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Oct 27 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

The Honorable Marvin Dukes, Circuit Court Judge

THE STATE,

APPELLANT,

V.

MESSIAH KASHEEF ANDERSON,

RESPONDENT.

APPELLATE CASE NO. 2026-001889

MOTION TO INTERVENE BY JIMMIE L. GREEN AS A RESPONDENT

Pursuant to Rule 240, SCACR, Jimmie L. Green ("Green"), by and through counsel, moves to intervene as a respondent in the above-captioned appeal. Green states the following grounds for this motion:

1. Undersigned counsel represents Green on an appeal from the denial of his post-conviction relief action that is currently pending in the Supreme Court, Jimmie L. Green v. State, Appellate Case Number 2026-000320.
2. Undersigned counsel was contacted by the Beaufort County Solicitor's Office handling the trial in the above-captioned case after the solicitors learned Green was represented. The solicitors informed undersigned counsel the State intended to call Green as a witness in its prosecution of Messiah Kasheef Anderson.

3. As stated in the State's Memorandum in Support of Appealability filed in the above-captioned appeal, the State contends that Green and Anderson both participated in the crimes charged. (State's Memo. App. ¶ 5). The State contends its appeal is necessary and viable because it needs Green's testimony to prosecute Anderson. (State's Memo. App. ¶ 5-6).
4. The State contends Green no longer retains any Fifth Amendment privilege. (State's Memo. App. ¶ 6).
5. The State's prosecution of Anderson began on the morning of August 24, 2026, and Judge Dukes ruled on whether Green could assert his privilege on August 25, 2026. (State's Memo. App. ¶ 1).
6. Undersigned counsel appeared at the trial and represented Green with respect to his assertion of his Fifth Amendment rights. Counsel filed in the circuit court on August 24, 2026, a Memorandum in Support of Jimmie Green's Assertion of His Right Not to Incriminate Himself, a file-stamped copy of which is attached as "Exhibit A." On August 25, 2026, undersigned counsel argued that Green retained his Fifth Amendment rights during pre-trial motions before Judge Dukes.
7. Judge Dukes ruled in favor of Green. (State's Memo. App. ¶ 1).
8. On August 25, 2026, the State filed a Notice of Appeal naming only Anderson as a respondent and serving only Anderson's attorney. To date, undersigned counsel for Green has not been served with a Notice of Appeal, thus requiring this motion to intervene. The State's memorandum regarding appealability in this Court fails to mention that Green was represented by counsel at the hearing and that Green filed a memorandum asserting his Fifth Amendment rights in the circuit court.

9. Green's Fifth Amendment rights are at stake in this appeal, not Anderson's. Both the State's Notice of Appeal and its memo on appealability show that the only issue in this appeal is whether Judge Dukes properly ruled that Green can assert his Fifth Amendment privilege. Therefore, Green should have been named as a respondent in this appeal and has standing as a respondent.
10. Green is a "real party in interest" in this appeal. See Patton v. Miller, 420 S.C. 471, 479-80, 804 S.E.2d 252, 256 (2017). "A real party in interest is 'the party who, by the substantive law, has the right sought to be enforced. It is ownership of the right sought to be enforced which qualifies one as a real party in interest.'" Id. quoting Bank of Am., N.A. v. Draper, 405 S.C. 214, 220, 746 S.E.2d 478, 481 (Ct. App. 2013).
11. Green is the owner of the right enforced by Judge Dukes' Order. The Fifth Amendment to the United States Constitution provides, "No person . . . shall be compelled in any criminal case to be a witness against himself . . ." U. S. Const. amend. V. The Fifth Amendment privilege "can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory; and it protects against any disclosures which the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used." Kastigar v. United States, 406 U.S. 441, 444-45 (1972).
12. Anderson lacked and lacks standing to assert Green's Fifth Amendment rights. "[T]he privilege against self-incrimination is **personal** and may not be invoked by, or on behalf of, a third person." State v. Hughes, 328 S.C. 146, 150, 493 S.E.2d 821, 822 (1997) (emphasis in original). The Tenth Circuit Court of Appeals' decision in United States v. Salinas-Calderon, 728 F.2d 1298 (10th Cir. 1984) illustrates this point. The defendant,

Salinas, was stopped by police while driving a truck with six Spanish-speaking men in the bed. After later being read their rights in Spanish, the passengers in the bed admitted they were illegally in the United States. 728 F.2d at 1299-1300. Salinas argued the men in the bed “should have been advised of their Miranda rights” at the highway stop. The Tenth Circuit easily held, “With respect to the male occupants of the truck, Salinas does not have standing to object to any violation of their fifth amendment rights resulting from failure to give Miranda warnings at the highway scene.” 728 F.2d at 1302.

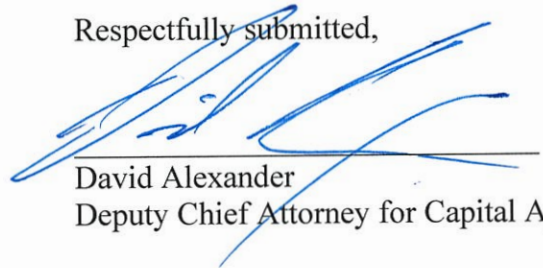
13. In this appeal, Anderson is in the same position as the defendant in Salinas. He could not invoke Green’s Fifth Amendment privilege. He lacks standing. Only Green has standing to assert his Fifth Amendment privilege, both at the trial court and in the appeal before this Court.
14. Due process also requires that Green be made a party to this appeal. “The Due Process Clause requires all parties be given an opportunity to be heard in a meaningful way.” Halsey v. Simmons, 432 S.C. 54, 57, 849 S.E.2d 578, 580 (2020) (internal quotations omitted); see also Grannis v. Ordean, 234 U.S. 385, 394 (1914) (“The fundamental requisite of due process of law is the opportunity to be heard.”). Judge Dukes heard from Green on the invocation of his privilege at the trial court and ruled in Green’s favor. Due Process requires that Green be heard in this appeal, as well. As the only right involved in this appeal belongs to Green, this Court must afford Green the opportunity to be heard.
15. Not by way of authority as the decision is unpublished, but as an example, the Supreme Court recently heard an appeal arising from a criminal case where the real party in interest in the appeal was not the defendant. See Ex Parte: South Carolina Comm’n Indigent Defense, Respondent, In re: The State, Respondent, v. Kenneth Henry

Eastwood, Appellant, Mem. Op. No. 2025-MO-043, Appellate Case No. 2024-000583 (Nov. 19, 2025). The issue on appeal in Eastwood involved the responsibility of SCCID to pay for experts hired by the defendant. SCCID was the real party in interest and was properly made a party to the appeal by Eastwood.

16. Here, the State failed to name Green as a respondent even though Green appeared below, was represented by counsel, argued (without objection) before Judge Dukes, and prevailed. Green's rights will be decided in this appeal, not Anderson's. This Court should allow Green to intervene in this case, be named as a respondent, and allow Green to brief and argue his position before this Court. The State should not be permitted to litigate Green's rights in this appeal unopposed, especially when a circuit court judge has already ruled in his favor after affording Green the right to be heard through counsel.

WHEREFORE, this Court should grant Jimmie L. Green's motion and add Green as a respondent to this case.

Respectfully submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

This 27th day of October, 2026.

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

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THE STATE,

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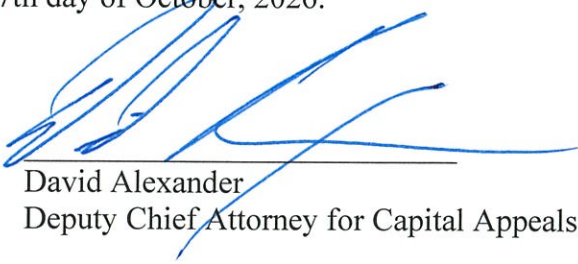
MESSIAH KASHEEF ANDERSON,

RESPONDENT.

APPELLATE CASE NO. 2026-001889

CERTIFICATE OF SERVICE

Pursuant to Rule 262(c)(3), SCACR, and the Supreme Court order of April 24, 2024, the undersigned hereby certifies a true copy of the motion to intervene by Jimmie L. Green as a Respondent in the above-referenced case has been served upon David Rigney, Esquire, Melody J. Brown, Esquire, and Isaac McDuffie Stone, III, Esquire at the primary e-mail addresses listed in the Attorney Information System (AIS), this 27th day of October, 2026.



David Alexander
Deputy Chief Attorney for Capital Appeals

EXHIBIT A

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	2025-GS-07-00294 through -00298
v.	)	
	)	MEMORANDUM IN SUPPORT OF
MESSIAH KASHEEF ANDERSON,	)	JIMMIE GREEN'S ASSERTION OF
	)	HIS RIGHT NOT TO INCRIMINATE
DEFENDANT.	)	HIMSELF
	)	

The State intends to call Jimmie Green as a witness in its prosecution of Messiah Kasheef Anderson. Green will assert his right not to incriminate himself under the Fifth Amendment to the United States Constitution and under the South Carolina Constitution. The State contends Green may no longer assert his Fifth Amendment rights because he did not appeal his guilty plea to crimes arising from the same incident for which it is prosecuting Anderson. The State's assertion is incorrect. Green still faces jeopardy because the State could charge him with other crimes from this incident.

