading to Appellant's charges for murder, attempted murder, and ABHAN. (I Tr. 6-37). The family court heard extensive testimony regarding Appellant's life and intelligence along with having reports about his intelligence submitted for the court's consideration. (I Tr. 37-70). The family court heard testimony about Appellant's violent and unruly behavior at DJJ during the pendency of this case and as it related to potentially rehabilitative benefits he could hope to receive from DJJ programs should he be adjudicated delinquent. (I Tr. 37-70). After considering this testimony and reviewing the documents submitted for review, the family court determined it was appropriate to waive jurisdiction. (Or. 1-10). The family court's order discussing each of the *Kent* factors in detail demonstrates a full investigation occurred, and the record supports the family court's decision.

First, the family court's determination that protection of the community favored transferring Appellant's case to general sessions is supported by evidence in the record. Appellant was charged with murder, two counts of attempted murder, and ABHAN. (I Tr. 4). As the family court noted, if he stayed in family court and was adjudicated delinquent, he would only face an indeterminate sentence not to exceed his twenty-second birthday with parole guidelines of 36 to 54 months. (Or. 5). Given the serious nature and number of charges, the family court's determination that adequate protection of the public would be problematic if Appellant served a short, indeterminate sentence in DJJ is supported.

Second, the family court's determination that the offenses were committed in an aggressive, violent, and willful manner is also supported by the record. As the family court's order notes, Appellant went to the beach armed with a firearm and did not concern himself with the lives of others when he chose to fire that firearm into a parking lot multiple times. (Or. 5-6). Further, the family court pointed to the Ring doorbell footage, which showed Appellant in a celebratory mood after the shooting. (Or. 6).

Third, the family court's determination that the offense was committed against people and property is supported by the deceased victim, the injured victims, and vehicles at the scene that sustained gunshot damage. (Or. 6).

Fourth, the family court's determination that a grand jury would likely return an indictment based on the testimony presented at the waiver hearing is supported by testimony presented at the waiver hearing. (Or. 6; I Tr. 6-37).

Fifth, the family court noted that Appellant had a co-defendant, who was an adult charged in general sessions. (Or. 6). The family court stated this factor was not controlling, but a transfer would serve judicial economy and be less impactful on the various victims' families if Appellant and Jackson's charges were heard together. (Or. 6).

Sixth, the family court's discussion of Appellant's sophistication and maturity is supported by the record. (Or. 6-8). The family court discussed Appellant's family history, including the lack of structure and support provided by his father and the contradictions Appellant provided regarding his gang involvement. (Or. 7). The family court stated it reviewed Appellant's psychological and intellectual testing, going so far as to briefly discuss the results of that testing, which admittedly showed Appellant placed in the "extremely low average" range in most areas. (Or. 7). The family court's ruling that "upon reviewing all the other evidence presented, [Appellant] appears to be [a]

very street smart and sav[v]y individual," is supported by evidence other than Appellant's intellectual and psychological testing, as this *Kent* factor is not limited to consideration of just medical, psychological, or intellectual testing results as Appellant seems to suggest. (Or. 7).

Directly after stating Appellant appeared to be street smart and savvy, the family court briefly discussed Appellant's "extensive" school disciplinary record and his equally "excessive" number of incidents while housed at DJJ, which occurred at least weekly based on testimony from the waiver hearing. (Or. 7-8; III Tr. 56). Appellant's school and DJJ records support the family court's statement that Appellant was street smart and savvy because his records indicate that he routinely participated in violent activities, sometimes without those activities being noticed based on Appellant's self-reported violent activities that did not appear in either record. Ultimately, the family court did not specifically state whether this factor favored retaining or waiving jurisdiction. (Or. 7-8). The family court's discussion focused on Appellant's testing and the results submitted to the court, as well as testimony concerning the lengthy list of his aggressive incidents both at school and in DJJ.

Seventh, the family court determined Appellant had no prior criminal charges but noted that Appellant had a history of prior violent acts from which he escaped prosecution. (Or. 8). This determination is also supported by the record based on Appellant's self-reported incident involving stomping on another student's head at homecoming. (I Tr. 47-49). This is further supported by multiple reports of fighting and aggressive activities both at school and in DJJ.

