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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Florence County
H. Steven DeBerry IV, Circuit Court Judge

Unpublished Opinion No. 2026-UP-302
(S.C. Ct. App. Heard May 14, 2026-Filed June 17, 2026)

THE STATE,

RESPONDENT,

V.

MEASHA JAQUETTA SHAWNIC JOYNER,

APPELLANT

APPELLATE CASE NO. 2024-000274

APPENDIX

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Honorable H. Steven DeBerry IV, Circuit Court Judge

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RESPONDENT,

V.

MEASHA JAQUETTA SHAWNIC JOYNER,

APPELLANT

APPELLATE CASE NO. 2024-000274

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err in failing to charge the jury on self-defense where there was evidence someone else "started shooting first"?
2. Did the trial court err by denying appellant credit for time served in home confinement on the basis that she was arrested for a charge which was dismissed?

STATEMENT OF THE CASE

Measha Joyner was indicted on August 22, 2019, by the Florence County grand jury for the murder of Chelsea Plowden and for several related offenses. R. 647-649. On December 4–8, 2023, Measha went to trial before Judge Steven DeBerry, IV and a jury. R. 1. She was represented by Rose Mary Parham, and Todd Tucker prosecuted the case for the state. R. 1. She was tried for murder and possession of a weapon during the commission of a violent crime, as well as two attempted murder charges that the state dismissed at the close of its case in chief. R. 14:4-15:14, 481:14-23.

The jury ultimately acquitted Measha of murder, but it convicted her of the lesser-included offense of voluntary manslaughter and on the possession of a weapon charge. R. 625:5-15. Measha requested credit for her time served in home confinement. R. 633:7-12. The trial court indicated it would take that motion under advisement but otherwise sentenced her to twenty-five years in prison. R. 637:4-638:9. In a written order dated April 4, 2024, the court denied the motion. R. 655.

This appeal follows.

STATEMENT OF FACTS

Measha Joyner and her sister Jolica Joyner¹ attended a birthday party on the night of March 23, 2019. R. 107:13-108:16. The party was at a Quick Stop on Coit Street in Florence, and the Joyners were driven there by Jolica's neighbor, Tanisha Timmons. R. 289:16-290:24. It was a dual birthday party for Carlos Jackson (also known as Stew) and Gloria Whitehead. R. 133:16-20, 207:18-208:2. Gloria's daughter, Deandra Whitehead, was at the party with her girlfriend Kanisha Allen. R. 208:22-209:2, 226:13-18. At some point later in the night, Measha, Jolica, Deandra, and Allen began physically fighting in the parking lot. R. 135:6-19. Measha was fighting Deandra, and Jolica was fighting Allen. R. 211:4-21.

Stories vary as to precisely what happened in the parking lot and how long events took to unfold. Several witnesses testified that at some point Jackson fired his gun up in the air in an attempt to stop the fight between Jolica and Allen. R. 211:24-212:1, 278:10-19, 317:15-19. Jackson testified he saw "everybody" fighting outside, he could not identify who was fighting, and he fired his gun one time "to disperse everybody." R. 109:11-18, 115:2-25. After that, he went back inside the Quick Stop until he heard more gunfire approximately one minute later. R. 109:23-110:15. He did not see who was shooting then. R. 110:3-14, 121:16-18.

Gloria Whitehead testified she broke up the fight between Measha and Deandra "a good bit" prior to Jackson firing his weapon. R. 211:24-212:12. She testified that while Jolica and Allen continued to fight, she put Measha in the backseat of a white car with four doors. R. 212:11-213:14. At that point Measha agreed to stay in the car and told Gloria to "just go get my sister please." R. 213:17-20. Gloria testified Jolica and Allen stopped fighting only when Jackson fired

¹ At least one document spells Measha's sister's name "Jolicia." R. 640. The transcript, however, reports it "Jolica" so that spelling is used here.

his gun and that it took Jolica approximately fifteen to twenty minutes after that to get in the car to leave. R. 214:6-13, 216:11-16. According to Gloria, when Jolica got in the car to leave Chelsea Plowden, a party guest, was shot in the head. R. 217:3-8. Gloria testified Measha was the one firing; however, on the night it occurred she told several people "Jojo"—Jolica—shot and killed Plowden. R. 217:17-218:3, 220:8-14, 223:12-14, 281:7-12. She testified that was "by mistake" and she "was trying to say Jolica sister [sic]" shot Plowden. R. 223:12-17.

Timmons testified that as she, Measha, and Jolica left the Quick Stop building the sisters were "grabbed," "like grabbing them to fight them." R. 292:13-16, 299:16-25. Timmons testified it was her who put Measha in the car after Measha's fight broke up. R. 292:20-21. When Timmons did that, she "heard gunshots ring out" before she went to find Jolica. R. 293:2-23. She specified she heard the shots "when" she put Measha in the car. R. 301:3-7. Then, as she pulled out of the parking lot after she found Jolica, she heard gunshots coming from her backseat where she knew Measha was. R. 293:17-294:9.

Jamie Zimmerman, another party guest, stated on an officer's body camera that it was "people shooting back and forth." Def. Ex. 8 at 00:38–00:41. Defendant's Exhibit 8 is on file with this Court, and it was admitted and played for the jury without objection. R. 509:1-510:20. Zimmerman believed "somebody by [Plowden] shot her, not the people on the other side." Def. Ex. 8 00:41–45. Zimmer explained, "The other people, her friends, started shooting first. Her friends started shooting first before the other people started shooting." Def. Ex. 8 at 3:43–3:50. She clarified she was not talking about Jolica but rather, "The one in the white Mercedes that was shooting -- they was her friends, they left, and I really think they was the one that shot her because of the way she got hit on that side of her head. . . . The other people was basically shooting in the air." Def. Ex. 8 at 3:58–4:15. In the context of the whole video, it is clear Zimmerman uses "her

friends" to mean someone other than appellant because she then specified that she does not know what vehicle "Jojo" was in except that it was silver or white. Def. Ex. 8 at 4:28–4:35. However, she knew "that boy went to get his gun, he was like, he was in the white Mercedes and he was like, 'I'll light this bitch up out here.'" Def. Ex. 8 at 4:35–4:45.

Deandra Whitehead testified that after she stopped fighting with Measha, her mother told her to leave but Jolica and Allen were still fighting. R. 252:23-253:12. After Jackson fired his gun, Deandra and Allen left in a truck with Allen's family. R. 254:1-8. After they dropped Allen's family off, they received a call and learned Plowden had been killed. R. 254:14-255:9. Deandra believed about twenty or thirty minutes passed between her leaving and receiving that phone call. R. 256:15-19. She left about five minutes after Jackson fired. R. 257:11-17.

Angela Robinson, Jamares Robinson, and Brianna Robinson were all also at the birthday party that night. R. 113:17-115:1. Angela is Jamar's and Brianna's mother. R. 134:4-15. Angela did not know what caused the fights to break up. R. 136:21-24. She testified after the fights ended she was in her car with Brianna, backed into a spot with a view of the parking lot. R. 136:17-138:6. She testified that Jolica, Measha, and a third person then "jump[ed] into a white vehicle." R. 138:8-12. She testified she saw Measha enter the backseat and Jolica enter the front. R. 139:12-14. As the car pulled out of the parking lot, Angela saw Measha in the backseat firing at "the crowd of people" as they drove away. R. 138:18-24. At the same time some people in the crowd began firing at the car. R. 140:18-21. One of those people shooting was her son Jamar, although Angela claimed Measha started shooting first. R. 140:18-141:5. She estimated three shots came from the car. R. 146:1-7.

Brianna Robinson testified that she and her mother were inside the Quick Stop when she heard a gunshot and the two then went to see the fighting outside. R. 339:16-25. She also could

not identify who was fighting. R. 339:6-15, 347:2-4. She testified that after Deandra and Allen left, she heard a "second shot" after the fight broke up. R. 340:22-25. She then heard more gunshots and looked in the direction of the sound to see Measha "hanging out the window shooting." R. 341:3-342:18. Brianna testified she was close enough to that "second shot" to feel the heat of it. R. 348:6-349:4, 350:19-24. Brianna did not know if Jackson fired the second shot. R. 349:5-12. She estimated those two shots were a minute and a half apart. R. 350:19-351:4. She testified her brother was "defending himself" when he shot at the car as it drove away. R. 353:18-22.

Like Gloria, Jamares Robinson testified it was probably ten or fifteen minutes after Jackson first fired that more guns began firing. R. 321:4-12. Jamares testified those shots came from the car Measha and Jolica entered and he then started shooting at the car as he ran across the parking lot as it drove away. R. 321:13-323:2.

Officers recovered three weapons that were fired at the scene. Jamares Robinson turned in an FMK nine millimeter to Investigator Stephen Banister, which was made State's Exhibit 112 at trial. R. 323:15-24, 368:20-369:18, 640. Demarcus Bluett turned in a .380 Hi-Point, which was made State's Exhibit 111 at trial. R. 369:19-10, 446:14-18, 640. Carlos Jackson turned in a Smith and Wesson forty caliber pistol, which was made State's Exhibit 113 at trial. R. 111:12-19, 370:14-371:4, 446:19-24, 641. All three of those weapons fired casings recovered from the scene. R. 642-43.