The more difficult legal question concerning collateral review need not even be reached by this court as the jeopardy from other crimes is all that is required for Green to validly invoke the Fifth Amendment privilege. However, Green asserts that his pending PCR preserves his Fifth Amendment privilege even for the crimes to which he pled guilty. Green could implicate himself from any testimony on direct-examination by the solicitor or through cross-examination by Anderson.

Factual and Procedural Background

The prosecution of Anderson and Green arises from a shooting and motor vehicle accident that occurred on March 5, 2021, on Bluffton Parkway in Beaufort County. The State indicted Green and Ty Chaneyfield on August 11, 2022, for multiple offenses. Green was charged with

murder, two counts of attempted murder, first-degree assault and battery by mob, and second-degree assault and battery by mob. Chaneyfield was indicted for the same crimes as well as possession of a weapon during the commission of a violent crime. Over three years later, on February 13, 2025, the State indicted Anderson for the same crimes as Green.

On June 15, 2023, Green pled guilty before the Honorable Craig Brown. Judge Brown sentenced Green to forty years' imprisonment for murder and concurrent sentences on the other charges. Green's attorney filed no appeal. See Order of Dismissal, Jimmie Green v. State, CA No. 2024-CP-07-00996 (attached as Exhibit A). On May 7, 2024, Green timely filed a post-conviction relief action asserting multiple claims of ineffective assistance of counsel. Id. Green sought reversal of his conviction and a belated appeal. Id. The denial of Green's PCR is currently on appeal at the South Carolina Supreme Court.

On September 25, 2023, Chaneyfield was tried before the Honorable R. Ferrell Cothran and a jury. See Final Brief of Respondent, State v. Chaneyfield, App. Case No. 2023-001595 (attached as Exhibit B). The jury convicted Chaneyfield and Judge Cothran sentenced him to life imprisonment for murder and concurrent sentences on the other charges. Id. On July 22, 2026, Chaneyfield's convictions were affirmed by the Court of Appeals, with the exception that his sentence for possession of a weapon during the commission of a violent crime was vacated because Judge Cothran imposed a life sentence for murder. State v. Chaneyfield, Op. No. 2026-UP-377 (S.C. Ct. App. filed July 22, 2026). The Court held that imposing a sentence on the weapons charge violated S.C. Code Ann. § 16-23-490(A). Id.

In the Order of Dismissal on appeal in Green's PCR, Judge Van Slambrook quoted the solicitor's recitation of the facts at the plea. Ex. A. The solicitor described the shooting as a case of mistaken identity. Ex. A. According the State, Green, Chaneyfield, and Anderson, "were out

looking for people that Jimmie Green considered his enemies.” Ex. A. “What they found were three teenagers who, as least according to a witness, looked like the enemies but were not.” Ex. A. Under the State’s theory, Green drove the car while Chaneyfield fired a .45 caliber gun at the teenagers and Anderson, sitting in the back fired an assault rifle. Ex. A. The driver of the car was killed and his passenger seriously wounded. Ex. A. A third victim was also in the car. Ex. A. According to the State’s brief in Chaneyfield’s appeal, one of the victims did not know the car had been shot at and thought they were in an automobile accident. Ex. B. at 4. Jayden Void testified at Chaneyfield’s trial that Green was out looking for his enemies who had previously shot at Green’s house. Ex. B. at 5-6. These “enemies” were Memphis Daniels and Jaliel Hooper. Ex. B at 8. Void said his sister purchased marijuana from Green. Ex. B. at 5, 9. Anderson was a minor at the time of the incident. Ex. B at 6.

Green’s Fifth Amendment Rights Remain Intact because the State Could Charge Green with other Crimes

The Fifth Amendment to the United States Constitution provides, “No person . . . shall be compelled in any criminal case to be a witness against himself . . .” U. S. Const. amend. V. The Fifth Amendment privilege “can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory; and it protects against any disclosures which the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used.” Kastigar v. United States, 406 U.S. 441, 444-45. “This Court has been zealous to safeguard the values which underlie the privilege.” Id. at 445.

The privilege extends to testimony that could furnish a link in the chain of evidence needed to prosecute the witness. State v. Lawrence, 439 S.C. 611, 617-18, 889 S.E.2d 557, 561 (2023). A trial court “is limited to compel a person’s testimony if it is ‘perfectly clear’ the testimony will

not result in criminal liability and the testimony ‘cannot possibly have [a] tendency to incriminate.’” Id. quoting Hoffman v. United States, 341 U.S. 479 (1951).

The State convicted Chaneyfield of possession of a weapon during the use of a violent crime. S.C. Code Ann. § 16-23-490. The State did not obtain a conviction of Green for this charge. Even though the State’s theory was that Chaneyfield and Anderson were the shooters and Green was the driver, this fact would not prevent prosecution of Green for this crime. Accomplice liability applies to section 16-23-490. State v. Reid, 408 S.C. 461, 758 S.E.2d 904 (2014). Reid is directly on point. Reid moved for a direct verdict because the State failed to prove he ever possessed the firearm. The Supreme Court held, “Just as Reid could be convicted of assault and battery of a high and aggravated nature and armed robbery under a theory of accomplice liability even though he did not wield the offending weapon, so could he be found guilty for possession of that firearm.” Id. at 473, 758 S.E.2d at 910.

The State also asserted in its brief that Green sold marijuana to Shayniah Void. Ex. B. at 5, 9. It is not clear how much marijuana the State contends was involved, but depending on the amount, it could charge Green any of the offenses prohibiting the sale of marijuana, a controlled substance. See S.C. Code Ann. § 44-53-370.

Jeopardy on a single charge is all that is required for the Fifth Amendment privilege to exist. However, should this Court need to hear other crimes that Green’s testimony could expose him to, Green asks for an *ex parte* determination outside of the presence of the State. Green should not be forced to do the State’s job for it to substantiate his privilege. Green’s Fifth Amendment privilege would be impaired by disclosing other theories of criminal liability to the State. He should not be forced to risk prosecution to avoid prosecution.

In Lawrence, the defendant called his co-defendant as a witness. Lawrence at 614-15, 889, S.E.2d at 559. The co-defendant, Bennett, informed the court through counsel that he intended to invoke his Fifth Amendment privilege. Id. The trial court heard arguments and then “decided to question Bennett *in camera*. Id. “The trial court excluded counsel for both Lawrence and the State; however Bennett’s counsel attended the hearing.” Id. Apparently recognizing the necessity of the *ex parte* questioning by the trial judge, the State did not object to this procedure. Id.

If it becomes necessary, Green asks for the same procedure used in Lawrence—questioning by the Court without the presence of the State or Anderson, but with Green’s counsel present. This Court has the inherent authority to make an *ex parte* determination of whether Green’s assertions of other theories of criminal liability arising from the State’s allegation are proper. Green only discloses the weapons charge and the marijuana charge because it is clear from the State’s own brief in Chaneyfield’s appeal that it knows these charges are available. Indeed, the State is estopped from claiming it cannot charge Green with this crime because it has already done so in Chaneyfield’s case.

Green’s Fifth Amendment Rights Remain Intact because of his PCR Appeal

The State apparently will assert Green has waived his Fifth Amendment privilege because he pled guilty and did not appeal. It also asserts that a pending PCR is a collateral attack and does not enable Green to assert the privilege even though he seeks reversal of his convictions. The State’s argument is incorrect for several reasons. First, South Carolina grants persons convicted of a crime the right to a PCR and a PCR appeal by statute. See S.C. Code Ann. § 17-27-20 and § 17-27-100. These statutory rights apply regardless of whether a defendant was convicted after a jury trial or pled guilty. See Hill v. Lockhart, 474 U.S. 52, 59 (1985) (holding that an applicant proves prejudice by showing that counsel’s constitutionally deficient performance affected the

outcome of the plea); Miller v. State, 448 S.C. 109, 930 S.C.2d 709 (Ct. App. 2026) (reversing convictions obtained by guilty plea in post-conviction relief).

If the State can force a PCR applicant to incriminate himself after his conviction or plea become final on direct appeal, then PCR would be a meaningless remedy to that applicant. An applicant's testimony would be available for use at a hard-won new trial after lengthy post-conviction litigation. A defendant's Sixth Amendment right to effective assistance of counsel would be effectively eviscerated if the defendant was forced to incriminate himself in a later proceeding. Ruling against Green would also jeopardize his federal habeas action which he has the right to file if his state PCR is unsuccessful. In a federal habeas action, Green could raise claims that state PCR counsel failed to detect and present to the state court. See Martinez v. Ryan, 566 U.S.1 (2012). Martinez held that if a habeas petitioner can show that state PCR counsel was ineffective, it can excuse procedural default and allow raising new claims in federal habeas even though a state court has not passed on them.

Counsel for Green has been unable to locate controlling United States Supreme Court or South Carolina authority on this point. See State v. Showalter, 553 P.3d 276, 291 (Kan. 2024) (noting United States Supreme Court has not addressed whether Fifth Amendment privilege survives sentencing); see also Mitchell v. United States, 526 U.S. 314, 325 (1999) (holding guilty plea did not waive Fifth Amendment privilege at sentencing in same prosecution). The majority rule holds that the privilege extends through direct appeal. Id. See also, United States v. Kennedy, 372 F.3d 686, 691-92 (4th Cir. 2004) ("We have held in no uncertain terms that a defendant's right to invoke the Fifth Amendment as to events for which he has been convicted extends to the period during which the conviction is pending appeal."). But other jurisdictions recognize that the privilege extends into collateral litigation. See State v. Meza, 512 P.3d 608, 616-18 (Wash. Ct.

