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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

On Petition for Writ of Certiorari to the Court of Appeals

H. Steven DeBerry IV, Circuit Court Judge

Appellate Case No. 2026-002118

THE STATE,

Respondent,

v.

MEASHA JAQUETTA SHAWNIC JOYNER,

Petitioner.

**RETURN TO PETITION
FOR WRIT OF CERTIORARI**

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STATEMENT OF ISSUES ON CERTIORARI

Petitioner's Issue Statement

- I. "Did the Court of Appeals err in finding the trial court properly exercised its discretion in declining to charge self-defense where there was evidence to support the instruction and the trial court's refusal to do so was reversible error?" (Pet. 2).

Respondent's Counterstatement

- I. Whether the Court of Appeals properly held that the trial court did not abuse its discretion by denying Petitioner's request to charge self-defense given that the evidence presented at trial did not support a self-defense charge and that South Carolina does not recognize transferred intent for self-defense.

STATEMENT OF THE CASE

In August 2019, a Florence County grand jury indicted Petitioner 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, Petitioner 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 Petitioner'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 Petitioner and Jolicia attended the party. (R. 108). During the party, he went outside and observed a fight involving Petitioner, 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 Petitioner and Jolicia fight Deandra and Kanisha Allen. (R. 135). Angela was not aware of any problems at the party before Petitioner 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 Petitioner, Jolicia, and another woman get into a white vehicle. (R. 138). As this white vehicle sped off, Angela saw Petitioner 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, Petitioner 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 Petitioner'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). Petitioner 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 about the fight. (R. 210). When she went outside, she saw two fights—one between Deandra and Petitioner and another between Kanisha and Jolicia. (R. 211). Gloria separated Petitioner and Deandra before walking Petitioner back to Petitioner'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 Petitioner 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 Petitioner was already in. (R. 214-215). Gloria stated that Victim was not engaged in either fight. (R. 215). Further, the woman who drove Petitioner 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 Petitioner 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 Petitioner 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 Petitioner or Petitioner'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 Petitioner but did not know her. (R. 249-250). Deandra and Kanisha stayed outside when Petitioner and Jolicia arrived. (R. 251). When Petitioner and Jolicia came back outside, the fighting started. (R. 251-252). Gloria broke up Petitioner and Deandra, and Gloria walked both Petitioner 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 Petitioner and Victim did not know each other and that she did not understand why Petitioner 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, Petitioner, shot Victim because her mother did not know Petitioner'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 Petitioner and Jolicia to the party in her white Ford Fusion. (R. 289-291). As she, Petitioner, and Jolicia exited the party, Petitioner and Jolicia became involved in a fight. (R. 292). Timmons testified that she pulled Petitioner 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 Petitioner shooting but confirmed that Jolicia was not the shooter. (R. 294).

Jamare Robinson testified that he attended Jackson's party. (R. 313). He stated that during the party, Petitioner 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 Petitioner and Jolicia entering after the fighting. (R. 320-324). Jamare 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 Petitioner 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, Petitioner 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, Petitioner 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). Petitioner 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 Petitioner 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 Petitioner not guilty of murder but guilty of the lesser included offense of voluntary manslaughter. (R. 625). The jury also found Petitioner guilty of possession of a weapon during the commission of a violent crime. (R. 625).

Petitioner filed a timely notice of appeal, and the Court of Appeals affirmed Petitioner's convictions and sentences in an unpublished opinion. *State v. Joyner*, Op. No. 2026-UP-302 (S.C. Ct. App. filed June 17, 2026). Regarding Petitioner's self-defense argument, the Court of Appeals held that "the circuit court properly exercised its discretion in declining to charge self-defense because [Petitioner] failed to present evidence of at least one element required to support such an instruction." *Id.* at *6. The Court of Appeals stated that it saw no evidence that Petitioner "was ever in imminent danger—or that she 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. The Court of Appeals acknowledged that the body camera footage of Zimmerman "arguably provided evidence of *some* elements of self-defense," before reiterating that neither this evidence nor any other evidence presented at trial tended to show that Petitioner acted in fear for her life or that a reasonable person of ordinary firmness would have entertained any such belief. *Id.* at *7. The Court of Appeals also stated that no evidence existed to support Petitioner lacking the ability to avoid such danger "while 'in the backseat with her body halfway hanging out with her arm outstretched' firing into the court as Timmons's car left the scene." *Id.* In short, the Court of Appeals held that Petitioner failed to show any support for the second, third, and fourth elements of self-defense and did not mention, much less rule on, whether any evidence supported the first element of self-defense. *Id.* at *5-*7.