SLED Agent Chad Smith, an expert in firearms identification, testified shell casings from four different weapons were recovered from the scene. R. 451:5-23. Captain Stephen Starling of the Florence Police Department testified about a map of the scene and different known locations. R. 177:3-13; State's Ex. 2. He testified two spent bullet casings (of different calibers) and three

live rounds were found in the vicinity of Plowden's body. R. 177:14-178:4. He also described three more casings nearby, again of different calibers. R. 177:17-23. Markers eight, nine, and ten were three nine millimeter casings by the parking lot exit. R. 178:4-6; State's Ex. 2. Agent Smith testified those bullets were fired by a weapon law enforcement officers did not recover. R. 438:8-15, 453:15-454:24, 643. The location where Plowden was struck is in an approximate line with the location of those unidentified casings and the other known casings. State's Ex. 2.

After the close of its case, the state dismissed the attempted murder charges. R. 481:9-23. Measha introduced several videos from officer's body cameras, including Defendant's Exhibit 8 discussed above, and published them to the jury. R. 508:17-509:11. The trial court instructed the jury on the lesser included offenses of voluntary and involuntary murder, and it refused to charge the jury on self-defense. R. 523:17-19, 530:1-3, 603:2-606:8. The trial court did however charge the jury on the "defense of necessity":

In order to excuse the crime on the ground of necessity, the defendant must show by a preponderance or greater weight three things. Number one, that there was a present . . . and imminent emergency which arose without fault on the part of the defendant. The emergency was the type which would cause a well-grounded fear of death or serious bodily harm if the act was not done. And finally there was no other reasonable alternative other than committing the crime to avoid the threat of harm.

R. 607:19-608:2.

During deliberations the jury requested further instruction on the definition of murder. R. 622:18-623:17, 645. The jury ultimately acquitted Measha of murder and found her guilty of voluntary manslaughter, and it found her guilty of possession of a weapon during the commission of a violent crime. R. 625:5-14.

At sentencing Measha requested credit for her three years served on monitored home confinement. R. 633:7-12. The solicitor argued she should not receive that credit because "she

picked up a charge of trafficking narcotics in Richland County." R. 636:8-13. That charge was ultimately dismissed, and Measha argued it was "dismissed quickly" because it was "not founded." R. 636:19-21. Measha's monitoring report revealed no violations. R. 654. The trial court indicated it would take that motion under advisement but otherwise sentenced her to twenty-five years in prison. R. 637:4-638:9. In a written order dated April 4, 2024, the court denied the motion. R. 655.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006) (quoting *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001)). "If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial judge's refusal to do so is reversible error." *State v. Slater*, 373 S.C. 66, 70, 644 S.E.2d 50, 52 (2007) (quoting *State v. Muller*, 282 S.C. 10, 10, 316 S.E.2d 409, 409 (1984)). Whether "any evidence" exists to warrant the charge is a question of law this Court reviews de novo on appeal. *State v. Williams*, 427 S.C. 246, 249, 830 S.E.2d 904, 906 (2019).

ARGUMENT

I. **Jamie Zimmerman's statements supported a charge on self-defense because she stated someone shot at Measha first.**

"If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial judge's refusal to do so is reversible error." *State v. Light*, 378 S.C. 641, 650, 664 S.E.2d 465, 469 (2008) (quoting *Slater*, 373 S.C. at 70, 644 S.E.2d at 52). "When reviewing the circuit court's refusal to deliver a requested jury instruction, appellate courts must consider the evidence in a light most favorable to the defendant." *State v. Williams*, 400 S.C. 308, 314, 733 S.E.2d 605, 608-09 (Ct. App. 2012) (quoting *State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512-13 (2000)).

Measha was entitled to a self-defense charge because there was evidence presented to the jury that she did not start the shooting. While the testimony and evidence about what exactly happened in the parking lot varied, one part was clear: Jamie Zimmerman stated "her friends"—meaning Plowden's friends in the white Mercedes—"started shooting first before the other people started shooting." Zimmerman also specified she believed someone "by" Plowden shot her, which indicates gunfire was coming from Plowden's direction. That direction also matches the rough line formed by the unidentified shell casings found at the scene and those fired by Carlos Jackson and Jamares Robinson, a line which overlaps with Plowden's location. In other words, there is evidence Measha was firing at her attackers who were next to or in line with Plowden.

That evidence is what matters most for purposes of a self-defense instruction. If someone is being shot at, they can generally defend themselves. Therefore the trial court erred by summarily concluding, "I don't find that it's a self-defense case. Self-defense has not been alleged in this case." R. 530:1-3. That decision was incorrect because evidence existed to warrant the charge. Measha even began her closing argument with Zimmerman's statement quoted above. R. 559:22-

560:13. She argued, "She said this man in a white Mercedes shot. I am scared one of her friends shot her. You know, I am going to light this bitch up, that's how this started." R. 561:8-10. That is evidence which entitled Measha to a jury charge on self-defense.

Other evidence supported the charge as well. Zimmerman's statement was consistent with Brianna Robinson's testimony she heard an unidentified "second shot" after Jackson broke the fight up because she knew only that the subsequent shots came from the Joyners' vehicle. That can be true *and* the first shot in the firefight could have been at Measha, which is precisely what Timmons testified: she heard gunshots when she put Measha into the car. Therefore, especially in conjunction with Zimmerman's clear statement, there was certainly "any evidence" to support the charge.

More specifically,

To establish self-defense in South Carolina, four elements must be present. First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have been in actual imminent danger of losing his life or sustaining serious bodily injury, or he must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant was actually in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger.

State v. Bryant, 336 S.C. 340, 344-45, 520 S.E.2d 319, 321-22 (1999) (citing *State v. Goodson*, 312 S.C. 278, 280, 440 S.E.2d 370, 372 (1994)).

On the facts presented to the jury, there should be no argument that Measha was at fault as a matter of law for bringing on the difficulty. According to Gloria Whitehead, Measha had stopped fighting Deandra—and Deandra had left—approximately fifteen or twenty minutes before the

shooting involving Measha began. Jamares Robinson similarly testified it was ten to fifteen minutes between when Jackson shot in the air to break up Jolica and Allen's fight and when gunfire began again. Given that delay, and since Zimmerman stated and Timmons's testimony indicates Measha was shot at first, there is evidence from which the jury could reasonably conclude Measha was without fault.

Further, accepting that there is evidence she was shot at first, the only evidence of any fault on Measha's behalf might be her earlier fight with Deandra. But Deandra had already left the scene by the time the shooting started, and that could have been over fifteen minutes earlier. *See* 30 Corpus Juris, *Homicide* § 210, at 45-46 (1923) (noting an aggressor who "in good faith withdraws from the combat in such a manner as to show his adversary his intention in good faith to desist" can still obtain the defense); *Bryant*, 336 S.C. at 345-46, 520 S.E.2d at 322. According to Gloria, Measha had withdrawn and was waiting in the car for her sister. Moreover, no evidence whatsoever could support the conclusion that Measha was an aggressor as to anyone other than Deandra, but Deandra had already left the scene.² Thus, whether Measha was legally at fault for creating the violence out of the earlier fight was at the least a jury question.

Next, it cannot be suggested that someone being shot at fails the "actual imminent danger of losing his life" element of self-defense. Nor was it unreasonable as a matter of law for Measha to return fire in the hopes of subduing the aggressor. *See State v. Scott*, 424 S.C. 463, 472, 819 S.E.2d 116, 120 (2018) (quoting *State v. Dickey*, 394 S.C. 491, 501, 716 S.E.2d 97, 102 (2011)) (affirming immunity where defendant established self-defense because "[a] person has the right to act on appearances, even if the person's belief is ultimately mistaken," where he killed a bystander

² Additionally, Timmons testified Measha and Jolica were attacked first as they walked out of Quick Stop, so the jury could conclude she was not at fault even for that earlier fight.

who had not actually fired at him).³ Finally, Measha had no alternative means of escape—she was already in a moving car; nothing more could be done. She did not have a legal obligation to sit idly by while being fired upon. There is a legitimate way in which she had no other means of escape precisely because she was trapped in a moving car. *See* 30 Corpus Juris, *Homicide* § 239, at 68-69 ("Where accused already has his back to the wall . . . he is not obligated to retreat or escape before taking life in self-defense."). Importantly, whether she could escape or her fear was reasonable are questions of fact for the jury. *See Dickey*, 394 S.C. at 502, 716 S.E.2d at 103 ("[T]he State failed to disprove beyond a reasonable doubt that Petitioner had no other probable means of avoiding the danger."). Taken together, and in a light favorable to Measha, there is evidence in the record to support a charge on self-defense, and so the trial court erred by denying it.