App. 2022). In Meza, the defendant called his co-defendant as a witness. Just like Green, the co-defendant/witness (a man named Cano), had pled guilty and failed to appeal. Also just like Green, Cano had a pending collateral attack (called a “PRP” in Washington) seeking to vacate his guilty plea. The Meza court considered the argument that allowing the Fifth Amendment to survive into collateral review would greatly expand the privilege, but ultimately found that because of the statute of limitations in Washington (one year, just like South Carolina), this concern was unfounded. The court held the witness’s privilege remained intact and the trial court properly prevented his testimony.

Compelling Green’s testimony also risks jeopardizing any conviction the State may obtain against Messiah Anderson’s position. If this court were to rule that Green had no Fifth Amendment privilege and compelled him to testify against Anderson, and that ruling was later found to be error, Anderson’s conviction would likely be reversed. These considerations for both Green and Anderson (and the State) counsel erring on the side of caution when it comes to determining whether the Fifth Amendment privilege still exists. Ruling otherwise could create a multiplicity of messes in subsequent appellate and collateral litigation. **The State obtained a conviction and life sentence without calling Green as a witness.**

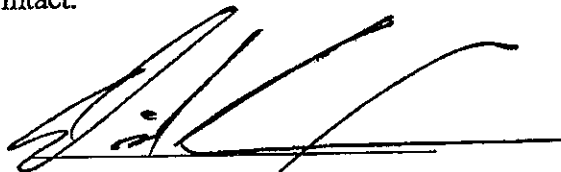
Even if this Court agrees with the State’s position that the Fifth Amendment privilege does not survive past the affirmance of a conviction on direct appeal generally, a specific claim in Green’s PCR keeps his privilege intact. In his PCR, Green seeks a belated appeal. Ex. A. at 10. South Carolina specifically recognizes that a PCR applicant can revive his direct appeal rights. See White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974); Rule 243(i), SCACR. If Green wins a belated appeal in his PCR, his conviction will not be final and his Fifth Amendment privilege will remain.

“Ordinarily, because of the state and federal protection against self-incrimination, the government may not force any citizen to give testimony against himself.” State v. Thrift, 312 S.C. 282, 297, 440 S.E.2d 341, 349 (1994). The government has two options to get testimony from a witness after assertion of the privilege: waiver or a grant of immunity. Id.

Should the State decide to grant immunity to Green in an attempt to eviscerate his privilege, it must respect not only the federal constitution, but the South Carolina Constitution’s privilege against self-incrimination. S.C. Const. Art. I, § 12. Under the South Carolina constitution, transactional immunity is the only valid immunity that can be overwhelm the privilege against self-incrimination. Thrift at 301, 440 S.E.2d at 351-52. The Supreme Court stated in Thrift that “only transactional immunity exists under the South Carolina Constitution.” Id. “Transactional immunity, as the term implies, shields the witness from *any prosecution* for the transaction or offense to which his compelled testimony relates.” Id. at 297, 440 S.E.2d at 349. The State must grant transactional immunity and have it sanctioned as an order of the court if it intends to strip Green of his state and federal rights against self-incrimination.

WHEREFORE, this Court should rule that Green’s rights not to incriminate himself under the federal and state constitutions remains intact.

August 24, 2026



David Alexander
Deputy Chief Attorney For Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR JIMMIE GREEN

EXHIBIT A

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) JERRI ANN ROSENEAU) IN THE COURT OF COMMON PLEAS
BEAUFORT COUNTY, S.C.) CLERK OF COURT) FOURTEENTH JUDICIAL CIRCUIT

Jimmie L. Green, #390950,

CASE NO. 2024-CP-07-00996

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

This matter comes before the court by way of Applicant Jimmie L. Green's (Applicant's) application for post-conviction relief (PCR) filed on May 7, 2024. On November 13, 2025, an evidentiary hearing was held at the Beaufort County Courthouse before the Honorable Dale E. Van Slambrook. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant proceeded forward on the allegations in his amended application.

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During its August 2022 term, the Beaufort County Grand Jury indicted Applicant for murder (2021-GS-07-00453), two counts of attempted murder (2021-GS-07-00452, -00451), assault and battery by mob first-degree (2022-GS-07-01227), assault and battery by mob second-degree (-1229), and assault and battery by mob third-degree (-1228). On May 8, 2023, Applicant appeared before the

Honorable Craig Brown and pled guilty as indicted. Kenneth D. Snow, Esquire, and Freddy Woods, Esquire, represented Applicant. Solicitor Duffie Stone and Deputy Solicitor Sean Thorton represented the State. Judge Brown sentenced Applicant to a sentence of 30 years for assault and battery by mob first-degree, 25 years for assault and battery by mob second-degree, time served for assault and battery by mob third-degree, 30 years for each attempted murder charge, and 40 years for murder, all to run concurrently. Applicant did not appeal.

FACTS GIVING RISE TO THE CONVICTION

The facts giving rise to the convictions were articulated by the Solicitor at Applicant's plea hearing as follows:

This took place on March the 5th, 2021, and it took place primarily on the Bluffton Parkway, which is a central road in the Bluffton area of Beaufort County. Somewhere around 10:30, 100 o'clock, the victim's car was driving along the Bluffton Parkway. The defendant was out with two of his – two people with him. The defendant is Jimmie Green. In Jimmie Green's car was Ty'leic Chaneyfield and another individual. These – inside the car was a semi, excuse me – a mini assault rifle and a .45 caliber handgun. They were out looking for people that Jimmie Green considered his enemies. What they found were three teenagers who, at least according to a witness, looked like the enemies but were not. Mr. Green followed the victim's car for what he would eventually describe as about 2 miles. He pulled behind it, and he started shooting. Green was driving. We believe that Chaneyfield was in the passenger's seat. We believe the third individual was in the back seat. We believe that Chaneyfield was firing the .45 caliber gun, and we believe that the individual in the back was shooting the assault rifle. They shot at the car no less than 17 times, and we know that because the Bluffton Police Department actually recovered 17 shells in a strip along here on the Bluffton Parkway that is highlighted in red. We also know that of those 17 shells, at least 12 hit the car. We know that because we had a SLED expert prepare a crime scene diagram which documented – and I'll get into this more later – each individual time the car was hit. Green and his fellow mob members started shooting at the car as it approached. There are shots in the back on both the left side as well as the back as well as the right indicated that the shot started as they were approaching the car. There were shots along all the side of the car as well; and then there was one shot at least that shot the back of the car after they had passed. The driver of the car, D.F., was killed almost instantly. The left passenger seat, E.G., was shot in the face in the head. The bullet, as it went through the glass of the back windshield, it appears to have shattered. The bullet actually splintered. So E.G. actually has two holes in his head. As the bullet went through, it concussed is carotid artery that runs under the mandible. One fragment, I believe, is still in his head. The other went straight through. Then K.S., who is the passenger of the victim's car was sitting on the right

side. A shot went into the glass, but it actually hit the glass and bounced off. I'll show you that in a few moments to clarify that as well. The attempted murder charges come with the shot back at this entire car, which would include K.S. in the passenger seat and E.G. in the left-back seat. The murder is, of course of D.F. who is the 17-year-old that was driving the car. Again, Mr. Green was out with two people carrying firearms, one firearm at least. They could discharge multiple shots in a relatively small amount of time. They were looking for what Mr. Green considered to be his enemies, and what they found were three innocent teenagers who were doing nothing other than driving home from getting something to eat.

(Plea Tr. pp. 16-19):

CURRENT ACTION BEFORE THE COURT

On May 7, 2024, Applicant timely filed this PCR application alleging:

1. Ineffective Assistance of Counsel
 - a. Counsel was ineffective for failing to send, and go over with, me my Rule 5./ Discovery when I asked him to do so.
 - b. Counsel was ineffective by failing to compel compliance with plea agreement. Counsel failed to object to the State's request for the maximum sentence of life, in violation of the plea agreement. State had agreed to make no sentencing recommendation.
 - c. Counsel was ineffective by failing to move to withdraw the guilty plea entered only because the State agreed not to make a recommendation on the sentence. State "renege" and asked for the maximum.
 - d. "Counsel was ineffective by failing to file a motion to reconsider sentence, within the 10 days required after the court sentenced me.

As relief, Applicant requested "for a new trial, withdraw plea, sentence reduction."

On March 31, 2025, Applicant filed an amended application through counsel alleging:

1. Ineffective Assistance of Counsel:
 - a. Failure to review discovery with Applicant and provide Applicant with a copy of the discovery;
 - b. Failure to get Applicant a bond motion;
 - c. Failure to move to reconsider the sentence;
 - d. Failure to file a notice of appeal;
 - e. Failure to object to the State requesting life imprisonment;
 - f. Failure to move to withdraw the plea;
 - g. Failure to mitigate the sentence;
 - h. For erroneously telling Applicant that if he pled, the State would not ask for life imprisonment.
2. Invalid plea:
 - a. Applicant only had 24 hours between being told he needed to plead straight

W

up and the plea hearing itself.