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).

ARGUMENT

I. The Court of Appeals properly held that the trial court did not abuse its discretion by denying Petitioner's request to charge self-defense because the evidence presented at trial does not support a self-defense charge.

"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 Petitioner 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 Petitioner 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 Petitioner, does not support such an inference. In that video, Zimmerman states that Victim's friends—presumably meaning someone other than Petitioner—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* Petitioner or anyone else. (R. 109, 253, 278, 317). Further, his shot occurred anywhere between 1 and 30 minutes before Petitioner 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 Petitioner. Further, several witnesses, including Jamares Robinson, Gloria Whitehead, and Tanisha Timmons, all explicitly stated that no one was firing at Petitioner at the time Petitioner fired at the crowd. (R. 235, 294, 323-324). Therefore, while Petitioner 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 Petitioner 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 Petitioner. (Defendant's Ex. 8 at 0:30-1:00). Petitioner 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 Petitioner 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 Petitioner 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 Petitioner 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 Petitioner opening fire into the crowd. (R. 110, 212, 216, 256, 286, 302, 321, 357). Therefore, because time had elapsed between Jackson's shot into the air and Petitioner opening fire, the evidence presented at trial does not support a finding that Petitioner believed she was in imminent danger of any kind or that Petitioner 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 Petitioner 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 Petitioner believed she was, or that she actually was, in any immediate danger from Victim. Thus, the Court of Appeals correctly held that the record does not indicate that Petitioner believed she was in imminent danger. *Joyner*, Op. No. 2026-UP-302 at *6.

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). Petitioner 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 Petitioner. (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 Petitioner believed she was in imminent danger from Victim, that belief was not reasonable because Victim posed no danger to Petitioner. Therefore, the trial court did not abuse its discretion in denying Petitioner's request for a self-defense charge, and the Court of Appeals correctly determined that neither Zimmerman's statements on the body camera footage nor any other evidence suggested Petitioner acted in fear for her life or that a reasonable person of ordinary firmness would have entertained any such belief. *Joyner*, Op. No. 2026-UP-302 at *7.

Fourth, the evidence presented at trial suggests Petitioner 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))).

Petitioner contends that she had no obligation to sit idly by while being fired upon. (Pet. 14). That misses the point. Petitioner shot out of the back of a moving vehicle that was headed *away* from Jackson's party. (R. 138, 217-218, 293, 320, 342). Petitioner 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 Petitioner 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 Petitioner. Therefore, had Petitioner 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). Because the evidence at trial does not support a finding that Petitioner 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 Petitioner'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). Thus, the Court of Appeals correctly determined that no evidence existed that Petitioner lacked the ability to avoid any such alleged danger. *Joyner*, Op. No. 2026-UP-302 at *7.

B. 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 Petitioner's requested self-defense charge, Petitioner 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 Petitioner of voluntary manslaughter despite the necessity charge. (R. 625). Petitioner 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)).

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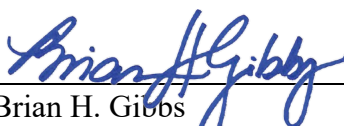
CONCLUSION

Based on the foregoing, the Court of Appeals correctly held that the trial court did not abuse its discretion by declining to charge self-defense to the jury because Petitioner could not point to evidence to support all four elements of self-defense. Therefore, the Court of Appeals properly affirmed Petitioner's convictions and sentences, and this Court should deny Petitioner's Petition for Writ of Certiorari.

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