Finally, the fact the trial court charged the jury on the "defense of necessity" demonstrates its error in refusing to charge self-defense. As given, in context, that charge was functionally a self-defense charge except in one critical way: it placed the burden on Measha to prove the

³ Other jurisdictions have long recognized the theory that one acting in self-defense is still entitled to the defense even if he unintentionally hits or kills an innocent bystander. *See, e.g., State v. Greenfield*, 847 S.E.2d 749, 755 (N.C. 2020) (quoting *State v. Dalton*, 101 S.E. 548, 549 (N.C. 1919)) ("[I]f the killing of the person intended to be hit would, under all the circumstances, have been excusable or justifiable on the theory of self-defense, then the unintended killing of a bystander by a random shot fired in the proper and prudent exercise of such self-defense is also excusable or justifiable."); *Crawford v. State*, 480 S.E.2d 573, 575 (Ga. 1997) (citations omitted) (describing the "the principle of 'transferred justification'" under which "no guilt attaches if an accused is justified in shooting to repel an assault, but misses and kills an innocent bystander"); *see also* 30 Corpus Juris, *Homicide* § 271, at 88 ("The unintentional killing of a bystander by a random shot fired in the proper and prudent exercise of the right of self-defense is excusable or justifiable if the killing of the party intended to be killed would, under all the circumstances, have been excusable or justifiable as in self-defense."). However, South Carolina courts have declined to determine if the rule applies. *Jamison v. State*, 410 S.C. 456, 471, 765 S.E.2d 123, 131 (2014) ("The transferability of intent in a self-defense claim has not been recognized in South Carolina, and Respondent does not ask this Court to recognize it now."); *State v. Porter*, 269 S.C. 618, 622, 239 S.E.2d 641, 643 (1977) (declining to determine if "transferred self-defense" is a viable theory).

necessity while the state is required to disprove self-defense beyond a reasonable doubt. *Dickey*, 394 S.C. at 499, 716 S.E.2d at 101 (citing *State v. Wiggins*, 330 S.C. 538, 544, 500 S.E.2d 489, 492 (1998)) ("[W]hen a defendant claims self-defense, the State is required to disprove the elements of self-defense beyond a reasonable doubt."). In addition, charging necessity while not charging self-defense is unnecessarily confusing.

II. The trial court erred in denying credit for time served on house arrest.

At sentencing the trial court reserved ruling on Measha's request for credit for time served on house arrest. The court asked the parties for her monitoring report and any violations and alleged violations. R. 637:8-14. The monitoring report revealed no violations. R. 654.

Section 24-13-40 of the South Carolina Code governs the computation of time served. It provides:

In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; . . . (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

§ 24-13-40. The court denied Measha credit for her time on house arrest because she was "charged while on monitored house arrest in this matter with a drug trafficking charge that was later dismissed prior to this trial." R. 654.

While the statute vests the trial court with some discretion, that discretion is not limitless. The trial court committed an error of law in denying credit for the time due to the dismissed drug charge. For all the trial court knew, the charge was dismissed because it was filed in error against the wrong person. Or perhaps there was no evidence to support it. At trial, Measha tried to explain

this to the court and argued the charge was "not founded" and "completely dismissed." R. 636:19-21.

A dismissed charge is one that legally "never existed." *Mackey v. State*, 357 S.C. 666, 669, 595 S.E.2d 241, 243 (2004); *see generally* 16 Corpus Juris, *Criminal Law* § 779, at 432-33 (1918) (explaining a "nolle prosequi" has the effect of "leav[ing] the matter in the same condition in which it was before the commencement of the prosecution").⁴ Because the charge never existed, to deny her credit on that basis is to effectively deny her for no reason at all, and that is not within the discretion of the court.

⁴ *See In re Oxner*, 440 S.C. 5, 11 n.5, 889 S.E.2d 586, 589 n.5 (2023) (defining "nolle prosequi" and explaining it is "an archaic way to describe a dismissal without prejudice").

CONCLUSION

For the foregoing reasons, appellant respectfully requests the Court reverse her conviction and remand the case for a new trial.



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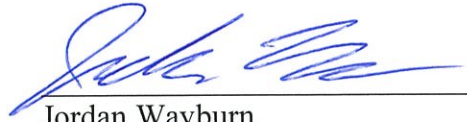
This 28th day of August, 2025.

Aug 28 2025

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this final 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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This 28th day of August, 2025.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Florence County

Honorable H. Steven DeBerry IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

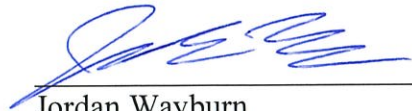
MEASHA JAQUETTA SHAWNIC JOYNER,

APPELLANT

APPELLATE CASE NO. 2024-000274

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above-referenced case has been served upon Brian H. Gibbs, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 28th day of August, 2025.



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Aug 28 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
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APPEAL FROM FLORENCE COUNTY
Court of General Sessions

H. Steven DeBerry IV, Circuit Court Judge

Appellate Case No. 2024-000274

THE STATE,

Respondent,

v.

MEASHA JAQUETTA SHAWNIC JOYNER,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL**Appellant's Issue Statements**

1. Did the trial court err in failing to charge the jury on self-defense where there was evidence someone else "started shooting first?"
2. Did the trial court err by denying appellant credit for time served in home confinement on the basis that she was arrested for a charge which was dismissed?

Respondent's Counterstatements

1. Whether the trial court abused its discretion by denying Appellant's request to charge self-defense given that the evidence presented at trial does not support a self-defense charge and that South Carolina does not recognize transferred intent for self-defense.
2. Whether the trial court abused its discretion by denying Appellant's request for credit for time served on monitored home detention given that credit for such time is discretionary under section 24-13-40 of the South Carolina Code.

STATEMENT OF THE CASE

In August 2019, a Florence County grand jury indicted Appellant for murder, three counts of attempted murder, and possession of a weapon during the commission of a violent crime. (R. 647-649). On December 4-8, 2023, Appellant proceeded to a jury trial before the Honorable H. Steven DeBerry, IV. (R. 1).

Lizzie Robertson, a quality assurance employee at Florence County 911, testified that Florence County 911 received a call on March 24, 2019, regarding a shooting at the Coit Street Quick Stop in Florence. (R. 36).

Thomas Herman, an investigator with the City of Florence Police Department, testified that he was dispatched in response to the 911 call. (R. 41-42). Herman stated that the scene was "chaotic" when he arrived. (R. 43). People were screaming, and a person was on the ground with a gunshot wound to the head. (R. 43). He testified that the scene was a parking lot, in which people were known to gather. (R. 44). As one of the first law responders to the scene, Herman's role was to secure the scene and relay information to other incoming responders. (R. 44). After he determined that the person on the ground had a gunshot wound to the head, another officer began providing medical attention to that person while Herman started obtaining witness statements. (R. 48).

Herman had been nearby when the incident occurred and had heard gunshots but had not counted the number of shots fired. (R. 42, 51). Herman confirmed he received information at the scene that Jolicia Joyner, who is Appellant's sister, had been the shooter and also that a man in a white BMW or Mercedes drove off shooting. (R. 56). Herman testified that Jamie Zimmerman, an individual at the scene, told an officer that Victim had been caught in crossfire and had been shot by someone in the parking lot rather than the person shooting from a car. (R. 58).

Carlos Jackson testified he was at the Coit Street Quick Stop for his birthday party. (R. 107). Jackson testified that both Appellant and Jolicia attended the party. (R. 108). During the party, he went outside and observed a fight involving Appellant, Jolicia, and others. (R. 109). He shot his firearm into the air to break up the fight and went back inside. (R. 109-110). Shortly after he returned inside, he heard more gunshots. (R. 109-110). He stated that he attempted to go back outside but was unable to because of the number of people trying to get inside. (R. 110). Jackson did not see who fired shots after he returned inside, but he believed the shots were fired within a minute of his return inside. (R. 110). He admitted that the time between his gunshot and the following shots could have been more than a minute. (R. 110). Jackson confirmed he became aware that someone had been injured in the parking lot after he returned inside. (R. 110). He stated that he did not shoot Victim. (R. 131).

Angela Robinson testified she attended Jackson's birthday party, which was also a birthday party for Gloria Whitehead. (R. 133). At the party, Angela saw both Jackson and Whitehead, as well as Whitehead's daughter, Deandra. (R. 134). Angela's children, Brianna and Jamares, were also present. (R. 134). During the party, she saw Appellant and Jolicia fight Deandra and Kanisha Allen. (R. 135). Angela was not aware of any problems at the party before Appellant and Jolicia arrived. (R. 136). She did not witness the fight breaking up. (R. 136). Angela testified that after the fight broke up, she believed the fighting was dying down. (R. 136). She said the fight broke up as she walked to her car with her daughter, Brianna. (R. 136-137). Once in her car, Angela and Brianna watched the "shenanigans" and talked. (R. 137-138). While they were talking, Angela heard yelling before seeing Appellant, Jolicia, and another woman get into a white vehicle. (R. 138). As this white vehicle sped off, Angela saw Appellant in the backseat of the white car "with her body half way hanging out with her arm out stretched with a gun firing into the crowd

of people." (R. 138). Angela stated she heard more than one shot coming from the backseat of the white vehicle and estimated that she heard "[a]bout three" but was not sure. (R. 145-146).

After the white car left, Angela and Brianna got out of their car and went toward the crowd of people. (R. 140). Angela observed Victim on the ground with a bullet wound in her head. (R. 140). Angela's son, Jamares, who had been standing next to Victim when Victim sustained the gunshot wound, fired his gun down the street toward the fleeing white car. (R. 140). According to Angela, Appellant fired first and Jamares fired after in retaliation. (R. 141). When Angela saw that Victim was beyond anything she could do to help her, Angela and Brianna left. (R. 142). Jamares told her that he would talk to law enforcement and handle everything. (R. 142).