Eighth, the family court's discussion of prospects for adequate protection of the public and the likelihood of Appellant's rehabilitation is supported by the record. The family court noted the charges were serious and involved a loss of life, and if adjudicated delinquent, would suggest a disregard for others that necessitated caution when considering protection of the public. (Or. 9).

The family court discussed the stark difference in sentence length should it retain jurisdiction versus waiving jurisdiction. (Or. 9). The family court also noted that the wavier evaluation was based on information provided by self-reporting and from Appellant's mother. (Or. 9). The court stated that Appellant's mother's information was at least incomplete based on testimony presented at the hearing or, in some instances, fully inaccurate. (Or. 9). The court also considered Appellant's actions, including continuing down a violent path after he was shot several months prior to this incident instead of avoiding violent circumstances. (Or. 9-10). Therefore, family court's conclusion that Appellant would pose a risk of harm to the public if not transferred to general sessions is supported by the record because he continued to act aggressively and associate with people who also acted aggressively even after being a victim of gun violence himself. (Or. 10).

Moreover, the family court's noted concern that Appellant would not be able to accomplish treatment goals for rehabilitation in DJJ prior to his twenty-second birthday is also supported by the record. (Or. 10). Appellant had a lengthy and violent history in DJJ, which included weekly incidents. (I Tr. 56). Merely because DJJ's evaluators somehow determined that Appellant could possibly be rehabilitated despite his charges for *murder*, attempted murder, and ABHAN, the family court's concern over the short amount of time for such rehabilitation is valid given Appellant's history.

As the family court's order shows, the family court undertook a thorough investigation before deciding to waive jurisdiction to general sessions. Because evidence exists to support the family court's waiver, the family court did not abuse its discretion. *See State v. Pittman*, 373 S.C. at 560, 647 S.E.2d at 161 ("Because we review the lower court's decision only for an abuse of discretion, this Court would have to find the family court's order wholly unsupported by the record in this regard to find error."). Appellant's charges—murder, attempted murder, ABHAN—were

serious and violent. The family court considered the *Kent* factors and found evidence in the record to support waiving jurisdiction to general sessions. Merely because the serious nature of Appellant's four charges contributed to the family court's determination does not indicate the family court abused its discretion, especially where the family court's determination has support in the record. *See Corey D.*, 339 S.C. at 118, 529 S.E.2d at 26 ("In evaluating whether the family court has abused its discretion, we consider the *Kent* factors and emphasize that the serious nature of the offense is a major factor in the transfer decision.").

II. The trial court properly exercised its discretion by denying Appellant's request to refrain from charging "the hand of one is the hand of all" because evidence in the record supported giving such a charge to the jury.

A. Standard of Review

"The trial court is required to charge only the current and correct law of South Carolina." *State v. Marin*, 415 S.C. 475, 482, 783 S.E.2d 808, 812 (2016) (citation modified) (quoting *State v. Brandt*, 393 S.C. 526, 549, 713 S.E.2d 591, 603 (2011)). "The law to be charged must be determined from the evidence presented at trial." *State v. Knoten*, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). "An appellate court will not reverse the trial judge's decision regarding a jury charge absent an abuse of discretion." *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *Pagan*, 369 S.C. at 208, 631 S.E.2d at 265. "In reviewing jury charges for error, we must consider the court's jury charge as a whole in light of the evidence and issues presented at trial." *State v. Adkins*, 353 S.C. 312, 318, 577 S.E.2d 460, 463 (Ct. App. 2013). "The substance of the law is what must be instructed to the jury, not any particular verbiage." *State v. Smith*, 315 S.C. 547, 554, 446 S.E.2d 411, 415 (1994).

B. Discussion

Appellant argues that the trial court erred in charging accomplice liability solely on his assertion that the State failed to establish a mutual plan or agreement between Appellant and Jackson "to commit a murder" and that one of the two then fired the fatal shot. (Int. App. Br. 24-25). Appellant seems to suggest that the State needed to show some grandiose plan between Appellant and Jackson and that the State needed to show all the specific details of this plan for an accomplice liability charge to be appropriate. That is incorrect.

