RECEIVED

Nov 16 2026

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Charleston County
Honorable Bentley Price, Circuit Court Judge

Opinion No. 6164 (S.C. Ct. App. Filed September 23, 2026)

THE STATE,

RESPONDENT,

V.

MAURICE T. SINGLETON,

PETITIONER

APPELLATE CASE NO. 2023-000553

APPENDIX

KATHRINE H. HUDGINS
Senior Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Ste. 400
Charleston, SC 29401

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

FINAL BRIEF OF APPELLANT FILED JULY 29, 2024 1

FINAL BRIEF OF RESPONDENT FILED AUGUST 5, 2024 26

STATE V. SINGLETON OP. NO. 6164
(S.C. CT. APP. FILED SEPTEMBER 23, 2026) 57

PETITION FOR REHEARING FILED OCTOBER 8, 2026 73

ORDER DENYING PETITION FOR REHEARING FILED OCTOBER 19, 2026 84

RECEIVED
Jul 29 2024
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE T. SINGLETON,

APPELLANT

APPELLATE CASE NO. 2023-000553

FINAL BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

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

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

STANDARD OF REVIEW 4

ARGUMENT

The trial judge's order removing Appellant from the courtroom during his trial for murder, without representation, violated Appellant's right to be present and confront witnesses under the Sixth Amendment and his rights under the Due Process Clause of the Fourteenth Amendment, as well as his right to self-representation under the Sixth Amendment and right to counsel under the Sixth Amendment when Appellant's actions in the courtroom were not sufficient to constitute a waiver of constitutional rights and there were alternative ways to deal with any disruption other than removing Appellant from the courtroom. 5

Sixth Amendment Right to Confront Witnesses 11
Due Process 12
Waiver 12
Termination of Sixth Amendment Right to Self-Representation 15

CONCLUSION 19

TABLE OF AUTHORITIES

Cases

Barber v. Page, 390 U.S. 719, 88 S.Ct. 1318, 20 L.Ed.2d 255 (1968) 11

Birdwell v. State, 10 S.W.3d 74 (Tex.App.—Houston [14th Dist.] 1999, pet. ref'd) 16

Colon v. State, 717 S.W.2d 474 (Tex.App.—San Antonio 1986, no pet.) 16

Douglas v. Alabama, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed.2d 934 (1965) 11

Ellis v. State, 267 S.C. 257, 227 S.E.2d 304 (1976) 13

Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975) ..... passim

Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963) 18

Illinois v. Allen, 397 U.S. 337, 90 S. Ct. 1057, 25 L. Ed. 2d 353 (1970) 11, 13, 14, 15

In re Dwayne M., 287 S.C. 413, 339 S.E.2d 130 (1986) 13

Kentucky v. Stincer, 482 U.S. 730, 107 S.Ct. 2658, 96 L.Ed.2d 631 (1987) 12

Lewis v. State, 532 S.W.3d 423 (Tex. App. 2016) 16, 17

Lewis v. United States, 146 U.S. 370, 13 S.Ct. 136, 36 L.Ed. 1011 (1892) 11

McKaskle v. Wiggins, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984) 18

Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965) 11

Scarbrough v. State, 777 S.W.2d 83, 94 n. 3 (Tex.Crim.App.1989) 16

Snyder v. Massachusetts, 291 U.S. 97, 54 S.Ct. 330, 78 L.Ed. 674 (1934) 12

Starnes v. State, 307 S.C. 247, 414 S.E.2d 582 (1991) 11

State v. Bell, 293 S.C. 391, 360 S.E.2d 706 (1987) 12, 14

State v. Samuel, 422 S.C. 596, 813 S.E.2d 487 (2018) 4, 15

State v. Shuler, 344 S.C. 604, 545 S.E.2d 805 (2001) 11, 12, 14

State v. Smart, 278 S.C. 515, 299 S.E.2d 686 (1982) 13

State v. Whaley, 290 S.C. 463, 351 S.E.2d 340 (1986) 13

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) 18

United States v. Bush, 404 F.3d 263 (4th Cir. 2005) 4

United States v. Dougherty, 154 U.S.App.D.C. 76, 473 F.2d 1113, (D.C. Cir. 1972) 16

United States v. Ductan, 800 F.3d 642 (4th Cir. 2015) 17, 18

United States v. Gonzalez–Lopez, 548 U.S. 140, 126 S.Ct. 2557, 165 L.Ed.2d 409 (2006) 18

United States v. Lopez-Osuna, 242 F.3d 1191 (9th Cir. 2000) 4

United States v. Mack, 362 F.3d 597 (9th Cir.2004) 17

United States v. Pina, 844 F.2d 1 (1st Cir.1988) 17

United States v. Singleton, 107 F.3d 1091 (4th Cir. 1997) 4

United States v. West, 877 F.2d 281 (4th Cir.1989) 17

Constitutional Provisions

U.S. Const. amend. VI 11, 15, 18

U.S. Const. amend. XIV 12

STATEMENT OF ISSUE ON APPEAL

Did the trial judge's order removing Appellant from the courtroom during his trial for murder, without representation, violate Appellant's right to be present and confront witnesses under the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment as well as the right to self-representation under the Sixth Amendment and right to counsel under the Sixth Amendment when Appellant's actions in the courtroom were not sufficient to constitute a waiver of constitutional rights and there were alternative ways to deal with any disruption other than removing Appellant from the courtroom?

STATEMENT OF THE CASE

In August of 2021, the Charleston County Grand Jury indicted Appellant, Maurice T. Singleton, for murder, indictment #2021-GS-10-03219.[1] On January 5, 2023, Appellant appeared before the Honorable Bentley Price for a pre-trial hearing. (R. pp. 1-21). The case had been tried in October and ended in a mistrial because of a hung jury. (R. p. 3, lines 23-24). Appellant moved to relieve his retained attorney from the first trial. Judge Price relieved prior retained counsel. (R. p. 9, lines 4-7). The judge allowed Appellant to review the Faretta [2] warnings overnight. (R. p. 9, lines 1-7). The next day, Friday, January 6, 2023, Appellant appeared for court but did not wish to sign the written Faretta warnings. (R. p. 11, lines 18-19). The trial judge generally advised Appellant of the dangers of self-representation. (R. pp. 13-16). During the January 6, 2023, hearing the State also moved to revoke Appellant's bond. (R. pp. 22-29). Judge Price denied the motion to revoke bond but added the additional condition that Appellant must report to his bondsman every Monday. (R. p. 27, lines 17-23).

On March 27, 2023, Appellant proceeded to jury trial before Judge Price. Jordan Alyssa Norvell and Cassity Ann Brewer prosecuted the case. Judge Price appointed Michael Nelson to act as standby counsel. (R. p. 42, lines 18-24). Appellant objected to standby counsel as being unqualified. (R. p. 43, lines 1-19). As Appellant continued to object, the trial judge warned Appellant that he could be tried in his absence. (R. p. 43, line 20 – p. 44, lines 1-11). Appellant continued to object and was escorted out of the courtroom. (R. p. 44, lines 12-20). The judge took

---

[1] The witness who testified before the grand jury is listed on the indictment as the North Charleston Police Department. (R. p. 543). At trial the judge allowed the State to amend the indictment to include the name of Detective Chris Ross, the witness who actually testified before the grand jury. (R. p. 81, line 17 – p. 82, lines 1-9).

[2] 422 U.S. 806, 834, 95 S. Ct. 2525, 2541, 45 L. Ed. 2d 562 (1975).

a short recess and asked standby counsel to meet with Appellant. (R. p. 44, line 21 – p. 45, lines 1-5). Appellant retuned to the courtroom and pre-trial motions continued.

Appellant moved to suppress evidence obtained from his cell phone because the cell phone was illegally seized. (R. p. 88, line 18 – p. 89, lines 1-3; p. 89, line 21 – p. 90, p. 91, lines 1-14; pp. 97-102). The judge denied the motion to suppress finding the evidence was obtained pursuant to a valid search warrant. (R. p. 102, lines 13-15). Appellant continued to object to the admission of contents of the phone and the judge ordered him out of the courtroom. (R. pp. 103-107). The prosecutors, standby counsel and the judge discussed technology available to allow Appellant to view the trial without disturbing the proceedings. (R. pp. 107-111). Appellant was then returned to the courtroom. (R. p. 811, line 10 – p. 112, lines 1-3). After a discovery discussion, a motion for a continuance by Appellant, and the judge denying Appellant's motion for a continuance, the trial began.

On the second day of trial Appellant was again removed from the courtroom. (R. p. 192, lines 14-18). After the State called four witnesses in the absence of both Appellant and standby counsel, Appellant was allowed to return to the courtroom. (R. pp. 241-247). The jury found Appellant guilty as charged. Judge Price sentenced Appellant to life in prison. A timely notice of intent to appeal was served on April 4, 2023. This appeal follows.

STANDARD OF REVIEW

Whether a defendant has knowingly, intelligently, and voluntarily waived his right to counsel is a mixed question of law and fact which appellate courts review de novo. United States v. Lopez-Osuna, 242 F.3d 1191, 1198 (9th Cir. 2000). Specifically, we review a circuit judge's findings of historical fact for clear error; however, we review the denial of the right of self-representation based upon those findings of fact de novo. United States v. Bush, 404 F.3d 263, 270 (4th Cir. 2005). In doing so, this Court must consider the defendant's testimony, history, and the circumstances of his decision, as presented to the circuit judge at the time the defendant made his request. United States v. Singleton, 107 F.3d 1091, 1097 (4th Cir. 1997); State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018).

ARGUMENT

The trial judge's order removing Appellant from the courtroom during his trial for murder, without representation, violated Appellant's right to be present and confront witnesses under the Sixth Amendment and his rights under the Due Process Clause of the Fourteenth Amendment, as well as his right to self-representation under the Sixth Amendment and right to counsel under the Sixth Amendment when Appellant's actions in the courtroom were not sufficient to constitute a waiver of constitutional rights and there were alternative ways to deal with any disruption other than removing Appellant from the courtroom.

On the second day of the murder trial the judge removed Appellant from the courtroom. (R. p. 192, lines 14-18). In the absence of both Appellant and standby counsel, the State called four witnesses: 1. Greggory McKean, an eye-witness; 2. Dr. Nicholas Batalis, a forensic pathologist; 3. Nathaniel Pearson, the Assistant Principal at North Charleston High School where the Appellant and the deceased attended school; and 4. Detective Tiffani Crider with the North Charleston Police Department who obtained Appellant's phone. (R. pp. 199-240). Appellant's actions did not warrant removal from the court room. The trial judge erred in removing Appellant from the courtroom.

Appellant, who was on bond, did not appear for court the second day of trial. (R. p. 165, lines 2-15). The State moved that bond be revoked and a bench warrant issued. (R. p. 165, lines 14-15). The judge granted both motions, excused standby counsel, and the trial continued in Appellant's absence. (R. p. 165, lines 16-18; p. 166, lines 18-25). During the testimony of the first State's witness called that day the judge learned that Appellant was in the clerk's office making copies. (R. p. 187, lines 21-24). The judge ordered the deputies to bring Appellant into the courtroom. (R. p. 187, lines 24-25).

When Appellant was escorted into the courtroom, he began questioning the judge. Appellant asked, "Mr. Judge Price, did you order this? Did you order this unlawful search and unlawful detainment?" (R. p. 188, lines 2-3). Appellant then asked, "Sir, I have a right to be heard

and today I will get the facts straight as in who is who today in this courtroom. Sir, who is the trier of fact and who is the trier of the case? If you ignore me, sir, let it be shown you're inducing a fraud. I asked you a question to clarify for the record, who is the trier of the case and who is the trier of fact?" (R. p. 188, lines 5-11). The judge declined to answer Appellant's question. (R. pp. 188-189).

The judge said, "All right. It's 10:32. I instructed the parties to be here at 9:15. My understanding from the deputy, they got an indication from the clerk's office that Mr. Singleton arrived about five to ten minutes ago, and I revoked his bond, and therefore, he will remain in custody. All right. Mr. Singleton, do you want to participate in this trial? Can you behave enough to participate in the trial or not? I will let you face your accuser. I will let you participate in the trial." (R. p. 189, line 25 – p. 190, lines 1-8). The judge then asked, "If I take those handcuffs off are you going to behave?" (R. p. 190, lines 19-20). Appellant answered, "The fact that these handcuffs are on me is a violation of due process of law. I was at the clerk of court, and you stopped me from filing crucial evidence in my defense. And that – sir, you will be recused. I demand that you be recused because you are not upholding your duty and you are being very partial in this trial proceeding." (R. p. 190, line 21 – p. 191, line 1).

When the judge again asked about removing the handcuffs Appellant responded, "I will participate regardless, sir. The fact that you leave – if you leave these cuffs on me, that will show prejudice." (R. p. 191, lines 6-9). The judge ordered the deputies to remove the handcuffs. (R. p. 191, lines 10-11). Appellant then asked, "And you say you revoked my bond. Sir, that was unlawful to do. You had no grounds to revoke my bond, for I am in no violation of the bond, and I am in complete compliance with my bondsman, and I am up on payment. So if you have revoked my bond, that will be very unlawful and you will be held accountable." (R. p. 191, lines 12-17).

The judge responded saying, "If you threaten me one more time, we're going to have a real problem." (R. p. 191, lines 18-19). Appellant responded, "I am not threatening you, sir. This is a constitutional remedy I have." (R. p. 191, lines 20-21).

Appellant went on to say, "Anyway, like I was saying, because I'm controlling authority because I have a right to a republic form of government. That means power invested in the people, me, not any corporate entity. You wouldn't let me file that just now while I was at the clerk trying to file this. You sent your corporate mercenaries down to detain me and they prevented me from filing it, so I am just going to read from it." The following then took place between the judge and Appellant:

> THE COURT: No, you're not.
>
> MR. SINGLETON: Sir, you have no right to tell me I can't do that because this is my –
>
> THE COURT: Do you want to go back there, or do you want –
> (Simultaneous speaking.)
>
> MR. SINGLETON: I have a right, sir, and –
>
> THE COURT: Do you want to go back there –
> (Simultaneous speaking.)
>
> MR. SINGLETON: Sir, did you take an oath to the constitution?
>
> THE COURT: I revoked his bond. Take him in the back. He will not participate.
>
> MR. SINGLETON: I have a right to be heard. I am not going to –
>
> (Mr. Singleton is escorted out of the courtroom.)

(R. p. 192, lines 4-18).

The judge then voiced his concerns saying:

> For the record, the concern that I have is I just don't trust that he won't do anything violent. I just – with the way he's acting and the way he is behaving, he's been nothing but violent with ya'll, I don't know if he needs to be evaluated or what, but I don't trust that he's not going to do something with this jury, or continue to try to

> tamper with them, or even just be violent with somebody, so I'm very concerned about that.
>
> So I don't know what, really, the best options are; whether we just cuff him and bring him in, whether he can participate in that manner, or whether he'll actually be quiet, but the other concern is that he'll do something to unfortunately force a mistrial by saying something or doing something that's inappropriate.

(R. p. 193, lines 4-16).

The prosecutor told the judge, "There is case law, Judge, essentially – so, of course the defendant's conduct must be egregiously disruptive in order to overcome his Sixth Amendment rights to face his accusers at trial; however, Judge, if he has been given his Faretta warnings on the record, which you have done multiple times, and you have a record of your repeated attempts to persuade him to conduct himself in an orderly manner or be held in contempt, then he can be TIA's with stand-in counsel." Although standby counsel was appointed, standby counsel was not present when Appellant was absent from the courtroom.