Stephen Starling, a captain with the City of Florence Police Department, testified regarding shell casings found at the scene as they related to State's Exhibit 2, which is a map of the scene and corresponding evidence markers. (R. 160, 177). He testified that items 8-15 as labeled on State's Exhibit 2 were all aluminum .9 millimeter shell casings. (R. 179). State's Exhibit 2 shows these shell casings in an arc from the parking lot out onto a street. (State's Ex. 2).

Regarding the shell casings found at the scene, four different types of casings were recovered by law enforcement. The casings were identified as: (1) one brass forty-caliber casing, which matched the forty-caliber Smith and Wesson pistol turned in by Carlos Jackson (R. 111, 370, 446, 641); (2) three brass nine-millimeter casings, which matched the FMK nine-millimeter pistol turned in by Jamares Robinson (R. 323, 368-369, 640); (3) one aluminum .380 casing and three live aluminum-cased .380 bullets, which matched the .380 Hi-Point turned in by Demarcus Bluett (R. 369-370, 446, 640); and (4) eight aluminum nine-millimeter casings, which matched no gun in evidence. (R. 438, 453-454). However, the eight aluminum nine-millimeter casings matched the Federal brand nine-millimeter Luger bullets found at Appellant's home. (R. 188-189).

The bullet recovered from Victim's brain was not fired by the guns turned in by Jackson, Jamares, or Bluett. (R. 641).

Gloria Whitehead testified that she attended the party at the Coit Street Quick Stop. (R. 207). When she arrived, Victim, Kanisha Allen, and Gloria's daughter, Deandra, were already there. (R. 208-209). Appellant and Jolicia had yet to arrive. (R. 209). She became aware of a fight between Deandra and Jolicia after another adult at the party told her of the fight. (R. 210). When she went outside, she saw two fights—one between Deandra and Appellant and another between Kanisha and Jolicia. (R. 211). Gloria separated Appellant and Deandra before walking Appellant back to Appellant's car. (R. 211). Gloria was aware of Jackson's single gunshot, which was an effort to break up the fight between Kanisha and Jolicia and occurred after Gloria returned from escorting Appellant to her car. (R. 212). Gloria testified that Kanisha and Jolicia stopped fighting after Jackson's shot but Jolicia continued talking despite being told to leave by both Gloria and Jackson. (R. 214). Jolicia eventually proceeded to get into the front passenger seat of the same car Appellant was already in. (R. 214-215). Gloria stated that Victim was not engaged in either fight. (R. 215). Further, the woman who drove Appellant and Jolicia's car was also not engaged in either fight. (R. 215).

Gloria estimated that 15 to 20 minutes passed between when Deandra left after breaking off her fight with Appellant and when Jolicia got into her car. (R. 216). However, Gloria did not look at her watch during the incident and stated her time estimates were estimates and not certainties. (R. 243). Gloria testified that Victim did not come outside until Jolicia got into her car. (R. 217). As Victim was asking Gloria why the fights occurred, Victim was hit in the head by a bullet. (R. 217). Gloria watched Appellant shoot into the crowd as the car she was in pulled out of the parking lot. (R. 217-220). Gloria confirmed she told others at the scene that Jolicia shot

Victim but clarified that her statements shortly after the shooting were misstatements because she meant to say Jolicia's sister. (R. 223, 242). Gloria testified that she did not know how much of Appellant or Appellant's gun were outside of the car window because it was dark outside. (R. 236). She stated she did not see anyone else with a gun. (R. 234).

Deandra testified that she attended Jackson's party. (R. 248). She knew of Appellant but did not know her. (R. 249-250). Deandra and Kanisha stayed outside when Appellant and Jolicia arrived. (R. 251). When Appellant and Jolicia came back outside, the fighting started. (R. 251-252). Gloria broke up Appellant and Deandra, and Gloria walked both Appellant and Deandra to their respective cars. (R. 252-253). When Jolicia and Kanisha's fight ended after Jackson shot once into the air, Deandra and Kanisha left. (R. 253-254). Deandra estimated they left approximately five minutes after Jackson's sole shot. (R. 257). Deandra testified that she received phone calls approximately 20 to 30 minutes after she left the party and learned that Victim had been shot. (R. 256). Deandra stated that Appellant and Victim did not know each other and that she did not understand why Appellant would shoot Victim, especially because Victim had not been involved in the fights. (R. 255). She testified that Gloria initially told her that Jolicia shot Victim; however, she believed her mother meant to say that Jolicia's sister, Appellant, shot Victim because her mother did not know Appellant's name. (R. 270).

Kanisha Allen testified in a substantially similar manner to Deandra. (R. 273-286).

Tanisha Timmons went to Jackson's party and drove Appellant and Jolicia to the party in her white Ford Fusion. (R. 289-291). As she, Appellant, and Jolicia exited the party, Appellant and Jolicia became involved in a fight. (R. 292). Timmons testified that she pulled Appellant away and put her in the back seat of her car before she heard gunshots. (R. 292). After hearing gunshots, she went back, got Jolicia, put Jolicia in the front seat, and began driving. (R. 293). As

she pulled away from the parking lot, she heard shots from her backseat. (R. 293). She did not see Appellant shooting but confirmed that Jolicia was not the shooter. (R. 294).

Jamares Robinson testified that he attended Jackson's party. (R. 313). He stated that during the party, Appellant fought Deandra and Jolicia fought Kanisha. (R. 316). During the fighting, Jackson shot once into the air. (R. 317-318). Approximately 10 to 15 minutes after Jackson's shot, he saw shots coming from a white vehicle that he saw Appellant and Jolicia entering after the fighting. (R. 320-324). Jamares returned fire while running after the white car. (R. 322).

Brianna Robinson testified that she was also at Jackson's party. (R. 336). She saw the fight but could not identify the participants. (R. 339). She heard but did not see Jackson fire a shot into the air, but she heard it. (R. 339). Brianna stated she felt the heat from a second shot, after which everyone dispersed. (R. 340-41). She estimated two minutes passed between the second shot and when she saw Appellant shooting out of the back of a car. (R. 357).

Thomas Beaver, an expert in forensic pathology, testified that a bullet entered Victim's forehead and embedded in the back of her skull. (R. 473-474).

During her case in chief, Appellant offered body worn camera footage into evidence. (R. 509-510; Defense Ex. 8). One of the videos contained Jamie Zimmerman's account of the incident directly after the incident. (Defense Ex. 8). Jamie Zimmerman did not testify at trial. In the video, Zimmerman stated Victim was not involved in the shooting but was hit with a "stray bullet." (Defendant's Ex. 8 at 0:30-1:00). Zimmerman stated that Victim's friends were in a white Mercedes and that she believed Victim's friends were the ones who shot Victim. (Defendant's Ex. 8 at 4:00-4:30). Zimmerman also stated that Victim's friends shot first. (Defendant's Ex. 8 at 3:30-4:00). Zimmerman identified Jackson as one of Victim's friends and one of the shooters. (Defendant's Ex. 8 at 8:00-8:30).

During the charge conference, Appellant asked for a justification charge, which would charge the jury that if a person is being fired at, then the person would not be acting unlawfully if the person fired back. (R. 527). The State construed this request as a request for a self-defense charge and argued that no evidence of self-defense had been presented other than "an offhand comment made on a body-worn camera." (R. 527). The State objected to any justification or self-defense charge. (R. 527). Appellant argued Zimmerman's statement was not an offhand comment; rather, it was an eyewitness statement made before EMS arrived in which Zimmerman stated the incident was a shootout started not by Appellant but by Victim's friends. (R. 528). The State responded that no mention of self-defense was made during trial and the evidence presented by the State rebutted any self-defense theory. (R. 529). The trial court determined that a necessity charge was proper over the State's objection but declined to charge self-defense because self-defense had not been alleged. (R. 530).

The jury found Appellant not guilty of murder but guilty of the lesser included offense of voluntary manslaughter. (R. 625). The jury also found Appellant guilty of possession of a weapon during the commission of a violent crime. (R. 625).

After the jury verdict, Appellant requested credit for time served for three years of home confinement with electronic monitoring. (R. 633). The State acknowledged that Appellant was entitled to 20 months of time served for pretrial detention but objected to credit for her home detention because Appellant had been indicted for trafficking narcotics while on home detention. (R. 636). The State noted that the indictment for trafficking narcotics had been dismissed prior to this trial. (R. 636). Appellant asserted that the trafficking narcotics charge was "quickly" and completely dismissed for being unfounded. (R. 636). The trial court took the issue of credit for time served on monitored house arrest under advisement and requested the monitoring company's

report of violations. (R. 637). The trial court then sentenced Appellant to 25 years' imprisonment for voluntary manslaughter and a concurrent 5 years' imprisonment for possession of a weapon during the commission of a violent crime. (R. 637-38). The trial court gave credit for Appellant's 20 months of pretrial detention. (R. 638).

In its April 4, 2024 order denying credit for time served on monitored home detention, the trial court noted that section 24-13-40 of the South Carolina Code grants a sentencing judge discretion in granting time served for monitored home detention. (R. 654). The trial court acknowledged that it reviewed a report from the monitoring company, which stated Appellant had no violations. (R. 654). The trial court also stated that Appellant had been arrested while on home detention for a drug trafficking charge, which the trial court acknowledged had been dismissed prior to trial. (R. 654).