"Under the doctrine we refer to in South Carolina as 'the hand of one is the hand of all,' the State proves the defendant guilty by proving he had a mutual plan or agreement with another person to commit one crime, and during the course of committing that initial crime, the other person committed a second crime they had not agreed to commit." *State v. Sellers*, 442 S.C. 140, 148, 898 S.E.2d 116, 120 (2024); *see also Butler v. State*, 435 S.C. 96, 97-98, 866 S.E.2d 347, 348 (2021) ("Under the theory the 'hand of one is the hand of all,' when two people join together to commit a crime, and during the commission of that crime one of the two commits another crime, both may be criminally liable for the unplanned crime if it was a natural and probable consequence of their common plan to commit the initial crime."). "In order to establish the parties agreed to achieve an illegal purpose, thereby establishing presence by pre-arrangement, the State need not prove a formal expressed agreement, but rather can prove the same by circumstantial evidence and the conduct of the parties." *State v. Gibson*, 390 S.C. 347, 354, 701 S.E.2d 766, 770 (Ct. App. 2010). "[T]he trial court must determine whether there is any evidence the defendant had a mutual plan or agreement with another person to commit an initial crime." *Sellers*, 422 S.C. at 149, 898 S.E.2d at 121.

Because the presence of a pre-arrangement can be proven by circumstantial evidence as well as the conduct of the parties, the State provided at least some evidence that Appellant had a mutual plan or agreement with another person to commit an initial crime—shooting at potential intended victims in the parking lot. As the State argued during the charge conference, Appellant and Jackson came to Myrtle Beach together, they rode around the strip together, they arrived in the parking lot together, they fired guns in that parking lot together, they left the parking lot together, and they arrived back at their rental condo together. (Tr. 549-50). *See generally State v. Campbell*, 443 S.C. 182, 195-96, 904 S.E.2d 441, 447 (2024) (holding that accomplice liability can be proven by circumstantial evidence and that "evidence of the arrival of two men outside the same apartment building at the same moment before dawn, both armed with rifles and firing into the same apartment" was sufficient to warrant an accomplice liability charge).

Based on the conduct of Appellant and Jackson, the trial court could easily determine the State presented evidence of a mutual plan or agreement because their conduct indicates as much. A mutual plan or agreement does not need to be complicated or specific. Here, the conduct of Appellant and Jackson supports a finding of a mutual plan or agreement as simple as agreeing to shoot at their intended victims whenever the two of them next came across those intended victims together. That just happened to occur during spring break in a Myrtle Beach parking lot with the result of an innocent third party being shot and killed by either Appellant or Jackson. The conduct of Appellant and Jackson is what gives rise to evidence of the mutual plan or agreement because they acted in concert before, during, and after the incident. Evidence of a mutual plan or agreement need not be complicated or include specific details. The conduct must simply indicate that some sort of plan or agreement existed. Here, the State provided evidence of such. Therefore,

the trial court did not err in charging the jury with accomplice liability because the evidence presented at trial supported that charge.

III. The trial court properly responded to the jury's question regarding "the hand of one is the hand of all" instruction because its jury instruction as given was a correct statement of the law.

A. Standard of Review

"To warrant reversal, a trial court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant." *State v. Gaines*, 380 S.C. 23, 31, 667 S.E.2d 728, 732 (2008). Jury instructions must also be considered as a whole, and if the instructions are free from any error, isolated portions which might be misleading will not constitute reversible error. *State v. Sims*, 304 S.C. 409, 422, 405 S.E.2d 377, 384 (1991).

B. Discussion

In its jury charge, the trial court properly instructed the jury as to accomplice liability and also correctly explained that the jury should find Appellant guilty if the State proved his guilt beyond a reasonable doubt. When the jury came back with a question about accomplice liability, the trial court instructed the jury to consider the law as it was charged earlier by the court. Considering the accomplice liability charge in context with the entire jury charge, the trial court's response to the jury's question was proper.

The evidence in a case determines the law to be charged, and every charge of the law must be reviewed in the light of the evidence. *State v. Gates*, 269 S.C. 557, 561, 238 S.E.2d 680, 681 (1977). A trial court has a duty to give requested instructions that are supported by evidence in the record and correctly states the law applicable to the issues in the case. *State v. Lee-Grigg*, 374 S.C. 388, 405, 649 S.E.2d 41, 50 (Ct. App. 2007). A trial court properly exercised its discretion so long as the charge is accurate and clearly presented. *See Clark v. Cantrell*, 339 S.C. 369, 529 S.E.2d 528 (2000) ("An appellate court will not reverse the trial court's decision regarding jury

instructions unless the trial court abused its discretion."). An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *Pagan*, 369 S.C. at 208, 631 S.E.2d at 265.