The judge ruled:

> All right. For the record, I believe it's been more than obvious that I have been patient with Mr. Singleton. I have attempted to give him several options in which he could participate in his trial. He refuses to acknowledge any of my rulings or orders.
>
> And, to be quite honest with you, I am very fearful for the parties in this case. I am not sure if he would lash out, do something violent towards the jury, or Ms. Norvell, or anyone along those lines, so even for that reason I'm not going to allow him to participate. He has forfeited his constitutional right to represent himself based on his actions and outbursts. I'm not going to let him fight the deputies anymore. Bring them [the jurors] out.

(R. p. 195, line 21 – p. 196, lines 1-7). The trial judge did not ask that standby counsel[3] be present at trial in Appellant's absence stating, "At this point it would just be – he's not abreast of the case; he was just standby counsel for procedural purposes only, and that's been a nonissue, so it's moot,

[3] Appellant earlier objected to standby counsel as being unqualified. (R. p. 43, lines 1-19).

so we don't need to bring him back." (R. p. 197, lines 8-18). The trial continued in the absence of Appellant and the absence of standby counsel with the State calling four witnesses.

During the lunch break the judge asked standby counsel to consult with Appellant. The judge said, "Mr. Nelson [standby counsel], if you will go down and ask Mr. Singleton if he wishes to participate in his trial. If so, he will remain handcuffed and, you know, he won't be able to -- he's not going to come in here and injure anybody. You missed it. He and the deputies got into it, so he had –" (R. p. 241, lines 14-18). Standby counsel asked if this took place in the presence of the jury. (R. p. 241, line 19). The judge answered, "No, fortunately it was not. He had an extreme outburst and we could not control him, so we had to try to take him in the back, and he fought the deputies. But he's going to remain shackled." (R. p. 241, lines 20-23).

When the trial reconvened after the lunch break standby counsel advised the judge that Appellant wished to participate in his defense. (R. p. 242, lines 9-13). The judge stated, "So if he wants to participate, then I'm okay with bringing him up but, I mean, he understands if he says one word other than, yes, sir, he's gone." (R. p. 243, lines 7-10). When Appellant returned to the courtroom the judge asked standby counsel if Appellant was ready to proceed. (R. p. 244, lines 19-20). Standby counsel indicated Appellant was ready to proceed but stated, "And I'm supposed to stay in the back and not participate." (R. p. 244, lines 21-22). Appellant told the judge, "Mr. Nelson [standby counsel] does not have standing to speak for me, he is not qualified to be my counsel." (R. p. 244, lines 23-24).

Appellant then asked the judge, "Did you purposely deny me my right to cross-examine these witnesses that you – that took the stand in my absence because of you?" The judge responded, " I did it because of your actions, the way you behaved." (R. p. 245, lines 10-11). The trial then continued with Appellant representing himself and cross-examining witnesses. The

judge denied Appellant's first requests to remove the handcuffs. (R. p. 265, lines 22-25; p. 280, lines 2-5). The judge then allowed Appellant's right hand to be uncuffed. (R. p. 286, lines 5-12). Appellant asked about Mr. McKeen, a witness who testified in Appellant's absence. (R. p. 331, lines 14-16). The transcript reflects that Appellant was escorted out of the court room and the trial ended for the day. (R. p. 369, lines 3 -p. 370, lines 1-9).

When the trial resumed the following morning Appellant asked that his right hand be released from the handcuffs. (R. p. 375, lines 22-23). The judge responded:

> No, not after the way you behaved yesterday with assaulting those deputies on the way out. So here's the procedural background of everything that's going on here today, Mr. Singleton. The fact that you showed up late, your bond was revoked, and obviously that's why you are currently incarcerated. And then as the day wore one, there was not once, but twice, instances whereby you accused the Court of perpetrating some fraud. And then when the proceedings were over for the day I witnessed you fight two deputies, if not three, for whatever purpose, I'm not sure, all the way out. So for that I'm going to hold you in contempt, I'm going to give you six months in the county detention center.

(R. p. 375, line 24 – p. 376, lines 1-10).

During the cross examination of a detective with the North Charleston Police Department, Appellant asked to be allowed to cross examine Mr. McKeen, one of the witnesses who testified in Appellant's absence. (R. p. 460, lines 21-22). The judge responded, "We've already talked about that. Continue with this witness." (R. p. 460, lines 24-25).

At the close of the State's case Appellant moved for a directed verdict and asserted that he was deprived of the right to cross examine witnesses resulting in prejudice. (R. p. 480, lines 13-19). The judge denied the directed verdict motion and then stated, "And any prejudge [sic] that the defendant had received have been of his own doings by - - " (R. p. 481, lines 4-5). The judge then elaborated on Appellant's actions during the trial. (R. p. 481, line 23 – p. 482, lines 1-10). When asked if he had enough time to decide if he wished to testify, Appellant told the judge, "What

I would have needed more time for Your Honor, was to cross-examine the witness that I was not able to do because you had me detained." (R. p. 483, lines 4-6).

Sixth Amendment Right to Confront Witnesses

Appellant had a Sixth Amendment right to be present in the courtroom and confront the witnesses against him. In Illinois v. Allen, 397 U.S. 337, 338, 90 S. Ct. 1057, 1058, 25 L. Ed. 2d 353 (1970), the Supreme Court of the United States wrote:

> The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that: 'In all criminal prosecutions, the accused shall enjoy the right * * * to be confronted with the witnesses against him * * *.' We have held that the Fourteenth Amendment makes the guarantees of this clause obligatory upon the States. Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965). One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial. Lewis v. United States, 146 U.S. 370, 13 S.Ct. 136, 36 L.Ed. 1011 (1892).

In State v. Shuler, 344 S.C. 604, 624, 545 S.E.2d 805, 815 (2001), the South Carolina Supreme Court wrote:

> The primary interest secured by the Confrontation Clause of the Sixth Amendment is the right to cross examination. Starnes v. State, 307 S.C. 247, 414 S.E.2d 582 (1991) (citing Douglas v. Alabama, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed.2d 934 (1965)). The right to confrontation has been referred to as a "trial right." Id. (citing Barber v. Page, 390 U.S. 719, 88 S.Ct. 1318, 20 L.Ed.2d 255 (1968)). The appropriate question under Confrontation Clause analysis is whether there has been any interference with the defendant's opportunity for effective cross examination at trial. Kentucky v. Stincer, 482 U.S. 730, 745, 107 S.Ct. 2658, 96 L.Ed.2d 631 (1987).

The judge's order excluding Appellant from the courtroom without standby counsel while the State presented four key prosecution witnesses clearly interfered with Appellant's opportunity for effective cross-examination.

Due Process

Appellant also had a Due Process right under the Fourteenth Amendment to be present during his murder trial. In Kentucky v. Stincer, 482 U.S. 730, 745, 107 S. Ct. 2658, 2667, 96 L. Ed. 2d 631 (1987), the Supreme Court of the United State wrote:

> The Court has assumed that, even in situations where the defendant is not actually confronting witnesses or evidence against him, he has a due process right "to be present in his own person whenever his presence has a relation, reasonably substantial, to the fulness of his opportunity to defend against the charge." Snyder v. Massachusetts, 291 U.S. 97, 105–106, 54 S.Ct. 330, 332, 78 L.Ed. 674 (1934). Although the Court has emphasized that this privilege of presence is not guaranteed "when presence would be useless, or the benefit but a shadow," id., at 106–107, 54 S.Ct., at 332, due process clearly requires that a defendant be allowed to be present "to the extent that a fair and just hearing would be thwarted by his absence," id., at 108, 54 S.Ct., at 333. Thus, a defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure.

Appellant had a right to be present during the examination of the four prosecution witnesses, a critical stage of the trial.

Waiver

Appellant did not waive his right to be present and confront the witnesses against him. In Shuler the South Carolina Supreme Court wrote:

> Finally, a defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct. State v. Bell, 293 S.C. 391, 360 S.E.2d 706 (1987). A defendant may be properly excluded when his conduct is disruptive or is interfering with the progress of the trial. Id. (citing In re Dwayne M., 287 S.C. 413, 339 S.E.2d 130 (1986)); see Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353 (1970) (holding defendant waived his right to be present where he continued to behave in a disorderly manner and continued to interrupt the trial judge after he was warned about his conduct). Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion. Bell, supra. (citations omitted).

344 S.C. at 625, 545 S.E.2d at 815.

In State v. Bell, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987), the South Carolina Supreme Court wrote:

> An accused has the right to be present at every stage of his trial. Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353 (1970). This right, however, may be waived. Ellis v. State, 267 S.C. 257, 227 S.E.2d 304 (1976). A defendant may properly be excluded when his conduct is disruptive or is interfering with the progress of the trial. In re: Dwayne M., 287 S.C. 413, 339 S.E.2d 130 (1986). Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion. State v. Whaley, 290 S.C. 463, 351 S.E.2d 340 (1986); State v. Smart, 278 S.C. 515, 299 S.E.2d 686 (1982).

Appellant's actions in the courtroom were not sufficient to constitute a waiver of the right to be present in the courtroom and confront witnesses. Appellant had a physical altercation with the guards and, according to the judge's ruling, Appellant refused to acknowledge the judge's rulings or orders. The record, however, reflects that prior to the judge removing Appellant from the courtroom, Appellant, representing himself, was trying to make a record of what he attempted to file in the clerk's office. (R. p. 191, line 22 – p. 192, lines 1-3).

Appellant's actions are distinguished from the actions in Bell where the defendant twice stood and objected during defense counsel's closing argument, the judge excused the jury and then explained that the right to be present had limitations and allowed defense counsel to further explain the matter to defendant, when the jury returned the defendant again interrupted closing argument, the judge again excused the jury to further explain the right to be present to the defendant who told the judge that he would continue to obstruct the proceedings. The Court found the defendant in Bell waived his right to be present. Appellant in the present case did not indicate that he would continue to obstruct the proceedings and did not interrupt a lawyer. Instead, while Appellant may have interrupted the judge, his interruption was an attempt to make a record as he represented

himself. Appellant did not waive his right to be present. After Appellant was removed from the courtroom, the judge should have given him the opportunity to comply with the rules and returned Appellant to the courtroom before the State called the next key witness, Greggory McKean.

Appellant's actions are distinguished from the actions in Shuler where, during a Jackson v. Denno hearing, the defendant not only fought with the guards prior to the hearing but, also had to be restrained during transport to the court, slammed his head on the table prior to the hearing, wore a protective mask to prevent spitting and yelled during court. The Court found that the defendant voluntarily absented himself from the hearing. The Court additionally found that the error was harmless primarily because the hearing was held open so that the defendant could be present. In the present case Appellant's presence was excluded from a portion of his trial, not a pre-trial hearing as in Shuler. Appellant did not voluntarily absent himself from the trial. The error in the present case is not harmless because, despite his requests, Appellant was not given an opportunity to cross-examine the witnesses called by the State during Appellant's absence.

In his concurrence in Illinois v. Allen, 397 U.S. 337, 351, 90 S. Ct. 1057, 1064, 25 L. Ed. 2d 353 (1970), Justice Brennan wrote:

> I would add only that when a defendant is excluded from his trial, the court should make reasonable efforts to enable him to communicate with his attorney and, if possible, to keep apprised of the progress of his trial. Once the court has removed the contumacious defendant, it is not weakness to mitigate the disadvantages of his expulsion as far as technologically possible in the circumstances.

The judge in the present case did not attempt to mitigate Appellant's absence from the courtroom. During pre-trial, when Appellant continued to argue for suppression after the judge denied the motion, the prosecutors, standby counsel and the judge discussed technology available to allow Appellant to view the trial without disturbing the proceedings. (R. pp. 107-110). There was, however, no discussion of the use of alternate ways to deal with any possible disturbance

before the judge ordered Appellant out of the courtroom on the second day of trial. Additionally, Appellant was not given a second opportunity to conform his conduct before the State was allowed to call four witnesses in his absence and in the absence of standby counsel. Finally, once Appellant returned to the courtroom, he was not given the opportunity to cross-examine the witnesses called during his absence.

Termination of Sixth Amendment Right to Self -Representation

"In Faretta, the United States Supreme Court held that criminal defendants have a fundamental right to self-representation under the Sixth Amendment. 422 U.S. at 819–21, 95 S.Ct. 2525." State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 491 (2018). Appellant was generally warned of the dangers of self-representation during the January 6, 2023, hearing prior to the March 27, 2023, trial date. (R. pp. 13-16). At trial Appellant advised the judge that he wished to proceed *in propia persona* rather *pro se*. (R. p. 42, lines 14-17). The judge appointed standby counsel. (R. p. 42, lines 18-24). Appellant objected to standby counsel as being unqualified. (R. p. 43, lines 1-19).

The trial proceeded with Appellant representing himself. Later in the trial, as discussed above, the judge specifically ruled, "He has forfeited his constitutional right to represent himself based on his actions and outbursts." (R. p. 196, lines 5-6). The judge, however, did not require standby counsel to be present during Appellant's absence from the trial. In a footnote in Faretta v. California, 422 U.S. 806, 834, 95 S. Ct. 2525, 2541, 45 L. Ed. 2d 562 (1975), the Court wrote:

> Moreover, the trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct. See Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Of course, a State may—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary. See

United States v. Dougherty, 154 U.S.App.D.C. 76, 87—89, 473 F.2d 1113, 1124—1126.

The trial judge erred in terminating self-representation by Appellant when Appellant did not deliberately engage in serious and obstructionist misconduct. As discussed above, Appellant had a physical altercation with the guards and, according to the judge's ruling, Appellant refused to acknowledge the judge's rulings or orders. While Appellant may have interrupted the judge, the record reflects that prior to the judge removing Appellant from the courtroom, Appellant was trying to make a record of what he attempted to file in the clerk's office. (R. p. 191, line 22 – p. 192, lines 1-3).

An opinion by the Texas Court of Appeals is persuasive where the court wrote:

> However, even though we rely heavily on the trial court's assessment of an obstreperous defendant when reviewing the court's decision, the court's discretion to deny the right of self-representation is necessarily limited. Faretta empowers the courts to preserve the integrity of the trial by denying self-representation to those who deliberately engage in obstructionist behavior. Allowing a defendant to represent himself will almost certainly result in some disruption or delay in the trial proceedings, but "so long as it is not a *calculated* obstruction, this delay cannot deprive the accused of the right [of self-representation] once properly asserted." Birdwell v. State, 10 S.W.3d 74, 77 (Tex.App.—Houston [14th Dist.] 1999, pet. ref'd) (emphasis added). We address only the instances in which the trial court has observed calculated attempts to disrupt, subvert, or obstruct the trial proceedings. A trial court may not deny the right to self-representation based simply on "predictions of likely recalcitrant behavior" or delay or disruption incidental to self-representation without a legal education. Scarbrough v. State, 777 S.W.2d 83, 92, 94 n. 3 (Tex.Crim.App.1989); Colon v. State, 717 S.W.2d 474, 475 (Tex.App.—San Antonio 1986, no pet.) ("To hold that citizens are unduly disruptive merely because they are inexperienced in the practice of law is tantamount to holding that only attorneys enjoy a constitutional right to self-representation.").

Lewis v. State, 532 S.W.3d 423, 431–32 (Tex. App. 2016)(n. 5 omitted). In ruling the Texas Court of Appeals wrote, "On this record, the trial court did not abuse its discretion in determining that appellant's behavior demonstrated an attempt at calculated obstruction and delay, not an earnest

attempt to act in his own defense. The delay caused by appellant's questions, interjections about his proper name, and general refusal to give answers responsive to the trial court's questioning were not regular incidents of self-representation." Lewis, 532 S.W.3d at 432. In contrast, Appellant's behavior in the present case was not an attempt at calculated obstruction and delay.