Before this Court are the Beaufort County Clerk records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Applicant's plea hearing transcript, and the records of the PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act¹ ("the Act") provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or other conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

¹ S.C. Code Ann. 17-27-10 to -160 *et seq.*

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687-88; Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged; the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58-59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of the circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudiced applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E. 2d at 635 (quoting Strickland, 466 U.S. at 690). "Counsel is strongly presumed to have

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to received relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove counsel’s deficient performance prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. Id. at 117-18, 386 S.E.2d at 625. When reviewing a guilty plea, the Strickland deficiency prong remains unchanged – Applicant must show that counsel’s representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58-59. To show prejudice, Applicant must show a reasonable probability “that, but for counsel’s [alleged] errors, he would not have pled guilty and would have insisted on going to trial.” Id. at 59. To be knowing and voluntary, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one’s accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243.

Failure to Review Discovery

Applicant alleged counsel was ineffective for failing to review discovery and provide Applicant with a copy of the discovery. This Court finds this allegation is without merit.

Counsel testified he met with Applicant often, visited him on weekends, and talked to him extensively. Counsel testified that he reviewed all of the discovery with Applicant extensively and took it all to him at the jail. Counsel testified Applicant could not have kept copies at the jail where people could look at it. This Court finds Counsel’s testimony *credible*. This Court finds that Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case.” Ard v. Catoe, *supra*. Therefore, Applicant has failed to prove deficiency.

This Court further finds Applicant has failed to prove prejudice. An applicant who alleges his or her defense attorney was ineffective in failing to spend more time preparing or providing a copy of the discovery materials must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls, 422 S.C. 174, 810 S.E.2d 836. Furthermore, an applicant must also show how the new evidence or defenses would have resulted in a different outcome. Id. (citing David v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)). Applicant has not suggested *any* defenses, or *any* evidence or *anything* that should have been investigated further, resulting in mere speculation. Therefore, Applicant has failed to prove prejudice.

Further, to whatever extent Applicant was not entirely satisfied with the amount of time to review discovery and investigate the charges, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to avail himself of the benefit of his guilty plea.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions to prove the second prong of Strickland as laid out in Hill—that but for Plea Counsel's

deficient performance, Applicant would have gone to trial and not pled guilty.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is denied.

Failure to get Applicant a Bond Motion

Applicant alleged Counsel was ineffective for failing to get Applicant a bond motion. This Court finds this allegation is without merit. At the PCR hearing Applicant testified he and Counsel discussed filing a bond motion however he chose to waive it because his accomplices' bond motions were denied and he believed he would also get denied. Applicant did not allege anything Counsel did deficient regarding this allegation and further testified he chose to waive the motion for bond. This Court finds Plea Counsel rendered reasonably effective assistance under prevailing professional norms. This Court finds Applicant has failed to show any deficiency by Plea Counsel for failing to file a motion for bond or prejudice flowing therefrom. Thus, this allegation is denied.

Failure to Move to Reconsider the Sentence

Applicant alleged Counsel was ineffective for failing to move to reconsider his sentence. This Court finds this allegation is without merit. Counsel testified Applicant did not ask Counsel to file a motion to reconsider. Counsel testified that Applicant had asked if the Judge would reconsider and so Counsel and the Solicitor went and spoke to the judge and the judge said he was not inclined to reconsider. Counsel testified he told Applicant this information. This Court finds Counsel's testimony credible. Applicant has failed to prove deficiency. Further, Applicant did not present any evidence that had counsel moved to reconsider the sentence, there is a reasonable likelihood the judge would have granted it. Thus, Applicant has failed to prove prejudice.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is denied.

Failure to File a Notice of Appeal

Applicant alleged Counsel was ineffective for failing to file a notice of appeal. This Court finds this allegation is without merit. Counsel has a constitutionally imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that she was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S. Ct. 1029, 145, L. Ed. 2d 985 (2000). When counsel has consulted with the defendant regarding the right to appeal, "Counsel performs in a professionally unreasonable manner only by failing to follow the defendant's express instructions with respect to an appeal." Id. at 478 (emphasis added). Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a trial, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (citations omitted)

This Court finds Applicant has failed to meet his burden of showing Counsel was constitutionally ineffective for failing to file his appeal. Counsel *credibly* testified Applicant did not ask him to file an appeal. There is no evidence of any extraordinary circumstances or any evidence to suggest Applicant demonstrated a reasonable interest in appealing. See Turner supra.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is denied.

W

Failure to Object to the State Requesting Life Imprisonment²

Applicant alleged Counsel erroneously told Applicant that if he pled, the State would not ask for life imprisonment and that Counsel failed to object to the State requesting life. Applicant testified he *does recall* the Solicitor stating on the record before he pled that they would be asking for life. Counsel testified there was no agreement that the State would not seek life. Counsel testified that at the plea, both sides could ask for whatever they thought was appropriate, and the Judge would make a decision. This Court finds Counsel's testimony *credible*. The record reflects the Solicitor did state on the record "I have explained to the defense counsel, regardless of if the defendant pleads guilty or goes to trial, I will still be asking for a life sentence." (Plea Tr. 6). Further Applicant told the Plea Court Judge that he understood the particular charge carries a minimum sentence of thirty years to life. (Plea Tr. 7). The record reflects Applicant was fully aware of the potential sentence he faced and proceeded to plead guilty. Applicant has failed to prove counsel was deficient. Additionally, Applicant has failed to prove prejudice. Applicant was only sentenced to the minimum of thirty years and *not* life.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is denied.

Failure to Move to Withdraw the Plea

Applicant alleged counsel was ineffective for failing to move to withdraw the plea. This Court finds this allegation is without merit. Applicant testified he wanted the plea withdrawn because the State was not supposed to ask for life. Counsel *credibly* testified that Applicant did not ask to withdraw the plea. Further, as discussed *supra*, the State stated on the record before Applicant pled that they would be asking for life. Applicant has thus failed to prove deficiency.

² This addresses allegations 1(e) and 1(h).

Additionally, Applicant was sentenced to the minimum sentence and *not* life and therefore failed to prove prejudice. Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation is denied.

Failure to Mitigate the Sentence

Applicant failed to present any evidence, testimony, or legal authority regarding this allegation at the evidentiary hearing. "When a party provides no legal authority regarding a particular argument, the argument is abandoned, and the court will not address the merits of the issue." Palmer v. State, 427 S.C. 36, 47, 829 S.E.2d 255, 261 (Ct. App. 2019) (citing State v. Lindsey, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011)). Therefore, the Court deems this allegation abandoned.

Invalid Plea

Applicant alleged his plea was invalid because Applicant only had 24 hours between being told he needed to plead straight up and the plea hearing itself. This Court finds this allegation is without merit.

Counsel testified that he discussed sentencing with Applicant before the plea. Counsel testified that he explained to Applicant that the Judge had wide discretion, that he and the Solicitor met with the Judge, and the Judge said he would give life at trial but would not give life if Applicant pleaded. Counsel testified that he met with Applicant and discussed everything, and Applicant said he was ready to proceed with the plea. Counsel testified that Applicant was informed a jailhouse informant gave information to the State, they discussed the option of pleading or trial, and that Applicant had time to think about it. Counsel testified that he discussed the plea weeks in advance of Applicant pleading. This Court finds Counsel's testimony *credible*.

Applicant has presented no valid reason why he should be able to depart from the

statements made during his guilty plea. See Tollett v. Henderson, 411 U.S. 258, 267 (1973) ("When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea."); Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 710 (2018) ("A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed."); Jamison v. State, 410 S.C. 456, 468, 765 S.E.2d 123, 129 (2014) ("[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights.").

Counsel *credibly* testified that he discussed the plea weeks in advance of Applicant pleading and informed Applicant of the possible sentences he faced. Applicant has not provided any evidence to prove counsel's representation fell below an objective standard of reasonableness. Further, at the plea hearing, Applicant relayed that he understood the sentence he faced and the constitutional rights he was waiving. Thus, based on the evidence presented at the plea proceeding and the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pled guilty. Applicant has failed to prove deficiency and prejudice, and thus, this claim is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

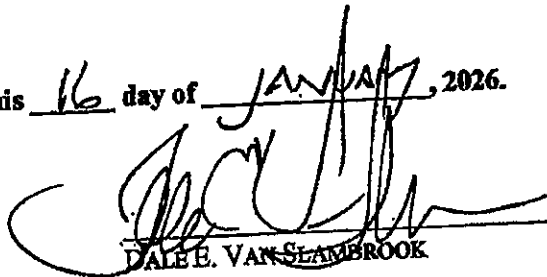
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203,

SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 16 day of JANUARY, 2026.


DALE E. VAN SLAMBROOK
Presiding Judge
Fourteenth Judicial Circuit

Charleston, South Carolina

EXHIBIT B

RECEIVED

Jan 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

R. Ferrell Cothran, Circuit Court Judge

Appellate Case No. 2023-001595

THE STATE,

Respondent,

v.

