

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**Oct 08 2026**

**SC Court of Appeals**

Appeal from Lexington County  
Honorable Thomas A. Russo, Circuit Court Judge  
Honorable Walton J. McLeod, IV, Circuit Court Judge

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Opinion No. 2026-UP-440 (Submitted September 17, 2026 - Filed September 23, 2026)

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THE STATE,

RESPONDENT,

V.

SHELLIE LAVETTE DAVIS,

APPELLANT

APPELLATE CASE NO. 2018-000366

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PETITION FOR REHEARING

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Pursuant to Rule 221(a), SCACR, petitioner Shellie Lavette Davis requests that this Court grant rehearing because this Court's opinion failed to address the lower court's error of law in determining that petitioner's marriage had instances of domestic violence from both parties to the marriage but denying application of S.C. Code Ann. § 16-25-90 (2004) by discounting the abuse petitioner suffered in the years before the shooting death of Jermiane Davis. R. 1213-1215. In affirming the lower court, this Court found the circuit court's decision to deny application of S.C. Code Ann. §16-25-90 (2004) was supported by the record below since "reference to scattered domestic abuse in multiple forms and on both sides of the relationship did not amount to a

finding that Davis suffered a qualifying history of criminal domestic violence at her husband's hands." Respectfully, this finding incorrectly implies that the lower court did not find credible evidence that petitioner suffered from domestic violence. On the contrary, it is detailed order, the lower court specifically noted credible evidence of such violence from several witnesses (Huntley, Washington, and Howard). R. 1213-1214. The lower court did not find this testimony lacked credibility, as implied by this Court's opinion, but instead noted the past nature of these violent episodes. "On cross examination, Ms. Huntley confirmed that the incident she alleged happened would have been years before the victim's death." R. 1214. "Further she testified she never saw Ms. Davis with a black eye or missing hair, but only saw a bruise in 2010." R. 1214. "She further testified this incident occurred in 1999 when Ms. Howard was five years old and a decade before the victim's death." R. 1215. These were not factual findings that petitioner failed to establish a history of domestic violence on the part of Jermaine Davis, only that such evidence was "old."

Reliance on the "dated" nature of the evidence as eliminating application of S.C. Code Ann. § 16-25-90 (2004) was an error of law, which this Court should correct, rather than a credibility finding which petitioner concedes would be reviewed on an abuse of discretion standard. Our Supreme Court in State v. Hawes, 411 S.C. 188, 767 S.E.2d 707 (2015), has provided guidance to the lower courts in addressing cases that involve some evidence of mutual domestic violence over the course of a long marriage under S.C. Code Ann. § 16-25-90 (2004). Petitioner does not assert Hawes mandates such a finding, only that the circuit court must view the history of the marriage when there are allegations of mutual acts of domestic violence. Here, the error of the circuit court was finding credible evidence had been presented of a "tumultuous relationship with scattered instances of domestic abuse, in multiple formats, occurring on both

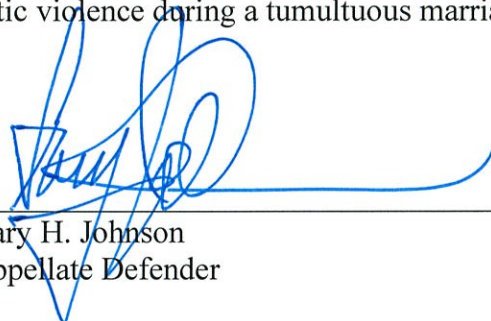
sides of the relationship” but denying that petitioner had “presented sufficient credible evidence to meet her burden to establish a history of criminal domestic violence such that § 16-25-20 is triggered.” R. 1217.

This interpretation of the scope of S.C. Code Ann. § 16-25-90 (2004), by diminishing the impact of credible evidence of past instances of domestic violence, is contrary to our Supreme Court’s acknowledgement of the recurring impact of domestic violence. “A battered woman suffers from ‘learned helplessness’ as the ‘repeated batterings, like electrical shocks, diminish the woman's motivation to respond.’” Robinson v. State, 308 S.C. 74, 77, 417 S.E.2d 88, 90 (1992). The trial court misinterpreted the impact of these past instances of violence and the nature of domestic abuse by finding such past instances of violence credible but, because they were well before the crime, outside the reach of S.C. Code Ann. § 16-25-90 (2004). As noted in Hawes, being an “aggressor” at times would not disqualify application of S.C. Code Ann. § 16-25-90. As noted in Robinson, past instances of domestic violence create “learned helplessness” that causes submission to the violence and are no less important than “contemporaneous” events closer in time to the retaliatory event.

This Court’s holding defers to an alleged finding that no credible evidence of domestic violence on the part of Jermaine Davis was presented – a finding directly contrary to the findings of fact made by the lower court. Rather than addressing the lower court's error of law regarding whether the credible evidence of past domestic violence on the part of Jermaine Davis was sufficient to fall under S.C. Code Ann. § 16-25-90 (2004), this Court's opinion creates a finding of fact by the lower court (that petitioner did not suffer "a qualifying history of criminal domestic violence at her husband's hands") that was in direct contradiction to the actual findings regarding the evidence presented before the lower court: "The Court is of the opinion that this was a

tumultuous relationship with scattered instances of domestic abuse, in multiple formats, occurring on both sides of the relationship." R. 1217.

Respectfully, petitioner requests that this Court reconsider its opinion and find that the lower court's ruling that "aged" incidents of domestic violence were insufficient for application of S.C. Code Ann. § 16-25-90 was an error of law. This Court should reverse the decision of the lower court and remand this matter for clarification on its contrary factual findings and the legal conclusion drawn from those facts, or, based upon a proper application of S.C. Code Ann. § 16-25-90, this Court should reverse the trial court's decision on qualification under the statute based upon the finding that petitioner suffered domestic violence during a tumultuous marriage.



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ATTORNEY FOR APPELLANT

This 8th day of October, 2026.

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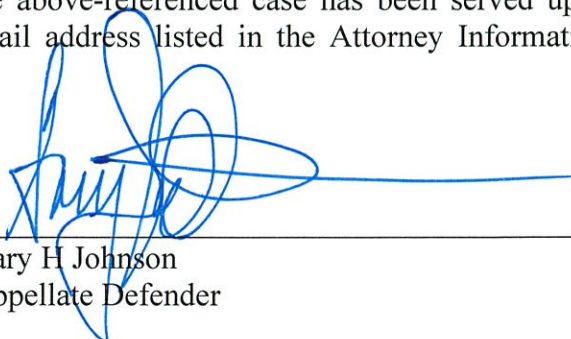
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APPELLANT

APPELLATE CASE NO. 2018-000366

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 Zachary W. Jones, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); this 8th day of October, 2026.



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