The error in in the trial judge's termination of Appellant's right to self-representation is further complicated by the fact that counsel was not appointed once Appellant was removed the courtroom. While standby counsel had been appointed, standby counsel was not present when Appellant was absent. Appellant was entirely unrepresented while the State called four witnesses to testify at trial.

In United States v. Ductan, 800 F.3d 642, 654 (4th Cir. 2015), the United States Court of Appeals for the Fourth Circuit reversed finding that the Appellant did not waive his right to counsel. In a concurrence Judge Diaz wrote:

> Of course, the right to self-representation is "not absolute." Fields, 49 F.3d at 1035. Thus, a pro se defendant who is disruptive in the courtroom may forfeit his right to self-representation. Faretta, 422 U.S. at 834 n. 46, 95 S.Ct. 2525 ("[T]he trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct."). In these cases, the proper course of action is to revoke the defendant's right to self-representation and appoint counsel. See, e.g., United States v. Mack, 362 F.3d 597, 601 (9th Cir.2004) ("A defendant does not forfeit his right to representation at trial when he acts out. He merely forfeits his right to represent himself in the proceeding."); United States v. Pina, 844 F.2d 1, 15 (1st Cir.1988) (suggesting that a trial judge "employ his or her wisdom to appoint standby counsel" to represent a defendant who is removed or discharges counsel); see also United States v. West, 877 F.2d 281, 287 (4th Cir.1989) (affirming the defendant's conviction where the district court found him incompetent to represent himself and immediately appointed his standby counsel to replace him).

Ductan at 654. (n. 2 omitted).

Appellant maintains that the trial judge erred in finding that Appellant forfeited his right to self-representation because he did not deliberately engage in serious and obstructionist misconduct. Assuming, arguendo, that the judge did not err in that finding, the judge erred by not appointing counsel in Appellant's absence. "The Sixth Amendment guarantees to a criminal defendant the right to the assistance of counsel before he can be convicted and punished by a term of imprisonment. U.S. Const. amend. VI; Gideon v. Wainwright, 372 U.S. 335, 339–40, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). The right to counsel is fundamental to our system of justice; beyond protecting individual defendants, it is 'critical to the ability of the adversarial system to produce just results.' Strickland v. Washington, 466 U.S. 668, 685, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)." United States v. Ductan, 800 F.3d 642, 648 (4th Cir. 2015). Allowing the trial to go forward in Appellant's absence while entirely unrepresented violated Appellant's Sixth Amendment right to counsel. Under the unusual circumstances of this case, Appellant did not waive the right to counsel once he was removed from the courtroom.

The error in denying Appellant the right to self-representation is structural and not subject to a harmless error analysis. McKaskle v. Wiggins, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984); The error in denying Appellant the right to counsel is also structural and not subject to a harmless error analysis. United States v. Gonzalez–Lopez, 548 U.S. 140, 148–50, 126 S.Ct. 2557, 165 L.Ed.2d 409 (2006). The multiple constitutional violations require reversal.

CONCLUSION

Based on the above arguments, this Court should reverse the conviction and remand for a new trial.

Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 29th day of July, 2024.

RECEIVED
Jul 29 2024
SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this final brief of appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 29th day of July, 2024.

RECEIVED
Jul 29 2024
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE T. SINGLETON,

APPELLANT

APPELLATE CASE NO. 2023-000553

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 29th day of July, 2024.

Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Charleston County

The Honorable Bentley Price, Circuit Court Judge

THE STATE,

Respondent,

v.

MAURICE T. SINGLETON,

Appellant.

Appellate Case No. 2023-000553

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Ste. 400
Charleston, SC 29401

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

APPELLANT'S STATEMENT OF ISSUE ON APPEAL 1

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

RESPONDENT'S STATEMENT OF FACTS 4

STANDARD OF REVIEW 8

ARGUMENT

The trial judge did not violate Appellant's Sixth Amendment right to confront witnesses, or otherwise violate Appellant's rights under the Sixth Amendment and Due Process, when, after failing to promptly return to court on the second day of trial, he missed a portion of trial, then was located, restrained and brought to court, and subsequently removed for another portion of the trial when he disregarded the court's rulings, repeatedly interrupted the judge, and demonstrated cause for the judge to have firm concern Appellant may become violent during the proceedings since he had been violent with the courtroom deputies, especially given that the judge had patiently and repeatedly warned Appellant such behavior could result in removal.

..... 9

CONCLUSION 27

TABLE OF AUTHORITIES

Cases

City of Columbia v. Assa'ad-Faltas, 420 S.C. 28, 47, 800 S.E.2d 782, 791–92 (2017) 25
Davis v. Grant, 532 F.3d 132, 145 (2d Cir. 2008) 24
Faretta v. California, 422 U.S. 806, 836 (1975) 24
Illinois v. Allen, 397 U.S. 337, 338 (1970) 21, 22, 23
Indiana v. Edwards, 554 U.S. 164 (2008) 24, 25
Osbey v. State, 425 S.C. 615, 621, 825 S.E.2d 48, 51 (2019) 25
State v. Babb, 299 S.C. 451, 455, 385 S.E.2d 827, 829 (1989) 23
State v. Barnes, 407 S.C. 27, 37, 753 S.E.2d 545, 550 (2014) 24
State v. Bell, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987) 21
State v. Brewer, 328 S.C. 117, 119, 492 S.E.2d 97, 98 (1997) 25
State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693–94 (2003) 23
State v. Patterson, 367 S.C. 219, 224, 625 S.E.2d 239, 241 (Ct. App. 2006) 8
State v. Preslar, 364 S.C. 466, 613 S.E.2d 381 (Ct.App.2005) 8
State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018) 8
State v. Shuler, 344 S.C. 604, 625, 545 S.E.2d 805, 815 (2001) 9, 21
State v. Thompson, 355 S.C. 255, 262, 584 S.E.2d 131, 134 (Ct.App.2003) 25
State v. Williams, 292 S.C. 231, 355 S.E.2d 861 (1987) 21
State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001) 8
State v. Wood, 362 S.C. 520, 525, 608 S.E.2d 435, 438 (Ct.App.2004) 8
United States v. Stanley, 739 F.3d 633, 650 (11th Cir. 2014) 24

Other Authorities

Black's Law Dictionary (11th ed. 2019) 10

Rules

Rule 16, SCRCrimP 9, 10

APPELLANT'S STATEMENT OF ISSUE ON APPEAL

Did the trial judge's order removing Appellant from the courtroom during his trial for murder, without representation, violate Appellant's right to be present and confront witnesses under the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment as well as the right to self-representation under the Sixth Amendment and right to counsel under the Sixth Amendment when Appellant's actions in the courtroom were not sufficient to constitute a waiver of constitutional rights and there were alternative ways to deal with any disruption other than removing Appellant from the courtroom?

RESPONDENT'S COUNTERSTATEMENT OF ISSUE ON APPEAL

Did the trial judge abuse his discretion in temporarily removing a *pro se* defendant who expressly waived his right to counsel, and also expressly rejected standby counsel, for disruptive, disrespectful, and dangerous behavior?

STATEMENT OF THE CASE

A Charleston County Grand Jury indicted Appellant, Maurice T. Singleton, in August 2021 for the murder of Vaughn McFadden. (R. p. 543-544). Appellant initially stood trial in October of 2022, but the jury was unable to reach a verdict and a mistrial was granted. (R. p. 3, lines 23-24). Appellant had been represented at the October 2022 trial by retained counsel, Peter Shahid, Esq. (R. p. 6, lines 16-20). Counsel moved to be relieved prior to the second trial at the request of his client. (R. p. 7, lines 7-13). Appellant asserted he wished to represent himself. (R. p. 7, lines 12-24; *see also* p. 8-9). In December 2022, Judge Jefferson initially "granted the motion and conducted [a] quasi Faretta hearing," however, no final order had been issued by the time the case was called to trial again in January 2023. (R. p. 4, lines 3-9).

On January 5, 2023, Appellant appeared before the Honorable Bentley Price for a pre-trial hearing. (R. p. 1-21). Because Mr. Shahid was still reflected as Appellant's counsel, Judge Price considered the motion to be relieved. Judge Price relieved counsel, and counsel provided the judge with a consent order signed by Appellant. (R. p. 9, lines 5-12; *see also* p. 10). Judge Price provided Appellant a written form with Faretta warnings to review overnight. (R. p. 9, lines 1-7).

The next day (Friday, January 6, 2023), Appellant appeared for court but refused to sign the written Faretta warnings. (R. p. 11, lines 18-19). Judge Price explained the dangers of self-representation to Appellant and Appellant responded that he understood. (R. p. 13-16). The State also moved to revoke Appellant's bond. (R. p. 22-30). Judge Price denied the motion to revoke bond but added the additional condition that Appellant must report to his bondsman every Monday. (R. p. 27, lines 17-23).

Appellant's jury trial began on March 27, 2023. Judge Price presided. Jordan A. Norvell and Cassity A. Brewer of the Ninth Circuit Solicitor's Office prosecuted the case. Judge Price

again confirmed Appellant's desire as to going to trial without counsel. While Appellant interrupted repeatedly, Judge Price allowed him to continue *pro se* but appointed, over Appellant's objection, Michael Nelson, Esq., to be available to act as standby counsel. (R. p. 42, lines 2-24). Mr. Nelson reported to the judge that Appellant expressly did not wish standby counsel "to sit next to him during the proceedings." (R. p. 40, lines 5-6). Appellant asserted, "Mr. Nelson is disqualified to ... assist me in this trial." (R. p. 43, lines 18-19). Thereafter, Appellant conducted the defense apart from a temporary absence when he was ejected for his disruptive conduct after being warned of that potential by the trial judge. The jury convicted as charged. (R. p. 531, line 16- p. 532, line 4). Judge Price sentenced Appellant to life imprisonment. (R. p. 539, lines 2-15). Judge Price also ordered standby counsel to submit a notice of appeal. (R. p. 534, lines 13-18; p. 538, lines 22-25). This appeal follows.

RESPONDENT'S STATEMENT OF FACTS

As the State summarized in opening, "On March 2nd of 2018, 18-year-old Vaughn McFadden was shot 14 times under the Bennett Railyard I-26 overpass. He was lured there by his two best friends from middle school, Maurice Singleton, and a co-defendant, JuJuan Lockwood." (R. p. 119, lines 11-15).

The fire department responded first as a result of a 911 call. Captain Griffieth testified he met "a train conductor who navigated us back to the train yard until we located a male down on the train tracks who ... was obviously ... deceased." (R. p. 128, line 4- p. 129, line 15). He did not attempt emergency medical measures due to the visible blood loss and injury which were incompatible with life. (R. p. 129, line 20- p. 130, line 3). The division chief of emergency services similarly confirmed no signs of life and pronounced Vaughn dead at 6:38 p.m. (R. p. 146, line 17- p. 147, line 10; p. 148, lines 1-3). Officers arrived shortly thereafter.

North Charleston Officer Weatherford testified that he was called out to the railyard at approximately 6:00 or 6:30 p.m. He secured the scene, (R. p. 138, lines 4-21), and transported the conductor to city hall for a statement, (R. p. 142, lines 4-18). Sergeant Cummins also responded. He testified that as he "approach[ed] the victim" he detected "the odor of marijuana," found Vaughn's driver's license and school identification, along with his phone that was "sticking out" of a pocket. (R. p. 153, line 25- p. 154, line 6). Sergeant Cummins testified they reached out to Vaughn's family who informed them that Vaughn had not been with them, but gave information he was with "Tatem, Maurice, and JaJuan." (R. p. 156, line 21- p. 157, line 19). On investigation, officers found "Tatem" and confirmed that he was not with Vaughn that night. (R. p. 158, lines 9-18). However, the investigation confirmed that Vaughn had been with Maurice and JuJuan. (R. p. 159, lines 3-12). Sergeant Reynold testified that he responded to process the crime scene and collect evidence. (R. p. 169, lines 16-17; p. 170, lines 12-18). He collected Vaughn's phone for

processing, and multiple shell cases among other items, and noted only nine dollars found in Vaughn's pocket. (R. p. 178, line 18- p. 181, line 20).

Mr. McKean, the conductor, testified that in the afternoon of the March 2, 2018, he "heard a gunshot, and ... turned [his] head and ... saw a young gentleman shoot about five, six more times into the ground" or "[t]owards the ground." He saw two "young black men, around 18 – 16 to 20 years old," one with dark clothing with a white stripe on the side or sleeve. (R. p. 202, line 2- p. 203, line 9). After the first caught his attention, he observed the two young men were standing as the shots were fired downward. (R. p. 203, lines 10-24). Both bent down as if picking something up. (R. p. 204, lines 1-13). They then ran from the yard, went through a hole in the fence and toward a nearby neighborhood. (R. p. 204, lines 14-21). Another individual found the body, but having heard the shot, Mr. McKean went over to report what he saw to officers, eventually going with the officers to make a formal statement. (R. p. 206, lines 1-17).

Forensic pathologist Dr. Batalis testified he found "at least 14" gunshot wounds at autopsy. (R. p. 214, lines 15-17). One shot to the neck went back to front. (R. p. 218, lines 15-20). From the location of the wounds, it was possible that Vaughn was holding his hands in front of his face at some point. (R. p. 223, lines 6-8). Vaughn was shot on the left side of his face, in the chest and twice in the forehead on the right side, any of which could have been fatal due to the extreme damage inflicted. (R. p. 223, lines 9-25).

Nathaniel Pearson, who worked as an assistant principal at North Charleston High School, testified that the school had access to video from the buses and could request the video if needed. (R. p. 230, line 14- p. 231, line 7). The school also had attendance records that he could access when asked. (R. p. 232, line 24- p. 233, line 3). Mr. Pearson confirmed that attendance records showed Appellant was in a class with Vaughn at 2:00 p.m. on March 2, 2018, though

both were marked "tardy" in coming to the class that ran until 3:15 p.m. (R. p. 233, line 9- p. 234, line 6). Detective Crider testified that she had previously been a resource officer for the school and recognized the names "JaJuan Lockwood and Maurice Singleton," the young men the department wanted for questioning. (R. p. 235, lines 5-23). She had a good relationship with Appellant from her prior position and reached out to him in hopes of collecting his phone, which she did through Appellant's girlfriend. Other officers had secured a search warrant for the phone so that they could verify Appellant's whereabouts. (R. p. 237, line 4- p. 238, line 20).

Detective Pritchard later came onto the case and reviewed the interviews from prior contact with JuJuan Lockwood and Appellant. (R. p. 249, lines 16-23). Then, after reviewing the crime scene and considering the surrounding area, he was able to obtain video footage from a nearby residence. (R. p. 252, lines 1-25). He also reviewed footage obtained from the school bus and another camera positioned near the area. (R. p. 255, lines 15-25). The bus video showed Appellant in a dark "sweatshirt with gray or white sleeves," and he was exiting with the victim. (R. p. 259, lines 6-16). A neighborhood camera also captured Appellant walking with the victim then going into a store and later walking out of the store, still together. (R. p. 261, lines 1-22). Another video then showed the two joined by the co-defendant, Lockwood. (R. p. 265, lines 17-21). The men walked to a dead-end street that had a "cut" in the fence that allowed access to the railyard. (R. p. 268, lines 7-17). The next available video was around 5:35 or 5:36 p.m. and that was of only Appellant and Lockwood returning. (R. p. 269, lines 6-19). Appellant then had the "hood of his sweatshirt ... up and he was looking down the whole time." (R. p. 269, lines 23-24). The detective also confirmed that Vaughn had recently received a large sum of money, and when his phone was reviewed, the detective "recovered a picture" taken "at school" with Vaughn "wearing the same clothes in class" as he was killed in "with a large amount of money

displayed on his lap" that appeared to be hundreds and twenties. (R. p. 274, lines 19-22; p. 276, lines 6-8; p. 277, lines 12-18). Bank records showed he had withdrawn large sums, and specifically, the day prior to his murder, Vaughn had withdrawn $500.00. (R. p. 276, lines 13-18). A search of Appellant's home yielded a single 9mm bullet and $154.00 – one, one-hundred-dollar bill. (R. p. 279, lines 8-23; p. 186, line 17- p. 187, line 12).