TY LEIC DAE JHON CHANEYFIELD,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

Appellant's Issue Statements

- I. Whether the court erred by admitting exhibits which depicted Appellant wearing a bandana over his face and making an obscene gesture at the camera, where the State had other evidence that Appellant was at the location where the images were recorded, since the probative value of the evidence was substantially outweighed by the danger of unfair prejudice, and the exhibits should have been excluded pursuant to Rule 403, SCRE?
- II. Whether the court erred by admitting exhibits which depicted Appellant wearing a bandana over his face and making an obscene gesture at the camera, since character evidence is not admissible for the purpose of proving action in conformity therewith, and the exhibits should have been excluded pursuant to Rule 404(a), SCRE?
- III. Whether the court erred in imposing a sentence for possession of a weapon during the commission of a violent crime, where Appellant received a life-without-parole sentence for the violent crime, since § 16-23-490(A) prohibits the imposition of sentence for the weapon when the defendant has received life without parole for the underlying offense?

Respondent's Counterstatements

- I. Whether the trial court abused its discretion by admitting into evidence exhibits depicting Appellant wearing a bandana and flipping off the camera, which the State used to corroborate testimony regarding Appellant's location and company prior to the incident, where the probative value of the exhibits was not substantially outweighed by the danger of unfair prejudice under Rule 403 of the South Carolina Rules of Evidence.
- II. Whether the trial court abused its discretion by admitting into evidence exhibits depicting Appellant wearing a bandana and flipping off the camera where the exhibits were not admitted to show Appellant acted in conformity therewith when committing the violent crimes for which he was charged, and the exhibits were therefore not precluded from evidence under Rule 404(a) of the South Carolina Rules of Evidence.
- III. Whether the trial court erred in imposing a sentence for Appellant's conviction of possession of a weapon during the commission of a violent crime when the trial court sentenced Appellant to life without parole for murder, given that section 16-23-490(A) of the South Carolina Code prohibits a court from imposing a sentence for possession of a weapon during the commission of a violent crime when the defendant also receives a life without parole sentence for the violent crime itself.

STATEMENT OF THE CASE

In August 2022, a Beaufort County grand jury indicted Appellant for murder, two counts of attempted murder, possession of a weapon during the commission of a violent crime, first-degree assault and battery by a mob, second-degree assault and battery by a mob, and third-degree assault and battery by a mob. (R. 984-97). On September 25-29, 2023, and October 2, 2023, Appellant proceeded to a jury trial before the Honorable R. Ferrell Cothran. (R. 1).

At trial, Allyson Moreira, a 911 audio clerk with the Beaufort County Sheriff's Office, testified that on March 5, 2021, a 911 call came in at 11:28 pm. (R. 153-55).

Jason Rodriguez, a sergeant with the Bluffton Police Department, testified that he responded to the 911 call after being dispatched for a traffic incident. (R. 156, 161). When he arrived on scene, he noticed bullet holes on the driver's side and back of a crashed vehicle. (R. 161). Sergeant Rodriguez testified that when he arrived, he observed Kylan Simmons talking to a first responder and EMS working on the two other occupants of the crashed vehicle. (R. 162).

Andrew de la Cruze, a firefighter and paramedic with the Bluffton Fire Department, testified that he responded to the incident and rendered care to the driver of the crashed vehicle, D.J. Fields. (R. 164-67). When he approached the crashed vehicle with another firefighter, he saw that Fields was slumped against the door. (R. 168-69). However, De la Cruze and the other firefighters were initially unable to gain access to the vehicle because of the positioning of the vehicle in a ditch. (R. 168-69). On first impression of Fields, De la Cruze thought that Fields was neither conscious nor breathing and noticed blood coming from Fields' nose and mouth. (R. 169). After getting Fields out of the vehicle, De la Cruze observed that Fields had gunshot wounds to his upper thorax and lower left abdomen. (R. 170). De la Cruze testified that after connecting Fields to an EKG machine, he observed that Fields did not have a heartbeat. (R. 170). He stated

that Fields was dead by the time he was able to get an EKG reading. (R. 170-71).

Jesse Clemens, a paramedic with Beaufort County EMS, testified that she responded to the incident and treated E.J. Graham, who was a passenger in the crashed vehicle, at the scene. (R. 171-72). She initially checked on Fields but found that he did not have a pulse and believed he was deceased. (R. 172). Upon moving from Fields to Graham, she noticed that Graham's wounds were severe, with "a lot" of bleeding and "a lot" of airway problems. (R. 173). She stated that Graham was not conscious but was flailing about. (R. 173). Clemens helped load Graham onto a stretcher, carried him out of the ditch that the crashed vehicle was in, and then left for the hospital with Graham in an ambulance. (R. 173). Clemens testified that while she was treating Graham, she "knew" he had a gunshot wound but was not initially sure of where it was located. (R. 174). She initially thought Graham had been shot in the head because there was "a lot of pink spongy matter" but later found that Graham had been shot in the neck. (R. 174). Clemens confirmed that Graham's airway was "very bloody" and that she had difficulty maintaining Graham's airway on the way to the hospital. (R. 174).

Zatch Pouchprom, a sergeant and detective with the Bluffton Police Department, testified that when he arrived on scene, his supervisor tasked him with photographing the scene. (R. 183-86). He took photos of a deceased body and canvased the surrounding area looking for other evidence. (R. 186-87). He discovered, photographed, and collected multiple shell casings near the crashed vehicle. (R. 187). Sergeant Pouchprom found .223 caliber rifle shells and .45 caliber pistol shells. (R. 192-93).

Kylan Simmons, one of the passengers in the crashed vehicle, testified that he had spent the day of the incident with Fields and Graham, with Fields driving them around. (R. 221). Simmons had been the front seat passenger all day, while Graham was in the back seat. (R. 221).

At approximately 10 pm on the day of the incident, he, Graham, and Fields went to a Parker's gas station. (R. 221). Simmons and Fields went into the store to buy fountain drinks while Graham stayed in Fields' car. (R. 224). After getting their drinks, Fields drove them to a nearby neighborhood. (R. 225). They drove around for a while before seeing some friends at a Wendy's near the Parker's they previously visited. (R. 227). They went over to the Wendy's parking lot to talk to their friends and stayed there for almost an hour. (R. 227-28). They left the Wendy's at 11:20 pm directly after their friends left. (R. 230).

Simmons did not know anything about a car that passed them shortly after they left the Wendy's parking lot. (R. 236). They were heading home on Bluffton Parkway when the incident occurred. (R. 237). Simmons described the incident as follows:

We was driving, talking, music going on my phone. Then all of a sudden, I just hear the noises, but I'm not paying attention to it really, because the music is on. And then I feel the car going off the road, so I start calling [Fields'] name, but I don't hear nothing, as we went off the road, so that's when I put my left hand on the brake, and my right hand on the wheel and then I'd seen the flash, so I covered up. And after we got out—tried but I couldn't get the doors open.

(R. 238). Simmons initially thought that the "sounds" were from Fields going off the road because the music was too loud for him to identify the sounds. (R. 238). After the car came to a stop, Simmons looked at Fields, who was "laid back, like coughing up blood or whatever like that." (R. 239). Simmons saw Graham laid across the back seat with blood "everywhere." (R. 239). Simmons testified that he never got a response from Fields after the shooting. (R. 240). The vehicle hit a neighborhood sign before coming to a stop. (R. 240).

When Simmons got out of the car, he tried to open the driver's door but was unable. (R. 241). He then called 911 and was at the scene when EMS arrived. (R. 241-42). Simmons was not shot. (R. 243). Simmons stated that he knew Appellant from playing AA basketball. (R. 243).

Edwin "E.J." Graham, the other passenger in the crashed vehicle, testified that he was with Simmons and Fields on the night of the incident. (R. 245). He rode to and from the Wendy's in the backseat of Fields' black Acura. (R. 246). Graham said that he, Fields, and Simmons were at the Wendy's for approximately an hour before leaving to go home right after the friends they met at the Wendy's left. (R. 246). When Fields turned onto Bluffton Parkway, Graham turned around and saw a darker car speeding up and going past them in the left lane, on the driver's side of Fields' car. (R. 248). Graham saw muzzle flashes from the front passenger seat of the darker vehicle, which were followed by more muzzle flashes from the rear passenger seat. (R. 248). Graham recalled that Fields' head slumped and then the car hit something. (R. 249). The next thing Graham remembered was waking up in the hospital. (R. 249). He sustained two gunshot wounds to the face and endured several surgeries, including two nasal procedures to remove shrapnel from around his brain and eyes. (R. 251). Graham knew of Appellant but did not know him personally. (R. 252).

Jayden Void testified that at the time of the incident, he lived with his father near Bluffton Parkway. (R. 263-64). On the day of the incident, his sister, Shayniah Void,¹ stopped by the house to visit him and their father. (R. 264). After Shayniah arrived, Jayden, Shayniah, their older sister, Stacy Void, and Stacy's infant son went to Station 300 for dinner. (R. 264-65). They also went to Station 300 so Shayniah could purchase marijuana from Jimmie Green. (R. 265-66). Jayden identified Shayniah's car as a distinctive bluish color. (R. 267).