This appeal followed.

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). "If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial [court's] refusal to do so is reversible error." *State v. Light*, 378 S.C. 641, 650, 664 S.E.2d 465, 469 (2008). Whether "any evidence" exists to warrant the charge is a question of law this Court reviews de novo on appeal. *State v. Jalann Lee Williams*, 427 S.C. 246, 830 S.E.2d 904, 906 (2019). When reviewing the circuit court's refusal to deliver a requested jury instruction, appellate courts must consider the evidence in a light most favorable to the moving party. *State v. Wendell Williams*, 400 S.C. 308, 314, 733 S.E.2d 605, 608-09 (Ct. App. 2012).

A sentence will not be overturned absent an abuse of discretion. *Id.* An abuse of discretion occurs "when the ruling is based on an error of law or a factual conclusion without evidentiary support." *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010). "A trial judge has broad discretion in sentencing within statutory limits." *Id.* "A judge must be permitted to consider any and all information that reasonably might bear on the proper sentence for a particular defendant." *Id.*

ARGUMENT

I. The trial court did not abuse its discretion by denying Appellant's request to charge self-defense because the evidence presented at trial does not support a self-defense charge and because South Carolina does not recognize transferred self-defense.

"The law to be charged to the jury is determined by the evidence presented at trial." *State v. Gaines*, 380 S.C. 23, 31, 667 S.E.2d 728, 732 (2008). "To warrant reversal, a trial court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant." *Id.* To establish self-defense in South Carolina, four elements must be present:

First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984).

In this case, evidence presented by the State tends to disprove any self-defense theory beyond a reasonable doubt. See *State v. Jalann Lee Williams*, 427 S.C. 246, 249-50, 830 S.E.2d 904, 906 (2019) (noting that if evidence is presented by the defense to support self-defense, the State must disprove beyond a reasonable doubt at least one element of the defense).

A. The evidence presented at trial does not support a self-defense charge.

First, the evidence does not suggest that Appellant was without fault in bringing on the difficulty that resulted in the death of Victim, an innocent bystander. The only evidence that could be construed to suggest Appellant shot her gun because she was being shot at comes from the body camera footage of Jamie Zimmerman; however, even this evidence, when viewed in the light most

favorable to Appellant, does not support such an inference. In that video, Zimmerman states that Victim's friends—presumably meaning someone other than Appellant—shot first. (Defendant's Ex. 8 at 3:30-4:00). Zimmerman specifically stated that Victim had nothing to do with any physical fighting or shooting. (Defendant's Ex. 8 at 0:30-1:00). Trial testimony from other witnesses indicated that Jackson was the first person to shoot his gun on the night of the incident. (R. 109-110, 212, 253, 278, 292, 317, 339). This is consistent with Zimmerman's statement.

However, by all accounts of those who observed Jackson's shot, Jackson shot his gun into the air rather than at Appellant or anyone else. (R. 109, 253, 278, 317). Further, his shot occurred anywhere between 1 and 30 minutes before Appellant sprayed a crowd of people with a volley of bullets from the backseat of a retreating vehicle. (R. 110, 212, 216, 256, 286, 302, 321, 357). At no time in the body camera footage does Zimmerman state how much time, if any, passed between the first shot she alleged was from one of Victim's friends and the shots from Appellant. Furthermore, several witnesses including Jamares Robinson, Gloria Whitehead, and Tanisha Timmons, all explicitly stated that no one was firing at Appellant at the time Appellant fired at the crowd. (R. 235, 294, 323-324). Therefore, while Appellant was objectively not the first shooter of the night, the evidence presented at trial indicates that no one shot at her, much less that anyone shot at her immediately preceding her shooting multiple times into the crowd assembled.

As to Victim, the evidence presented at trial showed that Victim and Appellant did not know each other. (R. 255; Defendant's Ex. 8 at 0:30-1:00). Victim was not armed. (Defendant's Ex. 8 at 0:30-1:00). Victim did not shoot a gun that night and, therefore, did not shoot a gun at Appellant. (Defendant's Ex. 8 at 0:30-1:00). Appellant was solely at fault for shooting and killing Victim, who was an unarmed, innocent bystander that just came outside to see why a physical fight occurred. (R. 217). Therefore, because the evidence presented at trial does not support a finding

that Appellant was without fault in bringing on the difficulty between herself and Victim (or anyone else), the trial court did not abuse its discretion in declining to charge self-defense.

Second, the evidence presented at trial does not support a finding that Appellant believed she was in imminent danger of any kind. In the body camera footage, Zimmerman states that Victim was hit with a stray bullet and that "people were shooting back and forth." (Defendant's Ex. 8 at 0:30-1:00). This is consistent with witness testimony at trial that Jamaris retrieved his gun and shot back at Appellant as the car she was in drove away. (R. 322). As discussed above, Zimmerman did not give a timeline for the incident. (Defendant's Ex. 8). However, the evidence presented at trial does provide a timeline—at least one minute passed between Jackson's shot into the air and Appellant opening fire into the crowd. (R. 110, 212, 216, 256, 286, 302, 321, 357). Therefore, because Jackson's shot into the air and time had elapsed between that shot and Appellant opening fire, the evidence presented at trial does not support a finding that Appellant believed she was in imminent danger of any kind or that Appellant was actually in imminent danger of any kind. *See State v. Lockamy*, 369 S.C. 378, 383–84, 631 S.E.2d 555, 558 (Ct. App. 2006) (holding that when an accused "was no longer in danger when he fired the [fatal] shot" then a charge of self-defense is not warranted).

Specifically as to Victim, the evidence presented at trial, including the body camera footage of Zimmerman, indicate that Victim posed no threat to Appellant and that Victim was unarmed. (R. 215-217; Defendant's Ex. 8 at 0:30-1:00). Therefore, the evidence presented does not support a finding that Appellant believed she was, or that she actually was, in any immediate danger from Victim. Thus, the trial court did not abuse its discretion in denying Appellant's request for a self-defense charge.

Third, "[i]f the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life." *State v. Bryant*, 336 SC 340, 344-45, 520 S.E.2d 319, 321-22 (1999). Appellant did not allege a belief that she was in danger; therefore, only the 'actual danger' part of the third element of self-defense is relevant here, which is not met by the evidence in the record. Victim was unarmed and virtually unknown to Appellant. (R. 255). The evidence presented at trial suggests only that Victim was an innocent bystander. (R. 215-217, 255; Defendant's Ex. 8). Further, even if Appellant believed she was in imminent danger from Victim, that belief was not reasonable because Victim posed no danger to Appellant. Therefore, the trial court did not abuse its discretion in denying Appellant's request for a self-defense charge.

Fourth, the evidence presented at trial suggests Appellant had numerous other probable means of avoiding any danger she believed existed other than acting as she did. *See State v. Washington*, 424 S.C. 374, 412, 818 S.E.2d 459, 479 (Ct. App. 2018), *aff'd in part, vacated in part, rev'd in part*, 431 S.C. 394, 848 S.E.2d 779 (2020) (reversed on other grounds) ("In order to satisfy the fourth element of self-defense, there must be evidence the defendant: 'had no other probable means of escape except to take the life of his assailant or stated another way, that he had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily harm than to act as he did in the particular instance; that it is one's duty to avoid taking human life where it is possible to prevent it even to the extent of retreating from his adversary unless by doing so the danger of being killed or suffering serious bodily harm is increased or it is reasonably apparent that such danger would be increased.'" (quoting *State v. Jackson (H. Jackson)*, 227 S.C. 271, 279, 87 S.E.2d 681, 685 (1955))).

Appellant contends that she had no obligation to sit idly by while being fired upon. (App. Br. 13). That misses the point. Appellant shot out of the back of a moving vehicle that was headed away from Jackson's party. (R. 138, 217-218, 293, 320, 342). Appellant was not sitting idly by but was actively leaving any perceived danger behind. *See State v. Goodson*, 312 S.C. 278, 280, 440 S.E.2d 370, 372 (1994) (holding that a trial judge did not err in refusing to instruct the jury on self-defense when the defendant had removed himself from the potential threat before shooting a third party). Further, had Appellant not fired a volley of shots into a crowd of people, she likely would not have been under return fire. Moreover, Victim posed no danger to Appellant. Therefore, had Appellant simply sat in Timmons' car as Timmons drove away instead of hanging out of the car from the waist up while shooting into a crowd, she likely would have avoided all perceived danger to herself as she was already in active retreat. (R. 293). Therefore, because the evidence at trial does not support a finding that Appellant had no other probable means to avoid the danger of losing her life or sustaining serious bodily injury other than to act as she did, the trial court did not abuse its discretion in denying Appellant's request for a self-defense charge. *See State v. Weaver*, 265 S.C. 130, 217 S.E.2d 31 (1975) (noting that a trial judge should not give a requested instruction that submits an issue which is not presented or supported by the evidence).