Jerry Roberts, manager for the Digital Evidence Unit in the city police department testified that examination of Vaughn's phone corroborated the location evidence pieced together around the time of the crime, and also that there was no indication of regular movement past 5:45 p.m. (R. p. 358, line 20- p. 364, line 4). The last time the display prior to the police securing the phone was on was 5:31:36 to 5:31:44 p.m. (R. p. 366, line 21- p. 367, line 9).

Detective Sam Riedel, with North Charleston Police Department, testified as a digital forensic examiner. He testified to the examination of the phone from Appellant and co-defendant Lockwood. (R. p. 393, line 10- p. 394, line 19). The phone information showed the phones shared communication, common down time, and a message about bullets, an instruction to delete messages, and an indication to separate for a while. (R. p. 404, line 12- p. 422, line 7).

Vaughn's sister, Niara McFadden, testified and confirmed that her brother would "hang out" with both Appellant and Lockwood, along with "Tatum." (R. p. 436, lines 19-22). She recalled that she saw Appellant with Vaughn the weekend before the murder. (R. p. 436, line 25- p. 437, line 3). She testified Vaughn would have been in the area where the railyard was if he was going to be around Appellant and Lockwood, and that the yard was a place to smoke. (R. p. 437, line 12- p. 438, line 7). She confirmed that the money Vaughn received the prior December was from his late father's pension. (R. p. 441, line 14- p. 442, line 6). As noted above, the jury convicted Appellant of murder after consideration of the evidence presented.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only and is bound by the factual findings of the trial court unless clearly erroneous." *State v. Patterson*, 367 S.C. 219, 224, 625 S.E.2d 239, 241 (Ct. App. 2006) (citing *State v. Wilson,* 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001); *State v. Preslar, 364* S.C. 466, 613 S.E.2d 381 (Ct.App.2005); *State v. Wood,* 362 S.C. 520, 525, 608 S.E.2d 435, 438 (Ct.App.2004)). *See also State v. Samuel*, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018) (the appellate court will "review a circuit judge's findings of historical fact for clear error").

ARGUMENT

The trial judge did not violate Appellant's Sixth Amendment right to confront witnesses, or otherwise violate Appellant's rights under the Sixth Amendment and Due Process, when, after failing to promptly return to court on the second day of trial, he missed a portion of trial, then was located, restrained and brought to court, and subsequently removed for another portion of the trial when he disregarded the court's rulings, repeatedly interrupted the judge, and demonstrated cause for the judge to have firm concern Appellant may become violent during the proceedings since he had been violent with the courtroom deputies, especially given that the judge had patiently and repeatedly warned Appellant such behavior could result in removal.

Introduction:

Rule 16 of the South Carolina Rules of Criminal Procedure provides:

> Except in cases wherein capital punishment is a permissible sentence, a person indicted for misdemeanors and/or felonies may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that such person has received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court.

Further, "a defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct." *State v. Shuler*, 344 S.C. 604, 625, 545 S.E.2d 805, 815 (2001); *State v. Patterson*, 367 S.C. 219, 230, 625 S.E.2d 239, 244 (Ct. App. 2006) ("a defendant may be presumed to waive or forfeit the right to be present by misbehaving in the courtroom").

Here, Appellant waived his right and/or forfeited his right to remain in the courtroom due to his continuous interruptions, failure to abide by the court's rulings, concerns of comments warranting a mistrial, and increasing concerns of violence. As Rule 16 makes clear, a non-capital defendant does not have an unwaivable right to be present in the courtroom during trial proceedings. Procedurally, the rule requires that the defendant have (1) notice of his right to be present and (2) a warning that the trial will proceed in his absence. Appellant was given notice of his right to be present and made clear that he understood. (*See* R. p. 45, line 22- p.46, line 21; p. 56, lines1-8). However, Appellant was also given a warning that the trial would proceed in his

absence unless and until he could control his disruptive behavior. (R. p. 44, lines 1-2). Thus, Rule 16 requirements have been satisfied. Further, this shows no violation of the rights secured by the Sixth and Fourteenth Amendments. Appellant consistently waived his right to counsel, and specifically rejected standby counsel. There is no error.

Relevant Facts:

Though he had counsel in his prior trial, Appellant did not want counsel in the retrial. As noted above, prior to the re-trial, Judge Price asked again to confirm the desire to waive counsel, but his behavior became problematic. Appellant interrupted Judge Price several times, but the judge allowed him to continue *pro se*.[1] The judge appointed Michael Nelson, Esq. to act as standby counsel. (R. p. 41, line 12- p. 42, line 24). Appellant objected. (R. p. 43, lines 2-19). As the judge attempted to ask Appellant if he had any *voir dire* requests, Appellant continued to object to Mr. Nelson's representation of standby counsel. Judge Price informed Appellant that if he continued to interrupt the Court his case would be tried in his absence, took a break in the proceedings, and even requested standby counsel explain that he could not "continuously interrupt" the court proceedings. (R. p. 43, line 8- p. 45, line 5). Mr. Nelson returned to report Appellant "no longer wants to speak with [Mr. Nelson] and had indicated," to Mr. Nelson that Mr. Nelson was "disqualified." (R. p. 45, lines 6-8). Judge Price brought Appellant back into the court. He asked had there been any "evaluations" made, and the Solicitor indicated there had not been any made "nor has it ever been indicated there would be a need for one." (R. p. 45, lines 14-17). Judge Price addressed Appellant and gave him options for going forward and advised that Appellant could not continuously interrupt Judge Price as Appellant had been doing. (R. p. 45,

---

[1] While Appellant expressed that he did not wish to be represented by counsel, he asked to appear *in propria persona* and not *pro se*. (R. 42, lines 14-17). Both terms indicate appearance without a lawyer, so his intended point is unclear. *See* PRO SE, Black's Law Dictionary (11th ed. 2019). It does demonstrate, however, that he did not agree with the court on most any point, even on basic definitions.

line 18- p. 47, line 15). He agreed. (R. p. 47, line 16). Judge Price allowed Appellant's handcuffs to be loosened,[2] and attempted to explain the *voir dire* process even though Appellant had waived counsel and had been through the first trial on the charge. (R. p. 49, line 3- p. 51, line 12). Appellant returned to the matter of standby counsel and asked for standby counsel to be relieved, which the court denied, but limited standby counsel's role to simply be available should Appellant request aid, though Appellant objected to that as well. (R. p. 51, lines 13-25). Appellant attempted to test Mr. Nelson and concluded that he believed Mr. Nelson not qualified and maintained an objection that Judge Price overruled. (R. p. 52, line 1- p. 54, line 6). He continued to argue to Judge Price and refused to accept that his motion was denied until, ultimately, he challenged the judge's oath and authority to act. (R. p. 54, line 7- p. 57, line 7). Judge Price warned that he would remove Appellant if he could not "calm down" and "set up" a room outside for him to watch the proceedings. (R. p. 57, lines 17-20). Appellant returned to challenging Mr. Nelson and advised the court that he had a motion to suppress evidence. (R. p. 58, line 5- p. 59, line 10).

Eventually, the remaining motions regarding evidence were set aside so that the jury could be selected. (R. p. 59, lines 21-24). Judge Price directed that the prior trial not be mentioned. (R. p. 60, lines 5-8). The jury was selected, and though he had no objection or motions related to the selection of the jury, Appellant requested juror numbers which Judge Price allowed. (R. p. 77, lines 18-25). Subsequently, other matters as to evidence were addressed, at the conclusion of which the trial court called for a break in the proceedings. Judge Price advised Appellant that he needed to timely return to court that day, reminding him that he had failed to show up timely to court that morning. (R. p. 86, lines 13-25).

---

[2] Appellant asserted the courtroom deputies were "trying to twist [his] arm" then "trying to break [his] arm through the brief process of taking off the cuffs. (R. p. 48, lines 5-21).

During subsequent motions prior to opening statements, however, Appellant continued to argue with Judge Price's rulings, and Judge Price asked if Appellant wanted to be removed from the courtroom. Appellant simply continued to argue. Eventually, Judge Price firmly stated anything further would result in him being removed. (R. p. 103, line 1- p. 104, line 10). He continued to argue, at which point Judge Price resolved, "We're just going to have to just put him back there [*i.e.*, a room removed from court where he could see], ... It's not going to work. He's not going to listen." (R. p. 105, lines 19-21). Appellant objected and indicated he was being "unlawfully removed" because he was "exercising [his] right to be heard...." (R. p. 106, lines 21-23). The separate room would allow him to listen and participate via Webex and had other technology available to aid participation. (R. 107, line 8- p. 108, line 19). Even so, Appellant was brought back again to make motions, and Judge Price again explained that while he can object and make arguments, he cannot continually challenge the ruling. (R. 111, line 12- p. 112, line 3). Notably, during these proceedings, the court also warned Appellant not to have his cellphone on or to record anything while in court. Though he objected, Appellant apparently placed the phone on the desk. (R. p. 112, lines 4-20). Appellant also requested a continuance to review discovery he contended was not timely provided, and Judge Price, after hearing the facts, found no continuance was warranted but allowed Appellant to supplement the record with anything on that point should he need to do so. (R. p. 117, lines 10-24).[3] Appellant asserted the denial of his motions amounted to "malicious abuse of process" and that Judge Price was "denying ... [Appellant a] fair and impartial trial." (R. p. 117, line 25- p. 118, line 2). He also asserted the rulings against him "exceeded" Judge Price's "jurisdiction" and as such were "not legal." (R. p. 118, lines 4-6).

---

[3] Appellant later confirmed that he would have that opportunity after the end of the first day. (R. p. 160, line 15- p. 161, line 14).

Opening statements were given with Appellant present and participating. (R. p. 118, line 23- p. 127, line 3). Four witnesses were presented by the State with Appellant conducting cross-examination. (R. p. 128-160). Appellant, though, continued to have his phone on and was admonished again. (R. p. 131-133). Proceedings broke for the day with Judge Price instructing everyone that court would resume "promptly at 9:30" the following day, March 28th. (R. p. 160, lines 1-5).

On the morning of March 28th, a jury indicated that someone attempted to contact her about the trial, and reported "feel[ing] scared and threatened and" that "she can no longer be fair and impartial." (R. p. 164, lines 7-21; R. p. 547). The judge dismissed the jury and seated an alternate. (R. p. 164, lines 22-24).

The State then reported that Appellant had failed to return, had failed to appear at a status conference and had been late the previous day, therefore, they moved to revoke his bond and for the issuance of a bench warrant. (R. p. 165, lines 11-15). Judge Price both revoked the bond and issued the bench warrant, and also found that Appellant could be tried in his absence given he was previously advised that could happen. (R. p. 165, line 16- p. 166, line 1). Standby counsel was allowed to leave as he was limited to "procedural issues." (R. p. 166, lines 18-24).

The trial continued with the judge advising the jury that while the defendant was not in the courtroom, "that is not to be taken into consideration by yourself whatsoever" and reminded them the burden of proof was on the State. (R. p. 167, lines 21-25). A witness, John Reynolds, testified as to the crime scene, the location and appearance of the body, the items with the body, and the collection of evidence, but his direct was interrupted at approximately 10:22 a.m. when it was discovered the Appellant was in the clerk's office "making copies" and the court directed the deputies to retrieve Appellant and bring him to court. (R. p. 187, lines 15-25).

When brought in, Appellant contested the lawfulness of his "detainment" and challenged Judge Price and the legitimacy of the proceedings. (R. p. 188, lines 2-24). He also attempted to question the prosecutor about maintaining the charges against him and the prosecution. (R. p. 189, lines 1-13). Judge Price ordered the handcuffs to be taken off, but Appellant continued to contest his treatment and argued interference with his ability to represent himself, and asserted that Judge Price was acting unlawfully and would "be held accountable." (*See* R. p. 191, line 4- p. 192, line 13). Judge Price had Appellant removed, and placed on the record:

> ... the concern that I have is I just don't trust that he won't do anything violent. I just – with the way he's acting and the way he's behaving, he's been nothing but violent with y'all, I don't know if he needs to be evaluated or what, but I don't trust that he's not going to do something with this jury, or continue to try to tamper with them, or even just be violent with somebody, so I'm very concerned about that. ...

(R. p. 193, lines 3-10).

The State discussed the prevailing case law, waiver by conduct, and noted that the outbursts had been outside the presence of the jury at that point. (R. p. 193, line 18- p. 195, line 16). However, in the State's view, Appellant had evidenced that he did not intend to follow the rulings of the court. (R. p. 195, lines 15-20). Judge Price resolved:

> ... I believe it's been more than obvious that I have been patient with Mr. Singleton. I have attempted to give him several options in which he could participate in his trial. He refuses to acknowledge any of my rulings or orders.
>
> And, to be quite honest with you, I am very fearful for the parties in this case. I am not sure if he would lash out, do something violent towards the jury, or Ms. Norvell, or anyone along those lines, so even for that reason I'm not going to allow him to participate. He has forfeited his constitutional right to represent himself based on his actions and outbursts. I'm not going to let him fight the deputies anymore.

(R. p. 195, line 21- p. 196, line 7).

The State also expressed a concern about potential witness tampering based on the juror's report from earlier, and the fact that the contact had sparked fear that reduced the juror to tears. (R. p. 196, lines 8-18). The judge acknowledged that the only individuals with the juror's names would be the prosecution and the defense. (R. p. 197, lines 5-7). The judge also did not appoint standby counsel since standby counsel was only appointed for procedural issues. (R. p. 197, lines 12-18). After four witnesses testified, Judge Price requested that standby counsel go back to Appellant and ask

> ... if he wishes to participate in this trial. If so, he will remain handcuffed and, you know, he won't be able to - - he's not going to come in here and injure anybody. You missed it. He and the deputies got into it ...

(R. p. 241, lines 14-18).