When the Voids arrived at Station 300, Green was already there with Appellant. (R. 267-68). Jayden overheard Green tell Shayniah to "look for his people" or his "ops," which

¹ Shayniah Void's first name is alternatively spelled Shayna and Sheniah throughout the transcript. (R. 436).

meant his enemies or opposition. (R. 269-70). Jayden testified he was aware that Green's "ops" had previously shot at Green's house. (R. 270). Jayden stated that in addition to Appellant, Green had another person with him at Station 300. (R. 271). Jayden confirmed that State's Exhibit 40 was a short video that contained both Green and Appellant as they appeared on the day of the incident at Station 300. (R. 272). State's Exhibits 41 and 42 were still images from the video. (R. 271-72). Before the three exhibits were shown to the jury, Appellant objected to their admission. (R. 273).

After the trial court sent the jury out of the courtroom, Appellant argued that the three exhibits portrayed him and a minor making "obscene gestures" toward the camera while wearing bandanas around their faces. (R. 274). Appellant contended that the probative value of the exhibits was substantially outweighed by the potential for prejudicial effect because the exhibits were "kind of gratuitous" and showed that Appellant and the minor were "obviously" bad guys because they were flipping off the camera. (R. 274). Appellant asserted that the exhibits were unnecessary and prejudicial under Rule 403 of the South Carolina Rules of Evidence. (R. 274). He also argued that the exhibits "can certainly maybe go into some type of character issues." (R. 275). Appellant asserted that the State had other ways of establishing Appellant's presence at Station 300 with Green before the shooting happened. (R. 275). Appellant offered to stipulate that he was at Station 300 with Green. (R. 275).

The State argued that the exhibits corroborated Jayden's testimony because the exhibits place Appellant at Station 300 at the time Jayden indicated Appellant was there and also place Appellant in proximity to Green and the minor. (R. 275). The State asserted that Jayden did not know all three of the individuals depicted in the exhibits, so the exhibits place Appellant, Green, and the minor together and is an accurate representation of how they appeared that night.

(R. 275-76). The State contended that the exhibits were not overly prejudicial in the grand scheme of the case even though Appellant was flipping off the camera. (R. 276). The State emphasized that the exhibits showed Appellant, Green, and the minor together and because some of the charges against Appellant related to assault and battery by mob, the State had to show these three acting in concert, which these exhibits demonstrated. (R. 276).

Appellant then argued that the State was attempting to use the exhibits to bolster Jayden's testimony because there was no dispute that Appellant was at Station 300 on the night of the incident. (R. 276). Appellant argued that the way he was dressed and the "obscene" gesture he presented to the camera painted a "dark picture" of him and that the State wanted to use the exhibits to paint an impermissible picture of him as the kind of person who would commit murder because he flipped off the camera and wore a bandana over his face. (R. 276-77).

The State informed the trial court that another witness would testify later in the trial that Appellant told him that Appellant, Green, and the minor were at Station 300 with masks on and flipping the bird. (R. 277). The State asserted that the exhibits would support that witness's credibility, which the State suspected could be in question. (R. 277).

The trial court initially stated that the exhibits were the only evidence the State had that would show that Appellant was at Station 300, which would also be corroborated by a subsequent witness; therefore, the probative value was not outweighed by unfair prejudice. (R. 281). The State confirmed that the exhibits were the only photographic evidence of Appellant at Station 300. (R. 282). After taking a short recess, the trial court made its ruling as follows:

Okay, I have tried to weigh the analysis under 403 and 404.

What was presented to me is that this is the only photograph the State has that was taken that night at Station 300, which also leads up, I assume, to this crime.

And so—and they also have another witness that will testify that

[Appellant] told him that this is how he was dressed, and this is what they did.

I think the probative value outweighs the prejudicial value. Now, if it was just the photograph of [Appellant] and [a] co-defendant flipping the bird, then I wouldn't allow it in, because it would show no probative value.

But in this situation under the facts of this case, even though it is somewhat prejudicial, I think the probative value outweighs the prejudicial value, and I'm going to allow it in.

(R. 285). The trial court subsequently clarified that its ruling was not based solely on the fact that the exhibits would assist the later witness. (R. 285-86). The trial court stated that Jayden reviewed State's Exhibit 40 (the short video, from which State's Exhibits 41 and 42 were pulled) and that Jayden testified that he was there along with Appellant when the video was taken. (R. 286).

After ruling on the admissibility of the exhibits, Jayden's testimony resumed. (R. 288). Jayden testified that Appellant was the person on the left in the exhibits and that he did not know the other person shown next to Appellant. (R. 288). Jayden stated that Green was briefly shown in the short four second video. (R. 289; State's Exhibit 40). According to Jayden, Green was looking for Memphis Daniels and Jaliel Hooper. (R. 291-92). Jayden and his sisters left Station 300 at approximately 11:03 pm and went to Wendy's. (R. 293). At Wendy's, Jayden's sister, Shayniah, saw a car that Green described to her, which was a black car. (R. 293). Jayden thought Green's "ops" were in the black car. (R. 294). Shayniah called Green, and Green's car appeared at the Parker's next to the Wendy's shortly thereafter. (R. 296). Jayden said that Green's car did a U-turn in the Parker's parking lot because the black car pulled out of the Wendy's parking lot at the same time Green arrived in the Parker's parking lot. (R. 296-97).

Jayden testified that Green's car sped up to catch up to the black car and that he and his sisters fell in behind Green's car. (R. 297). When the black car turned onto Bluffton Parkway, Green sped up behind the black car and then got into the left lane. (R. 299). Jayden testified that

he saw more than one muzzle flash from the passenger side of Green's car and that the shots were aimed at the black car. (R. 299). Shayniah was driving and drove past the wreck of the black car before calling Green to tell him what she observed. (R. 300). Jayden and his sisters went back to Station 300 before returning to their father's house. (R. 300).

Jayden could not definitively state whether Appellant left Station 300 with Green. (R. 314). According to Jayden, one of his sisters took the video of Appellant flipping the bird. (R. 315). He stated that Appellant and the minor were merely "posing." (R. 315). Jayden testified that he had taken pictures of himself flipping off the camera in the past and that "it doesn't really mean anything, other than whatever." (R. 316).

Stacy Void, Jayden's older sister, testified that on the day of the incident, she was with her younger sister, Shayniah, and that she and Shayniah went to visit their father. (R. 317). Stacy took her infant son with her that day. (R. 318). After spending time at her father's house, Stacy, Shayniah, Jayden, and Stacy's infant son left in Shayniah's car to go to Station 300 because Shayniah wanted to purchase marijuana from Green. (R. 318-19). Green was already at Station 300 when they arrived. (R. 319). Green had other people with him, but Stacy did not know who they were. (R. 320). Stacy testified that Green told Shayniah about the "ops" he was looking for and that the two men with Green were present for Green's conversation with Shayniah. (R. 321-22).

When the Voids left Station 300, they first went to McDonalds, which was closed, and then went to Wendy's, where they saw a black car. (R. 324). Stacy testified that Green told Shayniah that his "ops" were in a black car. (R. 325). According to Stacy, when Shayniah saw the black car, she pulled into the Parker's parking lot and called Green. (R. 325). About a minute later, Green turned around in front of the Parker's parking lot and Shayniah, who was driving her car,

pulled out behind Green's car. (R. 327). The Voids followed Green's car to Bluffton Parkway. (R. 327). According to Stacy, when Green's car got beside the black car, she saw muzzle flashes from the passenger side of Green's car. (R. 327-28). After the shots were fired, Stacy saw the black car roll off the road and crash through a neighborhood sign. (R. 328). She then overheard Shayniah make a call and was able to identify the voices on the call as Green and Appellant. (R. 329). Stacy recalled Appellant having a gun under his jacket when they were at Station 300 prior to the shooting. (R. 330). After the shooting, the Voids went back to Station 300 before going back to their father's house. (R. 330-31). The day after the shooting, Stacy overheard Shayniah talking on the phone to Green, during which Green told Shayniah, "you know we shot the wrong people." (R. 343).

Dylan Hightower, an investigator with the Fourteenth Circuit Solicitor's Office and an expert in forensic cell phone analysis, testified about cell phone data from the day of the incident from the cell phones of Appellant, Green, and Shayniah. (R. 420, 427). The cell phone data showed that all three phones utilized a cell tower near Station 300 prior to the shooting. (R. 447-52). The cell phone data also confirmed that Shayniah called Green after leaving Station 300 and shortly after the shooting occurred. (R. 451-53).

Harold Rogers testified that he met Appellant while both were in custody at the Beaufort County Detention Center. (R. 519). He testified that Appellant went by the nickname "30." (R. 520). Rogers testified that after he got to know Appellant, Appellant confided in him that Appellant and his co-defendant killed a football player over some weed after his co-defendant's house was shot at. (R. 521). Appellant told Rogers that the shooting was in retaliation against the people Appellant and his co-defendant thought were in the car that night in Bluffton. (R. 521). Rogers identified Green as Appellant's co-defendant and stated that Appellant told him that he was

in the front passenger seat of Green's car during the shooting. (R. 522).