B. South Carolina does not recognize transferred self-defense.

Appellant asserts that because she believes she was acting in self-defense against unidentified third-parties rather than Victim, she is entitled to a self-defense charge for killing Victim, an unarmed, innocent bystander. However, South Carolina does not recognize transferred self-defense, and South Carolina courts have repeatedly and consistently declined to recognize it. *See Jamison v. State*, 410 S.C. 456, 471-72, 765 S.E.2d 123, 131 (2014) (holding South Carolina has not recognized the transferability of intent in self-defense claims, and that new evidence

towards a self-defense claim was immaterial when the victim was a third-party); *State v. Porter*, 269 S.C. 618, 622, 239 S.E.2d 641, 643 (1977) (noting the theory of transferred self-defense has not been accepted in South Carolina); *cf. State v. Scott*, 424 S.C. 463, 472, 819 S.E.2d 116, 120 (2018) (affirming a pretrial grant of immunity where the defendant established self-defense by a preponderance of the evidence where the defendant shot and killed a third-party bystander who had not shot at the defendant because the defendant mistakenly thought the third-party bystander had shot at him and the defendant had the right to act on appearances, even if mistaken).

Because trial courts are required to charge only the current and correct law at the time of the trial, the trial court *could not* have charged the jury on self-defense for Appellant's killing of Victim because such a charge would necessarily be a transferred self-defense charge. *See State v. Adkins*, 353 S.C. 312, 317, 577 S.E.2d 460, 463 (Ct. App. 2003) ("Generally, the trial judge is required to charge only the current and correct law of South Carolina."). Therefore, the trial court did not abuse its discretion in declining to charge the jury on self-defense because Appellant was not defending herself from Victim and a self-defense charge in this case would necessarily be a transferred self-defense charge, which would be an incorrect statement of South Carolina law.

C. The evidence in the record did not warrant a necessity charge.

To prove necessity (which is an affirmative defense), a defendant must show by a preponderance of the evidence that:

- (1) there is a present and imminent emergency arising without fault on the part of the actor concerned;
- (2) the emergency is of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done; and
- (3) there is no other reasonable alternative, other than committing the crime, to avoid the threat of harm.

State v. Cole, 304 S.C. 47, 49-50, 403 S.E.2d 117, 119 (1991). These elements are admittedly similar to the four elements of self-defense. *See generally State v. Davis*, 282 S.C. 45, 46, 317

S.E.2d 452, 453 (1984). Much like Appellant's requested self-defense charge, Appellant was not entitled to a necessity charge for many of the same reasons she was not entitled to a self-defense charge. The State objected to the necessity charge. (R. 530). However, the trial court gave this necessity charge anyway. (R. 607-608). The jury convicted Appellant of voluntary manslaughter despite the necessity charge. (R. 625). Appellant cannot show that she was prejudiced because the unwarranted necessity charge was given. *See State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 583 (2010) ("To warrant reversal, a trial judge's refusal to give a requested jury charge must be both erroneous *and prejudicial* to the defendant." (emphasis added)).

II. The trial court did not abuse its discretion by denying credit for monitored home detention because the awarding of such credit is within the discretion of the trial court.

Section 24-13-40 of the South Carolina Code provides that "[i]n every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and *may* be given for any time spent under monitored house arrest." (emphasis added). "A sentence will not be overturned absent an abuse of discretion" *State v. King*, 367 S.C. 131, 136, 623 S.E.2d 865, 868 (Ct. App. 2005) (quotation omitted). "An abuse of discretion occurs when the decision by the [plea court] is based on an error of law." *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

As noted in its order denying credit for time served on monitored home detention, the trial court reviewed the monitoring company's report that Appellant had no violations of her home detention. (R. 654). Further, the trial court stated that Appellant's arrest and charge for a drug trafficking offense while on monitored home detention was brought to the court's attention, and the trial court specifically stated that the charge was dismissed prior to the trial in this case. (R. 654). Contrary to Appellant's assertion, neither the transcript of the sentencing hearing nor the order denying credit for time spent on monitored home detention specify the exact reason the trial

court denied Appellant credit for time spent on monitored home detention. The order simply states the information the trial court had at its disposal, which the trial court considered in making its decision. (R. 654). *See In re M.B.H.*, 387 S.C. at 326, 692 S.E.2d at 542 ("A judge must be permitted to consider any and all information that reasonably might bear on the proper sentence for a particular defendant."). The order then concludes by stating that the trial court took the information presented to it, along with the information gained from presiding over Appellant's trial, and denied Appellant's request in light of the sentence already imposed. (R. 655). *See In re M.B.H.*, 387 S.C. at 326, 692 S.E.2d at 542 ("A trial judge has broad discretion in sentencing within statutory limits.").

Credit for time spent on monitored home detention is within the discretion of the sentencing judge. *See* § 23-14-40. As the trial court noted in its order, it considered the information presented to it—including the report of no home detention violations and the dismissal of the drug trafficking charge—before exercising its discretion in denying Appellant credit for time spent on monitored home detention. Merely because the trial court was aware Appellant had been arrested and charged for a later dismissed drug trafficking offense does not indicate that the court abused its discretion in denying appellant credit for time spent on home detention. This same trial court presided over Appellant's trial. (R. 1). This same trial court sentenced Appellant to 25 years' imprisonment, which is within the statutory sentencing range and 5 years *below* the 30-year statutory maximum sentence for voluntary manslaughter. (R. 637-638). *See* S.C. Code Ann. § 16-3-50 (setting forth a sentencing range of 2 to 30 years' imprisonment for a person convicted on voluntary manslaughter).

The order denying credit for time spent on home detention states the trial court considered a variety of information before denying Appellant's request. (R. 654-655). It considered the

evidence and testimony from trial. (R. 655). It noted the sentence below the statutory maximum it had already imposed. (R. 655). It considered that Appellant had no violations on her home detention monitoring report. (R. 654-655). And, most important to this argument, it considered that Appellant's drug trafficking charge had been dismissed before the trial in this case began. (R. 654-655). In light of all this information, the trial court properly exercised its discretion by deciding not to grant Appellant credit for time spent on monitored home detention because, while Appellant was eligible for such credit, she was not entitled to it. As the decision to grant credit for time served on monitored home detention was solely within the trial court's discretion and was not based on an error of law, the trial court did not abuse its discretion in denying Appellant credit for time spent on home detention.

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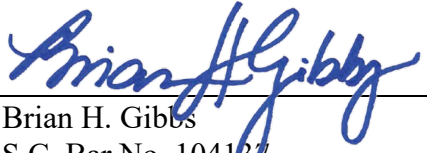
CONCLUSION

Based on the foregoing, the State requests that this Court affirm Appellant's convictions for voluntary manslaughter and possession of a weapon during the commission of a violent crime, as well as her associated sentences.

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Attorneys for Respondent

August 28, 2025
Columbia, South Carolina

RECEIVED**Aug 28 2025****SC Court of Appeals**

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

H. Steven DeBerry IV, Circuit Court Judge

Appellate Case No. 2024-000274

THE STATE,

Respondent,

v.

MEASHA JAQUETTA SHAWNIC JOYNER,

Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify that I have served this Final Brief of Respondent on Jordan Wayburn, Esquire, counsel of record for the Appellant, by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.

This 28th day of August, 2025.



Grace Sommer
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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

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

The State, Respondent,

v.

Measha Jaquetta Shawnic Joyner, Appellant.

Appellate Case No. 2024-000274

Appeal From Florence County
H. Steven DeBerry, IV, Circuit Court Judge

Unpublished Opinion No. 2026-UP-302
Heard May 14, 2026 – Filed June 17, 2026

AFFIRMED

Appellate Defender Sarah Elizabeth Shipe, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Brian Hollis Gibbs, both of Columbia,
and Solicitor Edgar Lewis Clements, III, of Florence, all
for Respondent.

PER CURIAM: Measha Joyner appeals her convictions for voluntary
manslaughter and possession of a weapon during the commission of a violent
crime, arguing the circuit court erred in (1) denying her request to charge the jury

on self-defense and (2) denying her request for credit for time served on monitored home detention. We affirm.

Factual and Procedural Background

In March 2019, a large group gathered at the Coit Street Quick Stop in Florence to celebrate the birthdays of Carlos "Stew" Jackson and Gloria Whitehead. A fight broke out between four attendees: Measha Joyner was fighting with Deandra Whitehead while Joyner's sister, Jolica (JoJo) Joyner, fought with Kanisha Allen. When Stew Jackson learned of the fighting, he went outside and fired a shot into the air to break up the crowd. After bystanders pulled Allen and JoJo apart, Allen and Deandra left. Deandra estimated that about five minutes elapsed between Jackson firing the shot in the air and their departure.

Gloria testified that she broke up the fight between her daughter, Deandra, and Joyner; she then walked Joyner to a white car and put her in the backseat. People warned Gloria that Joyner was armed, but she explained she was trying to de-escalate the situation and Joyner had been peaceful with her. Gloria testified that when Jackson shot into the air, JoJo and Allen were still grabbing each other's hair. At that point, Joyner was already in the white car. Gloria told her to stay there and went to get JoJo, but JoJo "continued to keep talking" while everyone was telling her to leave.

According to Gloria, when Chelsea Plowden (Victim) exited the building, she stopped to ask why people were fighting, and a bullet struck her in the head. Gloria saw Joyner shooting a gun from the back passenger window of the white car as it was leaving. Gloria did not see anyone firing at Joyner but noted everyone was scattering. She did not see anyone other than Joyner with a gun. Gloria admitted she was mistaken in initially identifying JoJo as the shooter but explained she was in shock, confused about names, and trying to tell people that JoJo's sister shot Victim. Eyewitness accounts varied as to how much time passed between Jackson's shooting into the air and Joyner's shooting from the exiting car, with reports of as little as one minute up to thirty minutes.