Standby counsel confirmed that the display was not before the jury, but Judge Price noted Appellant "had an extreme outburst and we could not control him, so we had to try to take him in the back, and he fought the deputies ... he's going to remain shackled." (R. p. 241, lines 20-23). He again asked standby counsel to "go downstairs" and see if he wanted to participate. (R. p. 242, lines 1-4). Standby counsel spoke with Appellant and reported that he did want to participate, and counsel warned him as well that he could be removed again if he continued inappropriate actions. (R. p. 242, lines 9-21; p. 243, lines 11-12). Judge Price allowed Appellant to return admonishing him to abide by the court's rulings and specifically not to mention the prior trial, and Appellant responded that he would answer the judge's questions as long as the judge answered his questions, indicated that he did not think the proceedings would be "fair and impartial," and told the judge, "you are absurd." (R. p. 244, lines 2-14). Standby counsel intervened and spoke to Appellant, then advised the court that Appellant was ready to participate but that he directed standby counsel "stay in the back and not participate," with Appellant

asserting again his belief standby counsel was "not qualified to be [his] counsel. (R. p. 243, line 18- p. 244, line 24). Appellant then questioned whether the judge had "purposefully den[ied] him the "right to cross-examination" of the witness who testified while Appellant was absent from the courtroom. (R. p. 245, lines 3-6). The judge responded "no," and reminded Appellant it was Appellant's own actions that caused his absence. (R. p. 245, lines 10-11). Appellant then stated "if we could continue, I would ask that this please be a fair and impartial proceeding, because due to your actions I do not feel like this has been a fair trial and will not proceed to be a fair trial," then asked for a "remedy for a wrong sustained" since he did not "face [his] accuser..." (R. p. 245, lines 17-22). The judge responded the "remedy is you're sitting in this courtroom right now." (R. p. 245, lines 23-24). Appellant asked to address the jury, which the judge denied, and also asked to cross-examine the witnesses who testified in his absence, and the judge stated that a witness would be called for him to cross-examine then directed the State to call the next witness in the trial, Detective Pritchard. (R. p. 246, line 12- p. 247, line 11). During his cross-examination of Detective Pritchard, Appellant asked for the shackles to be removed and asserted "its infringing my opportunity to ... raise an affirmative defense...." (R. p. 285, lines 3-6). Judge Price allowed a break in the proceedings at that point and advised Appellant he would consider the request. (R. p. 285, lines 20-25). Judge Price allowed the removal of the restraints on one hand, and Appellant asserted being tried in shackles was prejudicial to him: "being detained in front of the jury is very prejudiced [sic] and shows bias on behalf of ... Judge Price" and "demand[ed] that [Judge Price] be recused." (R. p. 286, lines 13-17). He also attempted to question the revocation of bond, and Judge Price instructed that could be discussed later outside the presence of the jury (the record notes that the jury was returning after the short break). (R. p. 286, lines 18-24). Appellant continued cross-examination, and when the judge allowed the

witness to complete an answer, Appellant asked if the judge was "practicing law from the bench." (R. p. 290, lines 14-15). Judge Price just allowed the cross-examination to continue without rebuking Appellant for the lack of decorum. (R. p. 290, lines 16-17). The cross-examination and recross was not simply unskillful, but often irrelevant, belligerent, and disrespectful to the witness, and the court, while the court remained courteous. (*See* R. p. 293, line 23- p. 305, line 7; p. 308, lines 2-8; p. 314, line 2- p. 318, line 3; p. 322, line 25- p. 330, line 22). Judge Price displayed remarkable patience and courtesy. For example, and for a snapshot of the hostility and non-compliance from Appellant and courteous response from the judge, Judge Price asked Appellant at one point, "Please don't badger the witness. Just ask him a question. Please don't testify." (R. p. 309, lines 10-11).

After the completion of Detective Pritchard's testimony, Appellant asked if Mr. McKean had testified, and as the judge asked the jury to step out on break, Appellant asserted, "Let the record show he's inducing a fraud. Let the record show he's inducing a fraud." (R. p. 331, lines 14-21). At the end of the break, as the judge cautioned Appellant to listen to the individuals assigned to walk with him, Appellant announced the trial was "unlawful" and referenced equity, wanting to know who was "the trustee" in the proceeding, decided it was the judge, and accused him of being "prejudiced and biased." (R. p. 333, lines 7-19). Appellant announced that he would read from his affidavit, and the judge instructed him not to do that. (R. p. 333, lines 20-25). He also wanted to return to the clerk's office to file something, and when the judge offered to aid in the filing, Appellant then pivoted to assert his documents were not printed and that he "was in the process of printing it off and you unlawfully detained me and had me put away in shackles while I was trying to attend the trial and be able to face my accusers and the jury." (R. p. 334, lines 4-14). He asserted that he had "been denied due process of law." (R. p. 334, line 14).

Judge Price directed the State to call its next witness and testimony continued. The court recessed overnight during the witness direct testimony (Mr. Roberts). (R. p. 368, lines 4-15).

The next day, the court addressed another problem. Keyshon Poinsette, who came to the courthouse with Appellant's girlfriend, Destiny Forrest, to bring Appellant clothes, had a list of the jurors' names. Forrest claimed that she had Appellant's "papers" in her car, and that Appellant had asked for the list with juror names. Standby counsel confirmed the list was in his handwriting and though he did share the list with Appellant in order to select the jury, he thought that he took the list back. There was no determination on the record as to why he would need the list at that point in trial. (R. p. 373, line 9- p. 375, line 13). Appellant then returned to the courtroom and immediately asked for his right hand to be free from the shackles. Judge Price responded:

> No, not after the way you behaved yesterday with assaulting those deputies on the way out. So here's the procedural background of everything that's going on here today, Mr. Singleton. The fact that you showed up late, your bond was revoked, and obviously that's why you are currently incarcerated. And then as the day wore on, there was not once, but twice, instances whereby you accused the Court of perpetrating some fraud. And then when the proceedings were over for the day, I witnessed you fight two deputies, if not three, for whatever purpose, I'm not sure, all the way out. So for that I'm going to hold you in contempt, I'm going to give you six months in the county detention center.
>
> So, Mr. Singleton, we're going to proceed today in a little bit more of an orderly fashion. I'm going to be a little bit more strict and keep you on a tighter leash, so for every time that you have an outburst, or you do anything around these deputies, I'm giving you another six months.

(R. p. 375, line 24- p. 376, line 16).

Appellant denied that he "raised a hand against the deputies," to which the court replied, "Of course you didn't. You were shackled," and further argument is not recorded due to,

"Simultaneous speaking." (R. p. 376, lines 17-22). Judge Price ended the exchange and directed the trial to continue. (R. p. 376, lines 24-25). Appellant continued to contest the allegation of fighting, and also requested aid in printing an affidavit for filing in the case. (R. p. 377, lines 1-15). He would later explain he wanted to print an affidavit "[o]f bias and prejudice." (R. p. 425, lines 16-18). Appellant also asked to cross-examine Mr. McKean which he was not able to do when he was removed from the courtroom and the judge declined. (R. p. 377, lines 19-23).

Testimony resumed with Mr. Roberts. The State concluded the examination with no further questions, then Appellant cross-examined the witness and there was a short re-direct. (*See* R. p. 378, line 12- p. 388, line 4). Another witness was called, Detective Riedel, and Appellant again argued with the court over the pre-trial ruling allowing the phone extraction testimony. (R. p. 398, line 17- p. 400, line 17).

The State recalled one witness, Detective Pritchard, to summarize the evidence into one timeline. During cross-examination, Appellant asked a question that indicated a reference to Mr. McKean, and Appellant again requested that he be allowed to cross-examine Mr. McKean. The judge had him move along. (R. p. 460, lines 15-25). He cross-examined the detective about the detective's assessment of Mr. McKean's testimony regarding the clothing description. (R. p. 465, line 10- p. 467, line 5). The questioning was repetitive and veered more than once to the improper. (*See* R. p. 469, lines 6-17; p. 473, lines 13-18; p. 476, lines 23-24). Eventually, the witness testimony was completed, and the State rested. (R. p. 479, line 10).

During the directed verdict motion, Appellant again asserted prejudices, and began speaking over the judge and attempting to direct the judge to take action. (R. p. 481, lines 4-22). Judge Price reminded Appellant he was ejected because of his own "outlandish behavior, his

continued interruption ... a constant, continuous process" having continued to that time where Judge Price was then again addressing Appellant's disruptive behavior. (R. p. 481, line 23- p. 482, line 10). Any prejudice from removal was of his own making. (R. p. 482, lines 9-10).

Appellant declined to present any evidence, and, when asked if had time to discuss matters with his attorney or family, Appellant noted that he did not have an attorney, stating: "Let the record show Mr. Nelson is not my attorney." (R. p. 482, lines 17-23). Appellant stated that the only additional time he needed was time "to cross-examine the witness that I was not able to do because" the judge "detained" Appellant. (R. p. 483, lines 4-6). Appellant again asked to have the jury know about the prior trial. (R. p. 485, lines 1-7). Appellant then reversed himself and offered to call his father to speak to the violation of Appellant's rights. (R. p. 486, lines 3-11). He changed again and considered calling Keyshon Poinsette. (R. p. 488, lines 12-16). Having shown no indication of relevant evidence in his proffer, the judge disallowed calling the offered witness(es). (R. p. 491, lines 3-5). He returned again to request the jury hear about the prior trial. (R. p. 492, lines 1-25). The case eventually went to closing and the jury instruction.

In his instructions to the jury, Judge Price also instructed that while Appellant had been absent for some of the trial, the law allows him to be tried in absence, but the fact of the absence must "not be considered against the defendant...." (R. p. 522, lines 1-5). Appellant objected to not having a charge to inform the jury of the prior trial, to which Judge Price responded, "For the 1,000th time, we are not going to mention the prior trial." (R. p. 524, lines 20-21). It was noted that Appellant was also inappropriately looking at the jury and "mouthing 'please' at the jurors during" the instructions. (R. p. 524, lines 6-10).

In deliberations, the jury returned a note asking if Appellant had their names or only their juror numbers. (R. p. 527, lines 11-14; R. p. 548). Judge Price instructed the jury to

consider only the evidence presented, and "[a]ny other issues will be addressed post trial." (R. p. 528, lines 11-15). While the jury was out, Appellant offered an apology to Judge Price indicating that his actions were for trial, and not personal. (R. p. 529, lines 4-10).

Discussion:

"One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial." *Illinois v. Allen,* 397 U.S. 337, 338 (1970). However, "[i]t is essential to the proper administration of criminal justice that dignity, order, and decorum be the hallmarks of all court proceedings in our county." *Id.* Consequently, "a defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct." *State v. Shuler*, 344 S.C. 604, 625, 545 S.E.2d 805, 815 (2001).

"A defendant may properly be excluded when his conduct is disruptive or is interfering with the progress of the trial." *State v. Bell*, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987). Further, "[a]lthough the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion." *Id.* Rather, "[d]enials of a defendant's right to be present, as well as other constitutional violations, are subject to a harmless error analysis." *Shuler*, at 626, 545 S.E.2d at 816 (citing *State v. Williams*, 292 S.C. 231, 355 S.E.2d 861 (1987)).

In *Allen,* the Supreme Court recognized that discretion to deal with disruptive conduct was necessary, and upheld the removal of a defendant from trial as being within the trial court's discretion:

> It is not pleasant to hold that the respondent Allen was properly banished from the court for a part of his own trial. But our courts, palladiums of liberty as they are, cannot be treated disrespectfully with impunity. Nor can the accused be permitted by his disruptive conduct indefinitely to avoid being tried on the charges brought against him. It would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes. As guardians of the

> public welfare, our state and federal judicial systems strive to administer equal justice to the rich and the poor, the good and the bad, the native and foreign born of every race, nationality, and religion. Being manned by humans, the courts are not perfect and are bound to make some errors. But, if our courts are to remain what the Founders intended, the citadels of justice, their proceedings cannot and must not be infected with the sort of scurrilous, abusive language and conduct paraded before the Illinois trial judge in this case. The record shows that the Illinois judge at all times conducted himself with that dignity, decorum, and patience that befit a judge. Even in holding that the trial judge had erred, the Court of Appeals praised his 'commendable patience under severe provocation.'
>
> We do not hold that removing this defendant from his own trial was the only way the Illinois judge could have constitutionally solved the problem he had. We do hold, however, that there is nothing whatever in this record to show that the judge did not act completely within his discretion. Deplorable as it is to remove a man from his own trial, even for a short time, we hold that the judge did not commit legal error in doing what he did.

Id., at 346–47.

Allen is instructive and shows how carefully Judge Price handled the tense and unrelenting situation while balancing the need for decorum expected in such proceedings. Judge Price demonstrated remarkable patience, and reiterated multiple times that he wanted Applicant to be able to participate in his trial. (*See* R. p. 45, lines 22-25; p. 56, lines 4-8; p. 108, lines 11-13; p. 110, lines 6-11; p. 190, lines 5-15; p. 242, lines 1-14). Like Allen, Appellant was repeatedly warned by the judge that continuing the impermissible behavior would result in his being removed from the courtroom. (*See* R. p. 43, line 20- p. 44, line 20; p. 195, line 21- p. 196, line 7). *Id.*, at 346 ("[p]rior to his removal [Allen] was repeatedly warned by the trial judge that he would be removed from the courtroom if he persisted in his unruly conduct"). Further, Appellant was charged with contempt and was advised that for every outburst he would get an additional six months but was not removed at that time. (*See* R. p. 375, line 24- p. 376, line 6). *Id*, at 344-345 (considering lower court's notation of "the possible availability of contempt

of court as a remedy to make Allen behave"); *id.*, at 346 (noting "Allen was constantly informed that he could return to the trial when he would agree to conduct himself in an orderly manner."). Judge Price affirmatively did what *Allen* teaches and sought to avoid or limit ejection by multiple means.

However, Applicant forfeited his presence by engaging, repeatedly, in actions that he was warned interfered with the integrity of the judicial process. Applicant was not present *due to his own misconduct* for the direct or cross examination of four witnesses: Greggory McKean (conductor); Nicholas Batalis (forensic pathologist); Nathaniel Pearson (Assistant Principal); and Tiffani Crider (North Charleston Police Department). Ultimately, the resolution here falls on the fact that Appellant cannot complain of errors of his own making. *State v. Babb,* 299 S.C. 451, 455, 385 S.E.2d 827, 829 (1989) ("a party cannot complain of an error which his own conduct has induced"). At any rate, Appellant has made no attempt to show specific prejudice. *See Bell, supra.* At trial, the only witness of concern to Appellate appeared to be the conductor, however, he brought out (perhaps improperly so, but nonetheless) credibility concerns regarding the conductor's testimony during Detective Pritchard's testimony. (*See* R. p. 467, lines 2-22). However, it appears that Appellant attempted to rely on the assertion that he was unrepresented during his absence and prejudice should be assumed. (*See* Appellant's Brief, at 18). The reliance on such an argument is misplaced for both procedural and substantive reasons.

Appellant's argument that the judge should have appointed standby counsel is not preserved for review and Appellant never asserted an error based on denial of counsel. *See, e.g., State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693–94 (2003) ("Issues not raised and ruled upon in the trial court will not be considered on appeal."). Again, the removal from the trial was limited and temporary. Appellant resumed his *pro se* representation and contested his absence,

not the failure to appoint counsel during the absence. (*See* R. p. 245, lines 17-22; p. 334, lines 4-14; p. 460, lines 15-25). Notably, Appellant did not complain even after trial based on deprivation of counsel. (*See* R. p. 537, line 6- p. 538, line 4). And the record shows that Appellant continued to act *pro se*. Appellant is wrong that his right to self-representation was terminated.

Indeed, Appellant was very vocal on rejecting counsel. There is no indication appointment of counsel would have been acceptable. *See Faretta v. California*, 422 U.S. 806, 836 (1975) ("In forcing Faretta, under these circumstances, to accept against his will a state-appointed public defender, the California courts deprived him of his constitutional right to conduct his own defense."). There is no clearly established Supreme Court precedent that speaks to a mandate to appoint counsel where a *pro se* defendant has been removed from the courtroom due to his disruptive or disrespectful behavior. *See United States v. Stanley*, 739 F.3d 633, 650 (11th Cir. 2014) (denying federal habeas corpus relief noting the absence of clearly established Supreme Court precedent that "*required*" the appointment of counsel where right to counsel is waived, and defendant then absents himself from trial); *Davis v. Grant*, 532 F.3d 132, 145 (2d Cir. 2008) ("regardless of whether or not we might conclude that Davis was erroneously deprived of his right to counsel when he was removed from the courtroom for disruptive conduct and no standby counsel was appointed to represent him in his absence, we cannot conclude that the result constituted an unreasonable application of Supreme Court precedent"). By footnote, the Supreme Court referenced in *Faretta* that "the trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct." *Faretta*, at 834 n. 46. This is not absolute; it is permissive. Thus, it works against Appellant's position. Constitutional rights are not suggestions that may be disregarded. Thus, there is no constitutional mandate to *assume* forfeiture of self-representation and *mandate* appointment.