Moreover, "[n]o instruction should be given which tenders an issue which is not presented or supported by the evidence . . . [as] even a slight remark, apparently innocent in its language, may, when uttered by the court, have a decided weight in shaping the opinion of the jury." *State v. Mollison*, 319 S.C. 41, 48, 459 S.E.2d 88, 93 (Ct. App. 1995) (citation modified). "Thus, the trial judge should narrowly tailor his response to the specific jury question asked." *State v. Huckabee*, 388 S.C. 232, 244, 694 S.E.2d 781, 787 (Ct. App. 2010); *State v. Smith*, 304 S.C. 129, 132, 403 S.E.2d 162, 164 (Ct. App. 1991) ("Quite often, the judge must tailor, mold and even sculpt the law in fashioning an answer to *fit the question*.") (emphasis added).

If two or more people, in pursuit of a common design to commit an unlawful act, set out together, and each takes the part assigned to or agreed upon by him, if the unlawful act is committed, the act of one is the act of all and all are guilty. *State v. Chavis*, 277 S.C. 521, 290 S.E.2d 412 (1982). The trial judge does not need to specify that a crime committed by an accomplice must be a "natural and probable consequence" of actions taken in pursuit of the accomplices' common plan when giving a "hand of one" charge. *State v. Curry*, 370 S.C. 674, 636 S.C. 649 (Ct. App. 2006).

Here, the trial court instructed the jury on accomplice liability before deliberation began. (Tr. 619-21). As part of its instruction, the trial court instructed the jury that "[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 a common plan or purpose." (Tr. 619). The trial court also instructed the jury that the "State must

prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all." (Tr. 620).

After deliberating for approximately ninety minutes, the jury asked "[i]s 'hand of one, hand of all' a law that has to be followed?" (Tr. 631). Appellant and Jackson both requested the court instruct the jury "yes, if the state proves it beyond a reasonable doubt." (Tr. 632). The State requested the court instruct the jury to follow the law presented in the court's instruction. (Tr. 632). The court ultimately instructed the jury that "[y]ou must follow the law as it was charged to you by the Court." (Tr. 635).

The trial court properly instructed the jury concerning accomplice liability at the conclusion of trial. When examining the instruction given in response to the jury's question, the full charge and particular circumstances of this case should be considered as the trial court's response referred back to the full instruction. *See generally Lawson v. State*, 402 S.E.2d 344, 345 (Ga. Ct. App. 1991). The trial court's instruction that the jury go back and consider the full charge given directly before deliberations began was appropriate because the jury did not express confusion as to what accomplice liability was; rather, the jury asked only if accomplice liability was a law it had to follow. Because the trial court had already instructed the jury that accomplice liability was the law of South Carolina, referring back to that charge, which was given to the jury about an hour and a half before the jury's question, was appropriate. *See State v. Nichols*, 325 S.C. 111, 119, 481 S.E.2d 118, 122 (1997) ("When a jury requests an additional charge, it is sufficient for the court to charge only those matters necessary to answer the jury's request."). Moreover, the trial court's original charge included the specific language requested by Appellant in his objection to the trial court's response to the jury's question.

Therefore, because the trial court properly instructed the jury during its full jury charge, the trial court did not abuse its discretion by referring the jury back to that charge, especially when the jury's question could have multiple interpretations as noted by the trial court. (Tr. 631-35).

CONCLUSION

Based on the foregoing, the State requests that this Court affirm Appellant's conviction for voluntary manslaughter, as well as his associated sentence.

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September 14, 2026
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

Melissa M. Frazier, Family Court Judge
Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2025-000749

THE STATE,

Respondent,

v.

JERELLE HICKSON,

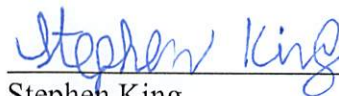
Appellant.

PROOF OF SERVICE

I, Stephen King, certify that I have served this Initial Brief of Respondent and Designation of Matter on Jessica M. Saxon, Esq., counsel of record for the Appellant, by electronic mail to the address listed for counsel in South Carolina Attorney Information System.

I further certify that all parties required by Rule 262(c) of the South Carolina Appellate Court Rules to be served have been served.

This 14th day of September 2026.



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