According to Rogers, Appellant was in the cell next door to him for a while when they were at the detention center so they spoke every day between April and December 2022. (R. 523-24). Rogers stated that Appellant told him that Appellant, Green, and others went to Shelton's house on the day of the incident where they met up with the minor. (R. 526). While at Shelton's house, Green received a call from Shayniah, who wanted to purchase marijuana from Green for herself and for Jayden. (R. 526). Appellant, Green, and the minor went to a bowling alley or arcade in Bluffton. (R. 526). Shelton did not go because he had an ankle monitor. (R. 527). Appellant, Green, and the minor hung out at the arcade for a while but did not go inside the arcade. (R. 527-28). The minor kept a bandana around his face. (R. 527). When the Voids arrived, Shayniah saw some guns in the backseat of Green's car. (R. 528). After meeting up with the Voids at the arcade, Appellant, Green, and the minor went somewhere else in Bluffton, likely a neighborhood called Edgefield or Edgeview, but whoever they went to meet was not there. (R. 528).

Shortly after arriving in the neighborhood, Green received a call from Shayniah, who told him that she was at Parker's and Wendy's somewhere in Bluffton and was looking at the people who shot at his house. (R. 528-29). Appellant told Rogers he could hear this conversation because it was on speakerphone. (R. 529). After receiving Shayniah's call, Green, who was driving, took off for the Parker's and did not even have to pull in because the people they were looking for pulled out onto the street with the Voids right behind as Green arrived. (R. 529). Appellant was in the front passenger seat and the minor was in the backseat. (R. 529). Appellant told Rogers that Green drove past the Voids and pulled up next to the football player. (R. 530). Appellant had a .45 caliber pistol, and the minor had a mini-assault rifle. (R. 530). Green and Shayniah were talking

throughout the shooting. (R. 531). Appellant told Rogers that he and the minor shot into the football player's car, which veered off to the right. (R. 531). The football player died, and Graham was shot. (R. 531). Appellant told Rogers that none of the occupants of the football player's vehicle looked like any of the men that shot at Green's house. (R. 531). After the shooting, Green dropped the minor off at the minor's house and dropped Appellant off at Appellant's car before going home himself. (R. 532-33).

John Donahue, who worked in DNA analysis at the Beaufort County Sheriff's Office and was an expert in forensic science-DNA testing and analysis, testified that a DNA sample from the front passenger door of Green's car was a match for Appellant. (R. 623, 625, 631). Donahue also confirmed that a DNA sample from the front passenger seatbelt was a match for Appellant and that a DNA sample from the back passenger side seatbelt was a match for the minor. (R. 631-32).

After the State rested, Appellant renewed his objections, including his objection to State's Exhibits 40, 41, and 42. (R. 676-77). He again argued that the exhibits were duplicative and unnecessary, and also asserted that due to the "obscene" gesture, the exhibits were "clearly" prejudicial. (R. 677). The trial court affirmed its earlier ruling, stating that the exhibits corroborated witness testimony that Appellant was at Station 300 on the night of the shooting. (R. 677-78).

Appellant testified that on the day of the incident, he left his mother's house in Ridgeland and headed to a friend's house in Hardeeville, where he stayed for about an hour. (R. 694, 699). When he left, he drove to Bluffton to see a friend, Shakira, who lived in the Edgefield neighborhood in Bluffton. (R. 700). When he got to Shakira's house, she stood him up. (R. 702). While he was sitting in Shakira's driveway, he heard from Green. (R. 703). Green picked Appellant up from Shakira's driveway, where Appellant left his car. (R. 704). Green had the minor

with him when he picked up Appellant. (R. 705). Green drove to Station 300 to meet with Shayniah, whom he was dating at the time. (R. 705-06). The Voids were already at Station 300 when Green and Appellant arrived. (R. 706). Appellant testified that he saw Green talk to Shayniah and give her marijuana but did not hear their conversation. (R. 707). At one point while they were still at Station 300, he saw Shayniah on Snapchat as he walked toward her car. (R. 708). According to Appellant, Shayniah recorded the short video (State's Exhibit 40) where he flipped off the camera, which he described as "just joking around." (R. 708). Appellant claimed he was not flipping the bird at anyone in particular. (R. 709). Appellant, Green, and the minor left Station 300 shortly after the Voids. (R. 709).

When they left Station 300, Appellant told Green that he needed to get back to Hardeeville and wanted to go back to his car. (R. 710). According to Appellant, Green dropped him off at his car in Shakira's driveway and did not see Green again that night. (R. 712-14). After returning to his car, Appellant claimed he drove to Hardeeville and then on to Ridgeland before driving to Beaufort. (R. 715-16). Appellant testified that he did not know about the shooting in this case until two days afterward and that he turned himself in to authorities shortly after he heard about the warrant out for his arrest and retained a lawyer. (R. 721-23).

Appellant knew Simmons from playing sports while they were growing up. (R. 718-19). He also knew that Green's mother's house had been shot at before the incident in this case. (R. 720). Appellant testified that he knew Rogers from the Beaufort County Detention Center but claimed he never talked to Rogers about the specifics of his case. (R. 724-25). Appellant confirmed that State's Exhibits 40, 41, and 42 show him and the minor at Station 300. (R. 738-39).

The jury found Appellant guilty as indicted. (R. 921-22). The trial court sentenced him to: (1) life imprisonment for murder; (2) thirty concurrent years' imprisonment for each of the two

counts of attempted murder; (3) five concurrent years' imprisonment for possession of a weapon during the commission of a violent crime; (4) thirty concurrent years' imprisonment for first-degree assault and battery by a mob; (5) twenty-five concurrent years' imprisonment for second-degree assault and battery by a mob; and (6) one concurrent years' imprisonment for third degree assault and battery by a mob. (R. 955-56).

This appeal followed.

STANDARD OF REVIEW

The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. *State v. Gaster*, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002). “A trial court has particularly wide discretion in ruling on Rule 403 objections.” *State v. Lee*, 399 S.C. 521, 527, 732 S.E.2d 225, 228 (Ct. App. 2012). An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law. *State v. McDonald*, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000).

ARGUMENT

- I. The trial court properly allowed the admission of State's Exhibits 40, 41, and 42 because the probative value of the exhibits—to assist the jury in understanding witness testimony about Appellant's location and company prior to the shooting—was not substantially outweighed by the danger of unfair prejudice under Rule 403 of the South Carolina Rules of Evidence.**

The State has the right to prove every element of the crime charged. *State v. Johnson*, 338 S.C. 114, 122, 525 S.E.2d 519, 523 (2000). Here, State's Exhibits 40, 41, and 42 were relevant to show that Appellant was with Green and the minor at Station 300 prior to the shooting. Because assault and battery by mob requires an "assemblage of two or more persons, without the color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another," the State had to show that Appellant was with Green and the minor on the night of the incident. S.C. Code Ann. § 16-3-210(A); *see State v. Haselden*, 353 S.C. 190, 199, 577 S.E.2d 445, 450 (2003) (holding that the relevance, materiality, and admissibility of photographs are matters within the sound discretion of the trial court and a ruling will be disturbed only upon a showing of an abuse of discretion).

The trial court balanced the probative value of the exhibits against their prejudicial effect and determined that the exhibits were admissible despite Appellant flipping the bird at the camera. (R. 285). The trial court further clarified that its ruling was not based solely on a later witness's testimony, which ultimately was not given, and emphasized that Jayden reviewed the exhibits, testified that he was present when they were recorded, and stated that the exhibits were an accurate representation of Appellant at Station 300 on the day of the incident. (R. 285-86). *See State v. Vang*, 353 S.C. 78, 87, 577 S.E.2d 225, 229 (Ct. App. 2003) (holding that a trial court must balance the prejudicial effect of graphic photographs against their probative value); *State v. Martucci*, 380 S.C. 232, 250, 669 S.E.2d 598, 607 (Ct. App. 2008) ("A trial [court's] decision regarding the

comparative probative value and prejudicial effect of relevant evidence should be reversed only in exceptional circumstances.”).

Here, while the exhibits undoubtedly show Appellant flipping the bird at the camera, the exhibits are still relevant to show Appellant’s location and company immediately prior to the incident and to show Appellant as he was on the day of the incident. Further, as noted by the trial court, the exhibits corroborate Jayden’s testimony because the exhibits place Appellant at Station 300 at the time Jayden indicated Appellant was present at Station 300. Because Jayden did not know all three individuals depicted in the exhibits (Appellant, Green, and the minor), the exhibits put all three together in one place prior to the incident and is an accurate representation of how the three men appeared that night. *See State v. Rosemond*, 335 S.C. 593, 597, 518 S.E.2d 588, 590 (1999) (admitting photographs which serve to corroborate testimony is not an abuse of discretion); *State v. Brazell*, 325 S.C. 65, 78, 480 S.E.2d 64, 72 (1997) (holding that photographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are irrelevant or not necessary to substantiate material facts or conditions).