Cf. State v. Barnes, 407 S.C. 27, 37, 753 S.E.2d 545, 550 (2014) (declining to recognize *Indiana v. Edwards,* 554 U.S. 164 (2008) that recognized that a state could deny a self-representation request where a defendant is "competent enough to stand trial under *Dusky* but who still suffer from severe mental illness to the point where they are not competent to conduct trial proceedings by themselves") (citing *Edwards,* at 178)).

Further, the record is very clear that defendant made a voluntary waiver of his right to counsel. Certainly, a defendant, when warned of the dangers of self-representation, may waive his right to counsel by conduct. *Osbey v. State*, 425 S.C. 615, 621, 825 S.E.2d 48, 51 (2019). Waiver may be made verbally or by conduct. *State v. Thompson,* 355 S.C. 255, 262, 584 S.E.2d 131, 134 (Ct.App.2003). Further, by particularly egregious behavior, the right to counsel may be forfeited. *Id. See also City of Columbia v. Assa'ad-Faltas*, 420 S.C. 28, 47, 800 S.E.2d 782, 791–92 (2017) ("the municipal court would have been justified in insisting that Appellant proceed with the assistance of counsel" considering her "long history of abusing the judicial process").

Here, though, there was an appropriate waiver at the beginning of trial (which is not contested on appeal), and there was no express retraction of the waiver that would focus the inquiry on the appointment of counsel during the defendant's absence. There is no indication that Appellant would have offered a retraction – he was firm in his responses and arguments to the trial court that he did not wish standby counsel to be appointed or involved at all. Further still, again based on this record, one would "have little doubt that if" the trial judge ordered standby counsel "to pick up the representation" the appellate court "would be confronted with the argument that the" trial judge "had improvidently and without any record support overruled [the] earlier unambiguous desire for self-representation." *Stanley*, 739 F.3d at 650. That a retraction of his prior waiver may have been a better choice for Appellant to make is not a relevant

consideration in the constitutional analysis. *State v. Brewer*, 328 S.C. 117, 119, 492 S.E.2d 97, 98 (1997) ("Although a defendant's decision to proceed *pro se* may be to the defendant's own detriment, it 'must be honored out of that respect for the individual which is the lifeblood of the law.'") (quoting *Faretta*, 422 U.S. at 834).

Even so, Appellant failed to preserve the issue of some type of interim appointment during his absence from court. This Court should decline to address the deprivation of counsel argument on the merits as it is procedurally barred.

CONCLUSION

Based on the foregoing, this Court should affirm.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-6305

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Ste. 400
Charleston, SC 29401

By: _____
MELODY J. BROWN
S.C. Bar No. 14244

ATTORNEYS FOR RESPONDENT

August 5, 2024

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Charleston County

The Honorable Bentley Price, Circuit Court Judge

THE STATE,

Respondent,

v.

MAURICE T. SINGLETON,

Appellant.

Appellate Case No. 2023-000553

CERTIFICATE OF SERVICE

The undersigned certifies that as per the March 20, 2020 Order of the Chief Justice, the *Final Brief of Respondent* has been forwarded to Appellant' s counsel, Kathrine H. Hudgins, Esquire via email today to KHudgins@sccid.sc.gov, and to her assistant Chris Stock, at Cstock@sccid.sc.gov.

This 5th day of August 2024.

By: _____
MELODY J. BROWN

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Maurice Trimaine Singleton, Appellant.

Appellate Case No. 2023-000553

Appeal From Charleston County
Bentley Price, Circuit Court Judge

Opinion No. 6164
Heard June 3, 2026 – Filed September 23, 2026

AFFIRMED

Senior Appellate Defender Kathrine Haggard Hudgins, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy Attorney General W. Jeffrey Young, Deputy Attorney General Donald J. Zelenka, and Senior Assistant Deputy Attorney General Melody Jane Brown, all of Columbia; and Solicitor Scarlett Anne Wilson, of Charleston, all for Respondent.

PER CURIAM: Maurice Trimaine Singleton appeals his conviction for murder and sentence of life imprisonment. On appeal, Singleton argues the trial court erred in removing him, a pro se defendant, from the courtroom during trial and denying him his right to self-representation. We affirm.

FACTS

Singleton was indicted for the 2018 murder of Vaughn McFadden (Victim).[1] At a pretrial hearing for the new trial, the State asked the court to address defense counsel's motion to be relieved because although the prior judge had verbally granted the motion and conducted what the State believed was an incomplete *Faretta v. California*[2] colloquy, an order had not yet been filed. During the pretrial hearing, Singleton repeatedly refused to sign the *Faretta* warning documents, claiming he needed more time and insisting he would proceed "in propria persona," while also asserting he was not waiving any rights. The court relieved counsel and directed Singleton to review the documents again before returning the following morning. The next day, Singleton again refused to sign the *Faretta* warning documents. The court explained Singleton's right to an attorney, the right to self-representation, and the dangers of self-representation. Singleton stated he would not be "representing" himself but wanted to "proceed in [his] most proper person." Later that morning, the State requested that the court clarify whether Singleton intended to proceed pro se or with counsel. The court indicated it had asked Singleton that question "probably about [eleven] times."

On the first day of trial, Singleton failed to arrive on time. Upon entering the courtroom, Singleton made numerous interruptions arguing about his right to object, be heard in a meaningful way, and to proceed "as a special appearance to challenge the validity of these claims" and "in propria persona." The court explained it had appointed standby counsel for assistance, but Singleton objected, arguing standby counsel was "not qualified." Despite multiple warnings from the court, Singleton continued to interrupt and speak over the court. Singleton was removed from the courtroom and the court directed standby counsel to confer with him. Standby counsel returned, stating Singleton no longer wished to speak with him. When Singleton returned, the court outlined his options: proceed pro se without disruptions; participate remotely with full ability to see, question, and cross-examine witnesses; or face an option that the court stated Singleton did not

---

[1] Singleton's first trial resulted in a mistrial due to a hung jury. Following the mistrial, Singleton's counsel moved to be relieved. A hearing on the motion was held; however, no order was filed.

[2] "Under *Faretta* [*v. California*, 422 U.S. 806 (1975)], the trial judge has the responsibility to make sure that the defendant is informed of the dangers and disadvantages of self-representation, and that he makes a knowing and intelligent waiver of his right to counsel." *State v. Barnes*, 407 S.C. 27, 36, 753 S.E.2d 545, 550 (2014).

want to know. After assurance that he would be heard in a meaningful way, Singleton agreed to cease his interruptions. At Singleton's request, the court allowed deputies to remove his handcuffs but warned him to comply. When asked if he understood and wanted to review his *Faretta* warnings again, Singleton stated, "I don't need to go over them again. I refuse to sign *Faretta* warnings."

The court explained the jury selection process, after which Singleton again moved to relieve standby counsel. The court denied the motion, explaining that standby counsel was present for procedural purposes. Singleton continued to challenge the ruling, object, and argue that standby counsel was unqualified. The court explained the objection was on record and instructed Singleton to move to the next issue. Singleton told the court he had a couple of issues and would let the court know when he was moving on to the next one. The court told Singleton that he would not tell the court "how to run [the] courtroom" and again warned him of removal. The court repeatedly told Singleton to move on, but he refused, insulting the court and requesting patience because standby counsel was not assisting him. Singleton again moved for standby counsel to be relieved and argued the denial of his motion violated his rights. The court told standby counsel he could move to where he could be kept "abreast of actually what's transpiring." Thereafter, the parties participated in jury selection.[3]

Over Singleton's objection, the court granted the State's motion to preclude any mention of Singleton's previous trial. Singleton continued to object despite repeated court warnings. After the court twice stated it had already ruled on the motion regarding his previous trial, Singleton insisted the court had an obligation to hear his objection. The court informed Singleton that he could supplement the record later and again warned that further interruptions would result in removal, to which Singleton responded he would attend trial "personally."

When asked if he was ready for the jury or to be removed, Singleton stated he was not ready for the jury because he had other issues to discuss. The court ordered his removal but noted he could listen from another room. Singleton stated he was "being unlawfully removed from [his] own trial" for exercising his right to be heard. Singleton was escorted out, and the parties discussed alternative methods for participation and the availability of technology. The court stated it did not know whether to hold Singleton in contempt or try to resolve his ability to

---

[3] Singleton struck several jurors and during the close of selection, he requested every juror number. The court responded it would be happy to provide the numbers "at some point in time."

participate without interrupting the consistent flow of court. The court expressed concern that Singleton would not accept its rulings and stated it could not conduct a trial when a person did not accept the court's rulings. The court proposed, as "one last-ditch effort" that it explain to Singleton the appellate process, preservation rules, and how to supplement the record at the close of trial. Therefore, the court explained, "it's not all hope lost if I rule against him." When Singleton returned, the court gave him one final opportunity to proceed, explaining that he could object and later supplement the record, but he must move on once the court ruled. Singleton nevertheless continued to argue that his rights were being violated.

In the presence of Singleton and the jury, the State presented evidence from several witnesses. Testimony showed that on the evening of March 2, 2018, responders were called to a railyard. Greggory McKean, the conductor of the railyard, directed them to the train yard, where responders observed Victim, who was deceased, with injuries to his face and head. Police found various items that identified Victim, including his driver's license, two school identification cards, and two cellphones, and learned that Victim had been with Singleton and JaJuan Lockwood that evening.

Singleton did not appear the following day, and the court granted the State's request to revoke his bond and issue a bench warrant. The court ruled Singleton would be tried in his absence. The court released standby counsel, reiterating his role was limited to procedural matters and that he would be called upon to return if Singleton appeared. The court informed the jury that Singleton failed to appear, but his absence could not be considered against him. During Singleton's absence, John Reynolds, formerly of City of North Charleston Police Department, testified about photos he took and items he observed at the crime scene. During Reynolds's testimony, the court excused the jury. Outside of the jury's presence, the court explained it had learned Singleton was in the courthouse making copies; thus, it had him escorted to the courtroom. Singleton immediately began making objections and demanded to question the solicitor. The court asked whether he could participate without disrupting the proceedings and offered to allow him to confront witnesses and participate if he behaved. Singleton claimed the handcuffs violated his due process rights and demanded the court recuse itself. The court ordered deputies to remove the handcuffs.

Singleton then made remarks the court perceived as threatening, prompting another warning. He denied threatening the court and claimed he was merely discussing his constitutional remedies. Singleton asserted he was the "controlling authority"

and because the court prevented him from filing his documents, he would read the documents aloud. The court stated it would not allow Singleton to read from the documents and again warned of removal. Singleton's defiant behavior continued, at which time the court ordered his removal and ruled that he would not participate further.

After deputies placed Singleton in a cell, the court expressed concern about his potential violence, causing a mistrial, and violating the ruling excluding any mention of his previous trial. The State, while acknowledging the outbursts were not in the presence of the jury, likewise noted concern with Singleton's repeated refusal to comply with rulings. The State contended the law provided that a defendant's constitutional right to face his accusers at trial could be overcome if he was egregiously disruptive and explained Singleton could be tried in his absence with standby counsel if the defendant received his *Faretta* warnings on the record and there was a record of the court's "repeated attempts to persuade him to conduct himself in an orderly manner or be held in contempt." Finding that it had been patient and offered Singleton numerous alternatives that he rejected, the court stated that Singleton had "forfeited his constitutional right to represent himself based on his actions and outbursts." The State asked whether the court wanted standby counsel to return and explained the defendant in *Faretta* had standby counsel. The court determined standby counsel need not return because he was not "abreast of the case" and had been appointed only for procedural matters, which were not at issue.

The court also expressed concern regarding possible jury tampering. The court explained that it had removed a juror who felt scared and threatened, and she believed she could no longer be fair and impartial after receiving several friend requests on social media and a phone call from her cousin asking if she was involved in a murder trial even though her cousin had no reason to know she was a juror. The State noted itself and the defense were the only people privy to the jurors' names.[4]

---

[4] The following morning, outside the jury's and Singleton's presence, the court questioned Keyshon Poinsette about why he had a list of all the jurors. He stated Singleton's girlfriend, with whom he rode to the courthouse, told him to give Singleton his clothing and paperwork. Singleton's girlfriend stated the list was with the paperwork, and Singleton wanted it for an unknown reason. Standby counsel stated the list was in his handwriting, and although he gave it to Singleton for jury selection, he believed he retrieved it back from Singleton. The court

The trial resumed in Singleton's and standby counsel's absence and four witnesses testified. McKean testified that he saw two young, African-American males between sixteen and twenty years old shooting towards the ground beneath the I-26 bridge before fleeing. He saw what appeared to be a dark, semiautomatic gun and described one of the males as wearing dark clothing with a white stripe or marking on the sleeve. Dr. Nicholas Batalis, an expert in forensic pathology, testified that Victim sustained at least fourteen gunshot wounds and facial wounds. The manner of death was homicide, and he expected Victim's death to have occurred within a "couple of minutes." Nathaniel Pearson, assistant principal at North Charleston High School, testified that on March 2, Victim and Singleton were marked tardy but present for the same class that lasted from 2:00 to 3:15 p.m. Detective Tiffani Crider, of the North Charleston Police Department, testified that she knew Victim, Singleton, and Lockwood from her work as a school resource officer and that the three lived in the same neighborhood and were friends.

Following Crider's testimony and outside the presence of the jury and Singleton, the court called on standby counsel to ask Singleton if he wished to participate, and if he did, he would be handcuffed. The court explained Singleton had an "extreme" outburst with deputies outside the jury's presence and could not be controlled. After the lunch break, standby counsel indicated Singleton wanted to participate, and he told Singleton that he would be shackled, allowed into the courtroom, and subject to removal again if there were any further incidents. The court then reiterated that warning.

Singleton returned to the courtroom after agreeing to comply with the court's prior rulings. He nevertheless insulted the court, persisted in arguing contrary to prior rulings, and directed standby counsel to "stay in the back and not participate." Singleton asked if the court purposely denied him the right to cross-examine the witnesses that testified in his absence, and the court stated it did not purposely do so but instead did so because of his behavior. Singleton objected, arguing he had a constitutional right to face his accuser, and asked if he would receive a remedy for the violation. The court explained his remedy was his current ability to sit in the courtroom, and Singleton again objected. When the jury returned, Singleton objected to the State calling its next witness and requested to address the jury; the court denied the request but allowed him the opportunity to cross-examine the next witness. Singleton stated he wanted to start with McKean.

---

wanted to know why Singleton desired the list and ordered the list be returned to standby counsel.

The State then called Detective David Pritchard, of the North Charleston Police Department, who testified about incriminating video footage police obtained, Singleton's clothing the day of the murder, and a photo of Victim that day with "a large amount of money." He stated he did not find a gun at Singleton's house or any clothing that matched the videos; however, a .9 mm bullet and $154 was found in Singleton's bedroom. During direct examination, Singleton interrupted and requested the removal of his handcuffs, which the court denied. On cross-examination, Singleton again requested the handcuffs be removed because it was infringing on his ability to raise an affirmative defense. Outside the presence of the jury, the court allowed the removal of the handcuff from his right hand, and Singleton noted that being detained in front of the jury was prejudicial and showed the court was biased. He demanded the judge recuse himself. The jury returned and cross-examination continued. Pritchard testified he knew McKean was dyslexic and was not aware that McKean had testified he saw two individuals wearing all black. Pritchard stated the video evidence, witness statements, contradicting statements, and overwhelming cellphone evidence led him to believe Singleton killed Victim.

At the conclusion of Pritchard's testimony, Singleton asked the court if McKean had already testified. The court ordered a jury break and Singleton stated, "[l]et the record show he's inducing a fraud." Outside the jury's presence, Singleton again claimed he was not being "heard fully" and attempted to read from his affidavit, which the court refused. The court then stated it was bringing the jury in, and Singleton could supplement the record later. When Singleton asked to return to the clerk's office to file his paperwork, the court directed him to provide the document to the court to give to the clerk for filing. Singleton nevertheless claimed he was unlawfully detained and his rights were violated.