Deandra testified that "words were exchanged" at the party, and she and Allen began fighting with Joyner and JoJo. Gloria grabbed Deandra's hoodie, told her to stop fighting, and then escorted Joyner to her car while JoJo and Allen continued to fight. After Jackson fired his shot in the air, Deandra and Allen left. She learned Victim had been shot about twenty minutes later. Deandra admitted Gloria

initially told her JoJo shot Victim but explained that Gloria did not know Joyner or her name.

Allen testified that she and Deandra had an issue with the Joyner sisters prior to their arrival and noted there were a "whole bunch of stare downs" at the party. Allen and Deandra stayed outside because they knew there would be tension, but when Joyner and JoJo walked past them, they exchanged words. The women fought for three or four minutes, and Allen heard people telling them to stop. She also heard Jackson fire the shot into the air but was initially unable to separate from JoJo. Once the two were separated, Allen and Deandra returned to her truck and left the party.

Tanisha Timmons attended the party with JoJo and Joyner. She testified that as they were leaving, some people grabbed the Joyner sisters. Timmons claimed she pulled Joyner away from the fight and heard gunshots as she was putting her in the backseat of her car. She ran to get JoJo, put her in the car, and the trio left. As Timmons was driving away, she heard gunshots coming from her backseat. Timmons did not see Joyner shooting, but she heard the shots coming from the backseat of her car.

Angela Robinson testified that she witnessed the fighting between the women at the party. Angela was unaware of any problems at the party before the Joyner sisters arrived. Angela and her daughter, Brianna, had returned to Angela's car to talk when they heard yelling and saw JoJo, Joyner, and another woman in a white car. She testified, "Measha Joyner is in the backseat with her body halfway hanging out with her arm outstretched with a gun firing into a crowd of people." Angela's son, Jamar, fired back at the car.

Jamar witnessed the fighting and noted everyone scattered when Jackson shot into the air. Jamar next heard three gunshots—he also saw someone hanging out of the window of a white car and saw a flash. He drew his .9 mm, ran after the car, and shot back at it. After the white car was gone, he heard someone screaming that Victim had been shot.

Stew Jackson recalled that "everything was fine" until JoJo and Joyner arrived. Jackson walked outside because he heard fighting, shot once in the air, and returned inside as people dispersed and walked to their cars. He then heard multiple shots and tried to go back outside, but people were rushing back into the building. Jackson believed a minute elapsed between his shot into the air and the shots he heard outside.

Corporal Thomas Herman of the City of Florence Police Department was nearby and heard the shooting. He responded and secured the Quick Stop scene, which he described as "very chaotic"—with a lot people screaming and yelling and "just going all over the place." He found Victim on the ground with a gunshot wound to the head. Another officer rendered medical aid while Corporal Herman collected witness statements. An officer trainee, Shields, spoke with Jamie Zimmerman, who shared her opinion that Victim was shot by someone from the parking lot during the crossfire with the people leaving in the white car.

Chad Smith of the South Carolina Law Enforcement Division (SLED) testified as to his examination of the firearms evidence. Because the projectile he received was damaged, he could not identify the specific caliber of the weapon, but he was able to narrow the class down to a nominal .38, which includes "a handful of different calibers," such as a .9mm, .380 auto, and .357.

SLED ultimately determined one .40 caliber casing matched the gun Stew Jackson surrendered. Three .9 mm casings matched the pistol Jamares Robinson surrendered. Three .380 casings and three .380 bullets matched the Hi-Point surrendered by Demarcus Bluett. Officers also recovered eight .9mm casings that did not match any of the guns provided by the partygoers. These casings were of aluminum construction like the Federal brand .9mm Luger ammunition seized during a search of Joyner's home. They also shared the same head stamps. Smith testified that the projectile recovered from Victim was not fired by the weapons surrendered by Jackson, Jamares, or Bluett.

The State dismissed three attempted murder charges at the close of its case. During her own case, Joyner introduced several body camera videos, including Defense Exhibit 8, which included the on-scene conversation between law enforcement and Jamie Zimmerman in the minutes after Victim was shot.

Ultimately, the jury acquitted Joyner of murder but found her guilty of voluntary manslaughter and the weapon possession charge. During sentencing, Joyner requested credit for three years served on home confinement with electronic monitoring. The State objected, noting that while Joyner was out on bond, she was charged with trafficking narcotics in Richland County. The State acknowledged that this charge was later dismissed, but argued the arrest demonstrated Joyner was not at home and that wearing an ankle monitor "didn't slow her down." The circuit court sentenced Joyner to twenty-five years' imprisonment for voluntary manslaughter and five years on the gun charge. Joyner received credit for twenty

months of pretrial confinement, but the circuit court denied her request for credit for the time served on home detention.

Analysis

"In criminal cases, appellate courts sit to review errors of law only." *State v. Cross*, 427 S.C. 465, 473, 832 S.E.2d 281, 285 (2019). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *Id.* (quoting *State v. Douglas*, 369 S.C. 424, 429-30, 632 S.E.2d 845, 848 (2006)).

I. Self-Defense

Joyner argues she was entitled to a self-defense charge due to the existence of evidence that she did not start the shooting. She contends Zimmerman's statement on the night of the shooting that she believed Victim's friends shot first and Victim was hit in the crossfire provided sufficient evidence for this requested instruction. She further asserts that the only potential evidence that she was at fault in bringing on the difficulty was her earlier fight with Deandra, who left the scene before Victim was shot. Joyner argues the circuit court's charge on the defense of necessity was functionally a charge on self-defense but problematically shifted the burden to Joyner to prove necessity while the State would have been required to disprove self-defense beyond a reasonable doubt. We disagree.

"The law to be charged must be determined from the evidence presented at trial." *State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512 (2000).

A person is justified in using deadly force in self-defense when:

- (1) The defendant was without fault in bringing on the difficulty;
- (2) The defendant . . . actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger;
- (3) If the defense is based upon the defendant's actual belief of imminent danger, a reasonable prudent man of

ordinary firmness and courage would have entertained the same belief . . . ; and

(4) The defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011) (quoting *State v. Wiggins*, 330 S.C. 538, 545, 500 S.E.2d 489, 493 (1998)).

During the charge conference, Joyner asked about "the appropriateness of any kind of justification charge" because if someone's firing at you, "you have the right to fire back." The State responded, "I think that's tantamount to self-defense and I don't think there's been any evidence other than an offhand comment made on a body-worn camera to support that, so I would oppose any justification charge or anything of the like." Joyner properly replied that this was not an offhand comment but a statement from an eyewitness that there was a shootout, and the witness believed Victim's friends shot first. The State noted it had never heard of such a justification charge, only self-defense, the elements of which had not been met.

The circuit court "determined that the charge of necessity is probably—is proper in this case if you all want to take a look at that. I don't find that it's a self defense case. Self defense has not been alleged in this case."

We find the circuit court properly exercised its discretion in declining to charge self-defense because Joyner failed to present evidence of at least one element required to support such an instruction. *See State v. Santiago*, 370 S.C. 153, 161, 634 S.E.2d 23, 28 (Ct. App. 2006) (finding the circuit court did not err in refusing to charge self-defense when there was "the absence of at least one element of self-defense"). Notably, we see no evidence in this record that Joyner was ever in imminent danger—or believed she was—because she was shooting from the backseat of a vehicle that was already driving away from the party when the later shots were fired. Several witnesses testified as to Jackson's shot into the air to disperse the fighting in the parking lot, but eyewitness accounts varied as to how much time elapsed between Jackson's shot and when Joyner began shooting into the crowd from the white car. However, Jamares, Gloria, and Timmons all testified that no one was shooting at Joyner when she began shooting from the backseat.

We acknowledge Zimmerman's statements to police in the body camera footage arguably provided evidence of *some* elements of self-defense. Zimmerman explained that she did not know whose bullet struck Victim because people were shooting back and forth. She believed someone near Victim shot her based on where the bullet hit Victim's head and her opinion that the other people were "basically shooting in the air." She opined Victim's "friends started shooting first before the other people started shooting." According to Zimmerman, a man driving a Mercedes went to a car to get his gun and said, "I'll light this bitch up" before shooting in the direction of the exiting car. Zimmerman believed this man was one of Victim's friends.

Investigator Herman addressed Zimmerman's statements caught on Trainee Shields's body camera. He read the following from his notes:

Woman asked to speak to Officer Shields saying that would be Jamie Zimmerman. And she said she believe[d] the victim was caught in the crossfire and that she stated [she] believes that she was shot by the one in the parking lot not the one shooting from the car.

We agree with the circuit court that neither the testimony at trial nor Zimmerman's statements on the bodycam footage suggested Joyner acted in fear for her life or that a reasonable person of ordinary firmness would have entertained the same belief. But even if there were some hint of evidence that Joyner reasonably believed she was in imminent danger, we see no evidence that she lacked the ability to avoid such alleged danger while "in the backseat with her body halfway hanging out with her arm outstretched" firing into the crowd as Timmons's car left the scene. In sum, because evidence was not presented to satisfy all necessary elements of self-defense, the circuit court properly declined to give the requested instruction.