Moreover, while the exhibits admittedly have prejudicial value due to Appellant flipping the bird at the camera, the prejudicial effect is minimal, especially given Appellant’s own testimony that when he flipped off the camera, he was “just joking around” and his gesture was not directed at anyone in particular. (R. 708-09). Jayden, who admitted he had made similar gestures himself, testified shortly after the exhibits were admitted that Appellant was merely “posing” and the gesture “doesn’t really mean anything, other than whatever.” (R. 315-16). Appellant’s gesture—one seen commonly on our state’s roadways—toward the camera and his wearing a bandana across his face did not suggest a decision to the jury on an improper basis because these things did not suggest to the jury that Appellant was guilty of the violent crimes for which he was indicted. *See*

State v. Kelley, 319 S.C. 173, 178, 460 S.E.2d 368, 370-71 (1995) (“To constitute unfair prejudice, the photographs must create a ‘tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.’” (quoting *State v. Alexander*, 303 S.C. 377, 382, 401 S.E.2d 146, 149 (1991))); *State v. Haselden*, 353 S.C. at 196, 577 S.E.2d at 448 (“Evidence [that the defendant] had a tendency to golf, fish, or go to his mother’s house is simply not evidence which would tend to prove he had a tendency toward abusing and murdering his two-year old son.”). If anything, both Appellant and Jayden’s testimony indicate that Appellant and the others depicted in the exhibits were goofing around while hanging out with friends, something that is not indicative of a propensity for murder or assault and battery by mob.

Merely because the exhibits could be described as unpleasant or depicting an untoward gesture does not reduce their relevance to Appellant’s charges. See *Davis v. Traylor*, 340 S.C. 150, 530 S.E.2d 385, 387 (Ct. App. 2000) (holding that a trial court is not required to exclude relevant evidence merely because it is unpleasant or offensive). Therefore, because State’s Exhibits 40, 41, and 42 substantiate material fact and corroborate witness testimony, the trial court did not abuse its discretion by allowing their admission.

- II. The trial court properly allowed the admission of State’s Exhibits 40, 41, and 42 because the exhibits were not admitted to prove action in conformity with the behavior displayed in the exhibits as flipping off a camera and wearing a bandana do not suggest that Appellant had the propensity to commit murder or assault and battery by mob.**

Rule 404(a) of the South Carolina Rules of Evidence provides, in relevant part, that “[e]vidence of a person’s character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion” Appellant failed to show that State’s Exhibits 40, 41, and 42, which show Appellant and others flipping off the camera and wearing bandanas, constituted inadmissible character evidence of “dangerousness, lawlessness, and vulgarity.” (App. Br. 12).

Regarding the exhibits depicting Appellant and others wearing bandanas, nothing in the record supports Appellant's contention that the use or wearing of bandanas indicates gang affiliation. No witness testified that bandanas were an identifying mark of gang affiliation. *Cf. State v. Khingratsaiphon*, 352 S.C. 62, 67, 572 S.E.2d 456, 458 (2002) (including in the facts section that a witness testified that wearing bandanas, among other specific clothing, was consistent with gang attire); *State v. Liverman*, 286 S.C. 223, 227, 687 S.E.2d 70, 71 (Ct. App. 2009) (including in the fact section that a witness testified before the jury that wearing a black bandana around the head signified affiliation with a specific gang), *affirmed but criticized on other grounds*, 398 S.C. 130, 727 S.E.2d 422 (2012).

Further, mentions of bandanas in the record are limited to witnesses testifying that one or more of the individuals depicted in the exhibits are wearing bandanas over their faces without mention as to what a bandana could mean. (R. 527). Moreover, given that the incident occurred in March 2021 during the midst of the Covid-19 pandemic, the use of a bandana as a face covering could be viewed as a makeshift mask during a time of mask mandates. *See generally United States v. Rodriguez*, 2020 WL 3051443, *2 n.5 (S.D.N.Y. 2020) (noting that the Center for Disease Control and Prevention attempted to address mask shortages during the pandemic by recommending the use of bandanas where personal protective equipment was in short supply).

Regarding the exhibits depicting Appellant and others flipping off the camera, while this gesture can be viewed as untoward, testimony from Appellant himself, as well as from Jayden, indicate that Appellant and the others depicted in the exhibits were "posing" and goofing around, much in the way that teenagers and young adults are want to do, and the gesture did not mean anything "other than whatever." (R. 315-16, 708-09).

Moreover, the State did not present these exhibits “for the purpose of proving action in conformity therewith” because flipping off the camera and wearing a bandana—without further context such as witness testimony that these actions represent gang behavior or affiliation or that these behaviors indicate violent tendencies—do not by or of themselves suggest a propensity to commit the violent crimes of murder and assault and battery by mob. *See State v. Nelson*, 331 S.C. 1, 7, 501 S.E.2d 716, 719 (1998) (“The term ‘character’ refers to a generalized description of a person’s disposition or a general trait such as honesty, temperance or peacefulness. Generally speaking, character refers to an aspect of an individual’s personality which is usually described in evidentiary law as a ‘propensity.’” (quoting *State v. Smith*, 617 N.E.2d 1160, 1169 (Ohio 1992))). At best, these actions and behaviors show nothing more than a propensity to utilize untoward gestures in public and an affinity for specific clothing items, neither of which are crimes, much less violent crimes.

The State presented these exhibits to show that Appellant was at Station 300 on the night in question with Green and the minor. The behavior portrayed in the exhibits merely show what Appellant and Jayden testified to: that the behavior was the posing and goofing around of teenage boys and young adult men that did not mean anything. Therefore, the trial court did not abuse its discretion in admitting the exhibits under Rule 404(a) of the South Carolina Rules of Evidence.

III. Because Appellant received a life without parole sentence for murder, the State concedes that Appellant’s sentence for possession of a weapon during the commission of a violent crime was in error pursuant to *State v. Plumer*.

Appellant was found guilty of murder and possession of a weapon during the commission of a violent crime, among other crimes. (R. 921-22). The trial court sentenced Appellant to a concurrent five years’ imprisonment on the possession of a weapon during the commission of a violent crime charge while also sentencing him to life without parole for murder. (R. 955-56, 998-999, 1004-1005).

Appellant failed to object to his sentence for possession of a weapon during the commission of a violent crime.

The State concedes that the trial court erred in sentencing Appellant for his conviction of possession of a weapon during the commission of a violent crime because section 16-23-490(A) of the South Carolina Code provides that the five-year sentence for such a crime is inapplicable when a trial court imposes a life without parole sentence. Further, our Supreme Court has held:

that when a trial court imposes what the State concedes is an illegal sentence, the appellate court *may* correct that sentence on direct appeal . . . even if the defendant did not object to the sentence at trial and even if there is no real threat of incarceration beyond the limits of a legal sentence.

State v. Plumer, 439 S.C. 346, 351, 887 S.E.2d 134, 137 (2023) (emphasis added).

Therefore, this Court may vacate Appellant's five-year sentence for possession of a weapon during the commission of a violent crime. Alternatively, this Court can allow the matter to be addressed in a post-conviction relief setting. Given that Appellant is serving a life sentence for murder, there should be no prejudice in allowing his possession of a weapon during the commission of a violent crime sentence to be addressed in a collateral review.

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CONCLUSION

Based on the foregoing, the State requests that this Court affirm Appellant's convictions, as well as his associated sentences, except for Appellant's sentence for possession of a weapon during the commission of a violent crime, which the State concedes could be vacated.

Respectfully submitted,

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Attorney General

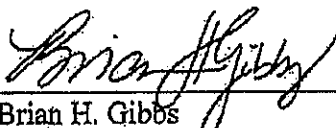
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January 27, 2025
Columbia, South Carolina

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

R. Ferrell Cothran, Circuit Court Judge

Appellate Case No. 2023-001595

THE STATE,

Respondent,

v.

TY LEIC DAE JHON CHANEYFIELD,

Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify that I have served this Final Brief of Respondent on Joanna K. Delany, 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 27th day of January, 2025.


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From: Grace Sommer
Sent: Monday, January 27, 2025 4:23 PM
To: Delany, Joanna
Cc: Brian Gibbs; Mcinnis, Sara
Subject: The State v. Ty Leic Dae Jhon Chaneyfield (2023-001595)
Attachments: CHANEYFIELD Ty - FBOR.pdf

Good Afternoon Ms. Delany,

Attached please find a Final Brief of Respondent in The State v. Ty Leic Dae Jhon Chaneyfield (2023-001595). This brief will be filed today with the South Carolina Court of Appeals via the AIS OneDrive System.

If you will, please confirm receipt of this email.

Thank you!

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STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA,

v.

MESSIAH KASHEEF ANDERSON,

DEFENDANT.

COURT OF GENERAL SESSIONS

2025-GS-07-00294 through -00298

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true copy of the Memorandum in Support of Jimmie Green's Assertion of his Right Not to Incriminate Himself and the attached exhibits has been served upon I. McDuffie Stone, III, and David Rigney via hand delivery, this 24th day of August, 2026.



David Alexander
Deputy Chief Attorney For Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR JIMMIE GREEN

Bast, Daniel

From: Bast, Daniel
Sent: Tuesday, October 27, 2026 4:59 PM
To: David Rigney; mbrown@scag.gov; Isaac McDuffie Stone, III
Cc: Alexander, David; abennett@scag.gov
Subject: 2026-001889 - The State v. Messiah Kasheef Anderson
Attachments: 2026-001889 - The State v. Messiah Kasheef Anderson - Motion to Intervene by Jimmie L. Green as a Respondent.pdf

Good afternoon,

Attached is a copy of the Motion to Intervene by Jimmie L. Green as a Respondent in the above referenced case which will be filed today, October 27, 2026, with the Court of Appeals.

All the best,

Daniel Bast
Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
(803) 734-1330

RECEIVED
Oct 27 2026
SC Court of Appeals