Singleton entered the courtroom but remained handcuffed because he had assaulted deputies the previous day. After explaining the bond revocation, the court held Singleton in contempt for fighting at least two deputies and sentenced him to six months' imprisonment. It warned that any further outbursts would lead to additional jail time. Singleton indicated he heard the court's directions but denied assaulting the deputies. The court instructed deputies to bring in the jury. The court then denied Singleton's request to cross-examine McKean. Other witnesses testified for the State, and Pritchard was recalled. During cross-examination, Singleton again requested to cross-examine McKean, and the court stated they had already discussed that issue. Thereafter, Singleton asked Pritchard questions regarding McKean's statements.

After the State rested, Singleton moved for a directed verdict, reiterating he had been denied his right to cross-examine witnesses and suffered prejudice during trial. The court denied the motion, attributing any prejudice Singleton suffered to his own actions, citing the repeated outbursts and interruptions. When asked if he had discussed testifying with standby counsel, Singleton stated standby counsel was not his attorney. When asked if he needed more time to consider his decision, Singleton stated he had needed more time to cross-examine McKean and again claimed the court was violating his constitutional rights.

During the jury charge conference, the court warned Singleton that violating its prior rulings, such as mentioning his previous trial to the jury, would result in his removal, exclusion from closing arguments, and contempt. As the jury was entering the courtroom, Singleton reasserted he had not been heard and claimed the court had been "very biased" and "prejudicial" towards him.[5] Singleton was nevertheless permitted to present a closing argument. During jury instructions, the court informed the jury that Singleton's absence during part of the second day could not be considered against him "in any manner whatsoever." The jury convicted Singleton of murder, and the court imposed a life sentence. This appeal followed.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). An appellate court "is bound by the trial court's factual findings unless they are clearly erroneous." *Id.* "The trial [court] retains discretion to impose reasonable limits on the scope of cross-examination." *State v. Mizzell*, 349 S.C. 326, 331, 563 S.E.2d 315, 317 (2002); *see also State v. Aleksey*, 343 S.C. 20, 33–34, 538 S.E.2d 248, 255 (2000) ("The right to a meaningful cross-examination of an adverse witness is included in the defendant's Sixth Amendment right to confront his accusers. This does not mean, however, that trial courts conducting criminal trials lose their usual discretion to limit the scope of cross-examination." (citation omitted)). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or is based on findings of fact that are without evidentiary support." *State v. Perez*, 423 S.C. 491, 496–97, 816 S.E.2d 550, 553 (2018).

---

[5] After jury instructions, the State noted it requested to approach the bench during jury instructions because it observed "Singleton mouthing 'please'" at the jury during the charge.

"Whether a defendant has knowingly, intelligently, and voluntarily waived his right to counsel is a mixed question of law and fact which appellate courts review de novo." *State v. Samuel*, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018). "Specifically, we review a circuit [court]'s findings of historical fact for clear error; however, we review the denial of the right of self-representation based upon those findings of fact de novo." *Id.*

LAW/ANALYSIS

Removal, Standby Counsel, Waiver

Singleton argues the trial court erred in removing him from the courtroom because it violated his constitutional rights to be present and confront witnesses. He also argues the court erred in failing to appoint standby counsel during his absence. Singleton asserts he had a right to be present when four witnesses testified in his absence and his opportunity for effective cross-examination was impeded when the State called the witnesses in his and standby counsel's absence. Singleton maintains the court violated his right to counsel when trial continued in his absence and while he was unrepresented and "[u]nder the unusual circumstances of this case, [he] did not waive his right to counsel once he was removed from the courtroom."

A criminal defendant has the right to confront the witnesses against him. *Illinois v. Allen*, 397 U.S. 337, 338 (1970) (explaining the right guaranteed by the Confrontation Clause of the Sixth Amendment to the United States Constitution). "One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial." *Id.* "The primary interest secured by the Confrontation Clause of the Sixth Amendment is the right to cross[-]examination." *State v. Shuler*, 344 S.C. 604, 624, 545 S.E.2d 805, 815 (2001). "A criminal defendant has the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure." *Id.*

"[A] defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct[,]" and he or she "may be properly excluded when his [or her] conduct is disruptive or is interfering with the progress of the trial." *Id.* at 625, 545 S.E.2d at 815 (internal citation omitted). "Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion."

Id. "A defendant's exclusion, or absence, will be reviewed in light of the whole record." *Id.* at 624, 545 S.E.2d at 815.

In *State v. Bell*, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987), the trial court removed Bell from the courtroom during closing argument and refused his counsel's request to provide an audio hookup in the holding cell after his removal. During defense counsel's closing argument, Bell twice "stood and objected to the trial proceeding on the Sabbath." *Id.* The trial court excused the jury and explained to Bell his right, and the limits of the right, to be present in the courtroom and "took a recess to provide defense counsel an opportunity to further discuss the matter with" Bell. *Id.* When the trial resumed, Bell "again interrupted defense counsel's argument, with complaints of fatigue and hunger"; the trial court "excused the jury[] and discussed [Bell's] right with him again"; and Bell "told the trial [court] he could not sit quietly if trial resumed and he would insist on obstructing the trial in one way or another." *Id.* The trial court then removed Bell "from the courtroom[] and denied defense counsel's request for an audio hookup in the holding cell." *Id.* Our supreme court found the trial court "was generous and patient in accommodating [Bell's] outbursts prior to excluding him from the courtroom" and even without Bell's "candid admissions that he would impede the trial if he remained in the courtroom, his disruptive conduct clearly constituted a waiver of his right to be present at trial." *Id.* at 401–02, 360 S.E.2d at 712.

In *Shuler*, our supreme court held the trial court did not violate Shuler's constitutional rights when Shuler was absent for part of a pretrial *Jackson v. Denno* hearing.[6] 344 S.C. at 623, 545 S.E.2d at 815. It explained that before the *Denno* hearing began, "Shuler fought with the guards because he did not want to attend the hearing"; "[l]aw enforcement agents were forced to restrain [him] in order to transport him to the hearing"; and "[w]hile in transport, the officers had to put a protective mask over Shuler's face to prevent him from spitting on them." *Id.* at 622, 545 S.E.2d at 814. The court also explained that "[i]mmediately before the hearing, Shuler severely 'rapped' his head on the table." *Id.* The trial court "found Shuler voluntarily absented himself from the" *Denno* hearing and provided him an opportunity to testify when he was present on a different day. *Id.* at 623, 545 S.E.2d 814.

---

[6] "Under *Jackson v. Denno*, [378 U.S. 368 (1964)], a defendant is entitled to a 'reliable determination as to the voluntariness of his [statement] by a tribunal other than the jury charged with deciding his guilt or innocence.'" *State v. Parker*, 381 S.C. 68, 84, 671 S.E.2d 619, 627 (Ct. App. 2008) (quoting *State v. Fortner*, 266 S.C. 223, 226, 222 S.E.2d 508, 510 (1976)).

Our supreme court concluded Shuler's right to confrontation was not adversely affected because any questions asked during the *Denno* hearing were repeated at trial when Shuler was present. *Id.* at 624, 545 S.E.2d at 815. It also found his right to be present was not violated because although both parties agreed the *Denno* hearing was "critical to the outcome of the criminal proceeding," "Shuler's presence would not have contributed to the fairness of the procedure." *Id.* It explained (1) "Shuler was not cooperating with the trial court and was disruptive during the . . . hearing" and he "banged his head on the table prior to the hearing and was wearing a protective mask to prevent him from spitting on the guards"; (2) the trial court "held the hearing open to allow the defense to present evidence from Shuler"; and (3) "Shuler declined to testify or offer any evidence in the" hearing; thus, he failed to allege or demonstrate "knowledge of any facts not known to his attorneys that would have been relevant to the voluntariness determination." *Id.* at 624–25, 545 S.E.2d at 815. Our supreme court also found "Shuler was removed from the hearing because of his elevated blood pressure, which the trial [court] concluded was the result of malingering"; however, his "pattern of disruptive conduct on the day of the" hearing was "no different than the conduct in *Bell*." *Id.* at 625, 545 S.E.2d at 816. Thus, the court concluded the trial court "correctly found Shuler's conduct at the . . . hearing disruptive, his mental and physical condition to be the result of malingering, and he voluntarily absented himself from the hearing." *Id.* at 625–26, 545 S.E.2d at 816.

After a review of the entire record, we hold the trial court did not err in removing Singleton from the courtroom and trying him in his absence. *See id.*, 344 S.C. at 624, 545 S.E.2d at 815 ("A criminal defendant has the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure."); *id.* ("A defendant's exclusion, or absence, will be reviewed in light of the whole record."). During the testimony of the first witness on the second day of trial, the trial court learned Singleton was in the clerk's office and directed the deputies to bring him to the courtroom. Singleton was escorted to the courtroom, and after several comments from Singleton, the court asked Singleton if he wanted to be present in the courtroom. Singleton continued to speak, attempted to ask the solicitor a question, and stated his constitutional rights had been violated. The court asked Singleton if he wanted to participate in trial and if he could behave enough to do so, and it told Singleton it would allow him to participate. After Singleton stated he had been present and did not run, the court again asked Singleton if he wanted to participate. The court and Singleton then discussed the removal of handcuffs, and Singleton told the court that it "would be held accountable" if it revoked his bond. The court told

Singleton that they were "going to have a real problem" if Singleton threatened the court again, and Singleton stated he was not threatening the court but was discussing his constitutional remedy. Singleton then wanted to read from the documents he wanted to file and told the court that it had "no right" to tell him that he could not read from the documents. When asked if he wanted "to go back there," Singleton asked the court if it took "an oath to the constitution," at which time the court directed Singleton be taken "in the back" and indicated he would not participate. The court explained it did not trust that Singleton would not be violent with someone or "continue to try to tamper with" the jury.

Although Singleton's actions occurred outside the presence of the jury, his behavior when he entered the courtroom and his interactions with the court before his removal were disruptive and warranted his removal. *See id.* at 625, 545 S.E.2d at 815 ("[A] defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct."); *id.* ("A defendant may be properly excluded when his conduct is disruptive or is interfering with the progress of the trial."); *Bell*, 293 S.C. at 401–02, 360 S.E.2d at 712 (concluding the trial court did not err in excluding appellant from the courtroom); *Shuler*, 344 S.C. at 625–26, 545 S.E.2d at 816 (concluding the trial court did not err in finding appellant's "conduct at the [pretrial] hearing disruptive, his mental and physical condition to be the result of malingering, and he voluntarily absented himself from the hearing"). The trial court had valid concerns about Singleton's behavior, especially in light of Singleton's prior interactions with the court, which resulted in his removal on at least two other occasions. Further, the trial court had shown patience with Singleton throughout trial and repeatedly asked Singleton if he wanted to participate and also if he could behave in order to participate in trial; however, Singleton would not conform his conduct. Moreover, the trial court later indicated Singleton engaged in a physical altercation with the deputies. Accordingly, we hold the trial court did not err in removing Singleton from the courtroom based on his conduct. *See* 21A Am. Jur. 2d *Criminal Law* § 1004 (Aug. 2026 Update) ("A defendant can lose the right to be present at trial if, after being warned by the judge that the defendant will be removed if [he or she] continues in disruptive behavior, the defendant nevertheless [acts] . . . so disorderly, disruptive, and disrespectful of the court that the trial cannot be carried on with the defendant in the courtroom.").

Also, although four witnesses testified while Singleton was absent, unrepresented, and unable to hear the witnesses' testimonies through alternate means, we hold the trial court did not err in trying him in his absence without appointing counsel, directing standby counsel to return to the courthouse, or allowing Singleton to cross-examine witnesses upon his return to the courtroom. Initially, we note this

court has affirmed a trial court's decision to try a pro se defendant in his absence when the pro se defendant did not appear for trial. *See State v. Fairey*, 374 S.C. 92, 95, 99–106, 646 S.E.2d 445, 446, 448–52 (Ct. App. 2007). However, we acknowledge that unlike the defendant in *Fairey*, Singleton did not fail to appear for trial; rather, he was removed from the courtroom. We have been unable to find any South Carolina authority that precludes the trial court from proceeding with a pro se defendant's trial after his removal from the courtroom or that *requires* a trial court to appoint counsel, order standby counsel to return and represent a defendant in his or her absence, or allow the pro se defendant to cross-examine the witnesses who testified in his or her absence upon his or her return to the courtroom.

Some jurisdictions note that generally a criminal defendant does not have a right to standby counsel if he or she is removed. In *State v. Lacey*, the Oregon Supreme Court found the following:

> When a defendant waives the right to counsel knowing that, if he is removed from the courtroom for misconduct, no one will be present to represent him, and then, while representing himself, intentionally engages in misconduct that he knows will result in his removal, the defendant is choosing to not . . . participate in or be present at trial."

431 P.3d 400, 408 (Or. 2018). It then concluded, "[i]n that circumstance, a trial court can accept the defendant's choice. The trial court is not required to appoint counsel or take other measures to provide a defense presence. *Id.* (footnote omitted).

In *State v. Fuller*, the North Carolina Court of Appeals found the trial court did not err in determining the defendant forfeited his right to counsel and to be present in the courtroom. 914 S.E.2d 36, 43–46 (N.C. Ct. App. 2025). It then concluded the trial court did not "prejudicially err[]" when it failed to appoint standby counsel during his trial. *Id.* at 47. The court in *Fuller* recognized that "[b]oth the right to be present at trial and the right to counsel may be forfeited." *Id.* at 42. Like Singleton, the defendant in *Fuller* refused to sign the waiver of counsel form and repeatedly disrupted the trial proceedings. *Id.* at 43. The court found Fuller forfeited his right to counsel. *Id.* at 44. The court next analyzed whether Fuller also forfeited his right to be present during trial, noting a defendant has the

constitutional right to be present at trial but the right may be forfeited. *Id.* at 44–46. The court found Fuller also forfeited that right. *Id.* at 45.[7]

Although the court in *Fuller* recognized that "[g]ood and prudent practice may necessitate appointing standby counsel in these situations," it concluded the trial court did not err in failing to appoint standby counsel. *Id.* at 46–47. The court first found a "defendant does not possess a right to standby counsel" and the governing North Carolina statute did not require the appointment of standby counsel when a defendant was removed from the courtroom. *Id.* at 47. In addition, "the trial court considered appointing standby counsel, but decided against it because of [Fuller's] behavior." *Id.* Acknowledging the discretionary nature of a trial court's decision regarding whether to appoint standby counsel, the court in *Fuller* affirmed the trial court. *Id.*

While appointment of counsel or standby counsel may be "prudent practice," we hold the trial court here was not required to have standby counsel return to the courthouse or appoint counsel given Singleton's previous waiver of the right to counsel and his adamance—throughout various points during trial—that he did not want standby counsel to participate in this case. *See Faretta*, 422 U.S. at 834 n.46 ("[A] State *may*—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary." (emphasis added)); *State v. Cabrera-Pena*, 350 S.C. 517, 534, 567 S.E.2d 472, 481 (Ct. App. 2002) (noting "the right to counsel is not absolute once waived" and holding the trial court did not abuse its discretion in prohibiting hybrid representation when the defendant wanted to recall his attorney during trial after he waived his right to counsel), *rev'd in part and aff'd in result on other grounds*, 361 S.C. 372, 605 S.E.2d 522 (2004). Additionally, as to Singleton's argument regarding allowing him to cross-examine the witnesses who testified in his absence, we hold the trial court did not err in refusing to allow him to cross-examine the witnesses. Although Singleton mentioned cross-examining "witnesses," he largely focused his request on cross-examining McKean. Even if it would have been prudent practice to allow Singleton to cross-examine McKean to

---

[7] The court in *Fuller* also discussed the statutory authority in North Carolina, which "governs the procedures for removing a disruptive defendant from the courtroom." *Id.* The court concluded that although the statute "presumes a defendant has counsel," the trial court gave the defendant updates on the trial proceedings and opportunities to participate in the proceedings based on improved conduct. *Id.* at 46.

mitigate Singleton's absence, he wanted to do so in order to elicit information that McKean was dyslexic and had given inconsistent statements about the clothing that the perpetrators wore at the time of the shooting, matters about which Singleton elicited testimony from Pritchard. Like the defendant in *Fuller*, Singleton continuously interrupted and challenged the trial court despite having been given numerous opportunities to participate. We find no error by the trial court in removing Singleton and denying him the opportunity to cross-examine witnesses who testified during his absence. We also find no error by the trial court in not requiring stand-by counsel to remain throughout the trial because we find Singleton waived any right to standby counsel.