II. Credit for Time Served while on Home Detention

Section 24-13-40 of the South Carolina Code (2025) provides, in pertinent part:

In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest.

In denying Joyner's request for this credit, the circuit court noted it considered the report from the monitoring company indicating Joyner had no violations. The court also referenced Joyner's arrest in another county while on monitored house arrest but acknowledged the charge stemming from this arrest was later dismissed. The circuit court concluded, "After taking all of this information into consideration and having presided over the trial, and in light of the sentence I imposed, I respectfully deny the motion. . . ." for credit for time served on monitored home confinement.

We find the circuit court properly exercised its discretion in refusing to credit Joyner for time served on monitored house arrest because section 24-13-40 specifically provides the circuit court *may* award such credit, while requiring credit for time served in pretrial detention. For these reasons, Joyner's convictions and sentences are

AFFIRMED.

THOMAS, MCDONALD, and TURNER, JJ. concur.

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable H. Steven DeBerry IV, Circuit Court Judge

Unpublished Opinion No. 2026-UP-302
Heard May 14, 2026-Filed June 17, 2026

THE STATE,

RESPONDENT,

V.

MEASHA JAQUETTA SHAWNIC JOYNER,

APPELLANT

APPELLATE CASE NO. 2024-000274

PETITION FOR REHEARING

On June 17, 2026, this Court affirmed Measha Joyner's convictions where she argued the trial court erred in denying her request to charge the jury on self-defense. *State v. Joyner*, Op. No. 2026-UP-302 (S.C. Ct. App. Filed June 17, 2026). Ms. Joyner respectfully requests rehearing pursuant to Rule 221(a), SCACR, considering the points overlooked and/or misapprehended by this Court, discussed below.

In the opinion this Court affirmed finding the trial court "exercised its discretion in declining to charge self-defense because Joyner failed to present evidence of at least one element

required to support such an instruction.” *State v. Joyner*, Op. No. 2026-UP-302 (S.C. Ct. App. Filed June 17, 2026) at 6. This Court further noted “we see no evidence in this record that Joyner was ever in imminent danger—or believed she was—because she was shooting from the backseat of a vehicle that was already driving away from the party when the later shots were fired.” *Id.*

This Court recognized the varied witnesses’ accounts of the events of the evening. However, this Court failed to acknowledge that by multiple accounts Ms. Joyner was fired upon before returning fire. Brianna Robinson testified that she heard a “second shot” after the fight broke up. R. 340:22-25. She then heard more gunshots and looked in the direction of the sound to see Ms. Joyner “hanging out the window shooting.” R. 341:3-342:18. Immediately after the incident, Jamie Zimmerman told police that Ms. Joyner was fired upon first. Def. Ex. 8 at 3:43–3:50. Timmons testified she heard shots “when” she put Ms. Joyner in the car. R. 301:3-7. Then, as she pulled out of the parking lot after she found Jolica Joyner, she heard gunshots coming from her backseat where Measha Joyner was. R. 293:17-294:9.

Initially, Zimmerman’s statement is what matters most for purposes of a self-defense instruction. If someone is being shot at, they can generally defend themselves. Therefore the trial court erred by summarily concluding, “I don’t find that it’s a self-defense case. Self-defense has not been alleged in this case.” R. 530:1-3. That decision was incorrect because evidence existed to warrant the charge.

It goes against reason to suggest that Ms. Joyner being shot at fails the “actual imminent danger of losing [her] life” element of self-defense. She did not have to sit helplessly in the back of a car waiting to be shot at again, thus, it was not unreasonable as a matter of law for Ms. Joyner to return fire in the hopes of subduing the aggressor. *See State v. Scott*, 424 S.C. 463,

472, 819 S.E.2d 116, 120 (2018) (quoting *State v. Dickey*, 394 S.C. 491, 501, 716 S.E.2d 97, 102 (2011)) (affirming immunity where defendant established self-defense because “[a] person has the right to act on appearances, even if the person's belief is ultimately mistaken,” where he killed a bystander who had not actually fired at him).

In the opinion, this Court went on to say “even if there were some hint of evidence that Joyner reasonably believed she was in imminent danger, we see no evidence that she lacked the ability to avoid such alleged danger while ‘in the backseat with her body halfway hanging out with her arm outstretched’ firing into the crowd as Timmons’s car left the scene.” *State v. Joyner*, Op. No. 2026-UP-302 (S.C. Ct. App. Filed June 17, 2026) at 7.

Some hint of evidence is evidence to support an instruction on self-defense. The standard for giving the instruction is not the majority of the evidence and it is not substantial evidence; it is *any* evidence. See *State v. Light*, 378 S.C. 641, 650, 664 S.E.2d 465, 469 (2008) (“If there is any evidence in the record from which it could reasonably be inferred that the defendant acted in self-defense, the defendant is entitled to instructions on the defense, and the trial judge’s refusal to do so is reversible error.”). “When reviewing the circuit court’s refusal to deliver a requested jury instruction, appellate courts must consider the evidence in a light most favorable to the defendant.” *State v. Williams*, 400 S.C. 308, 314, 733 S.E.2d 605, 608-09 (Ct. App. 2012) (quoting *State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512-13 (2000)).

Regarding the final element, ability to avoid danger, Ms. Joyner had no other means of escape—she was already in a moving car driving *away* from the gunfire; nothing more could be done. She did not have a legal obligation to sit idly by while being fired upon. Moreover, there is a legitimate way in which she had no other means of escape precisely because she was trapped in a moving car. See 30 Corpus Juris, *Homicide* § 239, at 68-69 (“Where accused already has his

back to the wall . . . he is not obligated to retreat or escape before taking life in self-defense.”). Importantly, whether Ms. Joyner could escape or her fear was reasonable are questions of fact for the jury. *See Dickey*, 394 S.C. at 502, 716 S.E.2d at 103 (“[T]he State failed to disprove beyond a reasonable doubt that Petitioner had no other probable means of avoiding the danger.”).

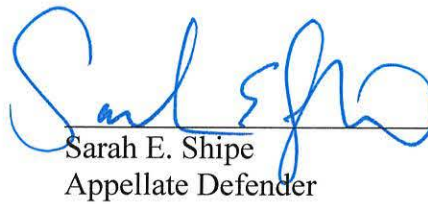
This Court’s opinion acknowledged that Zimmerman’s statements to police “arguably” provided evidence of some elements of self-defense, excepting the final element discussed above. *State v. Joyner*, Op. No. 2026-UP-302 (S.C. Ct. App. Filed June 17, 2026) at 7. Below is a summary of that evidence, which is discussed more fully in the brief of appellant.

Ms. Joyner was not at fault as a matter of law for bringing on the difficulty. Tanisha Timmons testified she and the Joyner sisters were jumped while leaving the party. R. 292:13-16, 299:16-25. Also, according to Gloria Whitehead and Jamares Robinson, Ms. Joyner had stopped fighting Deandra—and Deandra had left—approximately fifteen or twenty minutes before the shooting. Zimmerman’s statements were consistent with Brianna Robinson’s testimony she heard an unidentified “second shot” after Jackson broke the fight up because she knew only that the subsequent shots came from the Joyners’ vehicle. R. 340:22-25; 341:3-342:18. That can be true *and* the first shot in the firefight could have been at Ms. Joyner, which is precisely what Timmons testified: she heard gunshots when she put Ms. Joyner into the car. R. 293:2-23; 301:3-7. Taken together, and in a light favorable to Ms. Joyner, there is evidence in the record to support a charge on self-defense, and the trial court erred by denying it.

That the trial court charged the jury on the “defense of necessity” demonstrates its error in refusing to charge self-defense. As given, in context, that charge was functionally a self-defense charge except in one critical way: it placed the burden on Ms. Joyner to prove the necessity while the state is required to disprove self-defense beyond a reasonable doubt. *Dickey*,

394 S.C. at 499, 716 S.E.2d at 101 (citing *State v. Wiggins*, 330 S.C. 538, 544, 500 S.E.2d 489, 492 (1998)) (“[W]hen a defendant claims self-defense, the State is required to disprove the elements of self-defense beyond a reasonable doubt.”).

There was certainly “any evidence” to support the charge. Accordingly, Ms. Joyner respectfully requests this Court rehear the matter based on the trial court’s erroneous refusal to charge the jury on self-defense.



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ATTORNEY FOR APPELLANT

This 2nd day of July, 2026.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Jul 02 2026
SC Court of Appeals

Appeal from Florence County

Honorable H. Steven DeBerry IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MEASHA JAQUETTA SHAWNIC JOYNER,

APPELLANT

APPELLATE CASE NO. 2024-000274

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Brian H Gibbs, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Measha Joyner, #392804, at Leath Correctional Institution, 2809 Airport Road, Greenwood, SC 29649, this 2nd day of July, 2026.



Sarah E. Shipe
Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

The South Carolina Court of Appeals

The State, Respondent,

v.

Measha Jaquetta Shawnic Joyner, Appellant.

Appellate Case No. 2024-000274

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

Brian Hollis Gibbs, Esquire

Edgar Lewis Clements, III, Esquire

Sarah Elizabeth Shipe, Esquire

The Honorable H. Steven DeBerry, IV

FILED
Aug 26 2026