Right to Self-Representation

Singleton argues the trial court erred in violating his right to self-representation. He asserts the court erred in terminating his right to self-representation because he did not "deliberately engage in serious and obstructionist misconduct." He argues the errors in denying his rights to self-representation and to counsel are structural. We disagree.

"In *Faretta*, the United States Supreme Court held that criminal defendants have a fundamental right to self-representation under the Sixth Amendment." *Samuel*, 422 S.C. at 602, 813 S.E.2d at 491. "Although a defendant's decision to proceed *pro se* may ultimately be to his detriment, such requests 'must be honored out of that respect for the individual which is the lifeblood of the law.'" *Id.* at 603–04, 813 S.E.2d at 491 (quoting *State v. Barnes*, 407 S.C. 27, 35–36, 753 S.E.2d 545, 550 (2014)). "A circuit [court]'s denial of a defendant's knowing and voluntary request to proceed *pro se* is a structural error requiring automatic reversal and a new trial." *Id.* at 603, 813 S.E.2d at 491.

However, "the right to proceed pro se as a criminal defendant is not absolute and may be forfeited where a litigant repeatedly abuses the judicial process . . . ." *City of Columbia v. Assa'ad-Faltas*, 420 S.C. 28, 33, 800 S.E.2d 782, 784 (2017); *see also Reed v. Ozmint*, 374 S.C. 19, 28 n.4, 647 S.E.2d 209, 214 n.4 (2007) (noting "a criminal defendant's right to self-representation under the United States Constitution is not absolute"). Additionally, the United States Supreme Court has stated the trial court "may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct." *Faretta*, 422 U.S. at 834 n.46. Our supreme court has stated that "once a defendant has been permitted to represent himself, the trial court has broad discretion to revoke that right," and our supreme court recognized "a defendant's constitutional right to

self-representation may be lost when, in the trial court's discretion, he is disrupting or manipulating the trial of a case." *Samuel*, 422 S.C. at 605 n.4, 813 S.E.2d at 492 n.4. The *Faretta* court explained, "The right of self-representation is not a license to abuse the dignity of the courtroom. Neither is it a license not to comply with relevant rules of procedural and substantive law." 422 U.S. at 834 n.46.

Although Singleton asserts the trial court erred in stating he had "forfeited his constitutional right to represent himself based on his actions and outbursts," we find the trial court intended to say Singleton had *forfeited his right to be present during trial*, which is supported by the fact that the trial court did not actually terminate Singleton's right to self-representation because Singleton continued to represent himself after he returned to the courtroom. Accordingly, although "[g]ood and prudent" practice may be to appoint counsel or standby counsel when a pro se defendant is removed from the courtroom based on his conduct, we hold the trial court did not err in how it handled Singleton's trial. Singleton's ongoing, incorrigible behavior; intentional decision not to report to the courtroom on the first and second days of testimony; apparent efforts to tamper with and intimidate the jury; physical violence against the escorting deputies; and repeated refusal to accept both the trial court's warnings and the assistance of standby counsel convince us that the trial court did not abuse its discretion in removing Singleton from the courtroom and declining to appoint standby counsel after Singleton's multiple refusals of such assistance. *See, e.g.*, *Fuller*, 914 S.E.2d at 42-47 (holding defendant forfeited both his right to counsel and his right to be present at trial).

CONCLUSION

Based on the foregoing, Singleton's conviction and sentence are

AFFIRMED.

THOMAS, MCDONALD, and TURNER, JJ., concur.

RECEIVED
Oct 08 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

Opinion No. 6164

THE STATE,

RESPONDENT,

V.

MAURICE T. SINGLETON,

PETITIONER

APPELLATE CASE NO. 2023-000553

Petition for Rehearing

Pursuant to Rule 221(a), SCACR, counsel for Petitioner, Maurice T. Singleton, respectfully requests this Court grant rehearing. On September 23, 2026, this Court, in a published opinion, affirmed the murder conviction and sentence of life imprisonment. State v. Singleton, No. 2023-000553, 2026 WL 2854818 (S.C. Ct. App. Sept. 23, 2026). Counsel respectfully submits this Court overlooked four critical points. First, Petitioner's actions did not rise to the level of disruptive conduct warranting removal from the courtroom. Second, once removed from the courtroom, the trial judge failed to mitigate the disadvantages of removal. Third, Petitioner's actions did not rise to the level of disruptive conduct warranting the forfeiture

of the right to self-representation. Fourth. Petitioner did not forfeit his right to standby counsel. Counsel respectfully seeks rehearing.

1. **Petitioner's actions did not rise to the level of disruptive conduct warranting removal from the courtroom.**

Petitioner had a Sixth Amendment right to be present in the courtroom and confront the witnesses against him. In Illinois v. Allen, 397 U.S. 337, 338, 90 S. Ct. 1057, 1058, 25 L. Ed. 2d 353 (1970), the Supreme Court of the United States wrote:

> The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that: 'In all criminal prosecutions, the accused shall enjoy the right * * * to be confronted with the witnesses against him * * *.' We have held that the Fourteenth Amendment makes the guarantees of this clause obligatory upon the States. Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965). One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial. Lewis v. United States, 146 U.S. 370, 13 S.Ct. 136, 36 L.Ed. 1011 (1892).

Petitioner's actions leading up to his removal from the courtroom are detailed in the final brief. Petitioner's actions in the courtroom were not sufficient to constitute a waiver of the right to be present in the courtroom and confront witnesses. Petitioner had a physical altercation with the guards and, according to the judge's ruling, Petitioner refused to acknowledge the judge's rulings or orders. The record, however, reflects that prior to the judge removing Petitioner from the courtroom, Petitioner, representing himself, was trying to make a record of what he attempted to file in the clerk's office. (R. p. 191, line 22 – p. 192, lines 1-3).

In affirming this Court wrote:

> Although Singleton's actions occurred outside the presence of the jury, his behavior when he entered the courtroom and his interactions with the court before his removal were disruptive and warranted his removal. *See* id. at 625, 545 S.E.2d at 815 ("[A] defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct."); *id.* ("A defendant may be properly excluded when his conduct is disruptive or is interfering with the progress of the trial."); Bell, 293 S.C. at 401–02, 360 S.E.2d at 712 (concluding the trial court did not err in

> excluding appellant from the courtroom); Shuler, 344 S.C. at 625–26, 545 S.E.2d at 816 (concluding the trial court did not err in finding appellant's "conduct at the [pretrial] hearing disruptive, his mental and physical condition to be the result of malingering, and he voluntarily absented himself from the hearing"). The trial court had valid concerns about Singleton's behavior, especially in light of Singleton's prior interactions with the court, which resulted in his removal on at least two other occasions. Further, the trial court had shown patience with Singleton throughout trial and repeatedly asked Singleton if he wanted to participate and also if he could behave in order to participate in trial; however, Singleton would not conform his conduct. Moreover, the trial court later indicated Singleton engaged in a physical altercation with the deputies. Accordingly, we hold the trial court did not err in removing Singleton from the courtroom based on his conduct. *See* 21A Am. Jur. 2d *Criminal Law* § 1004 (Aug. 2026 Update) ("A defendant can lose the right to be present at trial if, after being warned by the judge that the defendant will be removed if [he or she] continues in disruptive behavior, the defendant nevertheless [acts] ... so disorderly, disruptive, and disrespectful of the court that the trial cannot be carried on with the defendant in the courtroom.").

State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *7 (S.C. Ct. App. Sept. 23, 2026).

Counsel respectfully submits that while this Court cited State v. Bell, 293 S.C. 391, 360 S.E.2d 706 (1987), and State v. Shuler, 344 S.C. 604, 545 S.E.2d 805, (2001), this Court overlooked the fact that Petitioner's conduct did not rise to the level of disruptive conduct in Bell and Shuler. Petitioner's actions are distinguished from the actions in Bell where the defendant twice stood and objected during defense counsel's closing argument, the judge excused the jury and then explained that the right to be present had limitations and allowed defense counsel to further explain the matter to defendant, when the jury returned the defendant again interrupted closing argument, the judge again excused the jury to further explain the right to be present to the defendant who told the judge that he would continue to obstruct the proceedings. The Court found the defendant in Bell waived his right to be present. Petitioner in the present case did not indicate that he would continue to obstruct the proceedings and did not interrupt a lawyer. Instead, while Petitioner may have interrupted the judge, his interruption was an attempt to make a record as he represented himself. Petitioner did not waive his right to be present. After

Petitioner was removed from the courtroom, the judge should have given him the opportunity to comply with the rules and returned Petitioner to the courtroom before the State called the next key witness, Greggory McKean.

Petitioner's actions are distinguished from the actions in Shuler where, during a Jackson v. Denno hearing, the defendant not only fought with the guards prior to the hearing but, also had to be restrained during transport to the court, slammed his head on the table prior to the hearing, wore a protective mask to prevent spitting and yelled during court. The Court found that the defendant voluntarily absented himself from the hearing. The Court additionally found that the error was harmless primarily because the hearing was held open so that the defendant could be present. In the present case Petitioner's presence was excluded from a portion of his trial, not a pre-trial hearing as in Shuler. Petitioner's behavior did not rise to the level of disruptive conduct discussed in Shuler. Petitioner did not voluntarily absent himself from the trial. The error in the present case is not harmless because, despite his requests, Petitioner was not given an opportunity to cross-examine the witnesses called by the State during Petitioner's absence.

2. The trial judge failed to mitigate the disadvantages of removal.

In his concurrence in Illinois v. Allen, 397 U.S. 337, 351, 90 S. Ct. 1057, 1064, 25 L. Ed. 2d 353 (1970), Justice Brennan wrote:

> I would add only that when a defendant is excluded from his trial, the court should make reasonable efforts to enable him to communicate with his attorney and, if possible, to keep apprised of the progress of his trial. Once the court has removed the contumacious defendant, it is not weakness to mitigate the disadvantages of his expulsion as far as technologically possible in the circumstances.

Respectfully, this Court overlooked the fact that the trial judge did not attempt to mitigate Petitioner's absence from the courtroom. During pre-trial, when Petitioner continued to argue

for suppression after the judge denied the motion, the prosecutors, standby counsel and the judge discussed technology available to allow Petitioner to view the trial without disturbing the proceedings. (R. pp. 107-110). There was, however, no discussion of the use of alternate ways to deal with any possible disturbance before the judge ordered Petitioner out of the courtroom on the second day of trial. Additionally, Petitioner was not given a second opportunity to conform his conduct before the State was allowed to call four witnesses in his absence and in the absence of standby counsel.

3. Petitioner's actions did not rise to the level of disruptive conduct warranting the forfeiture of self-representation.

In a footnote in Faretta v. California, 422 U.S. 806, 834, 95 S. Ct. 2525, 2541, 45 L. Ed. 2d 562 (1975), the Court wrote:

> Moreover, the trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct. See Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Of course, a State may—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary. See United States v. Dougherty, 154 U.S.App.D.C. 76, 87—89, 473 F.2d 1113, 1124—1126.

The trial judge erred in terminating self-representation by Petitioner when Petitioner did not deliberately engage in serious and obstructionist misconduct. As discussed above, Petitioner had a physical altercation with the guards and, according to the judge's ruling, Petitioner refused to acknowledge the judge's rulings or orders. While Petitioner may have interrupted the judge, the record reflects that prior to the judge removing Petitioner from the courtroom, Petitioner was trying to make a record of what he attempted to file in the clerk's office. (R. p. 191, line 22 – p. 192, lines 1-3).

An opinion by the Texas Court of Appeals is persuasive where the court wrote:

> However, even though we rely heavily on the trial court's assessment of an obstreperous defendant when reviewing the court's decision, the court's discretion to deny the right of self-representation is necessarily limited. Faretta empowers the courts to preserve the integrity of the trial by denying self-representation to those who deliberately engage in obstructionist behavior. Allowing a defendant to represent himself will almost certainly result in some disruption or delay in the trial proceedings, but "so long as it is not a *calculated* obstruction, this delay cannot deprive the accused of the right [of self-representation] once properly asserted." Birdwell v. State, 10 S.W.3d 74, 77 (Tex.App.—Houston [14th Dist.] 1999, pet. ref'd) (emphasis added). We address only the instances in which the trial court has observed calculated attempts to disrupt, subvert, or obstruct the trial proceedings. A trial court may not deny the right to self-representation based simply on "predictions of likely recalcitrant behavior" or delay or disruption incidental to self-representation without a legal education. Scarbrough v. State, 777 S.W.2d 83, 92, 94 n. 3 (Tex.Crim.App.1989); Colon v. State, 717 S.W.2d 474, 475 (Tex.App.—San Antonio 1986, no pet.) ("To hold that citizens are unduly disruptive merely because they are inexperienced in the practice of law is tantamount to holding that only attorneys enjoy a constitutional right to self-representation.").

Lewis v. State, 532 S.W.3d 423, 431–32 (Tex. App. 2016)(n. 5 omitted). In ruling the Texas Court of Appeals wrote, "On this record, the trial court did not abuse its discretion in determining that appellant's behavior demonstrated an attempt at calculated obstruction and delay, not an earnest attempt to act in his own defense. The delay caused by appellant's questions, interjections about his proper name, and general refusal to give answers responsive to the trial court's questioning were not regular incidents of self-representation." Lewis, 532 S.W.3d at 432. In contrast, Petitioner's behavior in the present case was not an attempt at calculated obstruction and delay.

In affirming this Court wrote, "Although Singleton asserts the trial court erred in stating he had "forfeited his constitutional right to represent himself based on his actions and outbursts," we find the trial court intended to say Singleton had *forfeited his right to be present during trial*,

which is supported by the fact that the trial court did not actually terminate Singleton's right to self-representation because Singleton continued to represent himself after he returned to the courtroom." State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *9 (S.C. Ct. App. Sept. 23, 2026).

Respectfully, this Court overlooked the fact that during the time Petitioner was removed from the courtroom and the State was allowed to call four witnesses and admit State's exhibits #32, #33, #34, #35, #36, #37, #38A, and #39, Petitioner's right to self-representation was terminated. Petitioner's actions in the courtroom were not sufficient to constitute a waiver of the right to self-representation.

4. Petitioner did not forfeit his right to standby counsel.

While standby counsel had been appointed, standby counsel was not present when Petitioner was absent. Petitioner was entirely unrepresented while the State called four witnesses to testify at trial.

In United States v. Ductan, 800 F.3d 642, 654 (4th Cir. 2015), the United States Court of Appeals for the Fourth Circuit reversed finding that the Appellant did not waive his right to counsel. In a concurrence Judge Diaz wrote:

> Of course, the right to self-representation is "not absolute." Fields, 49 F.3d at 1035. Thus, a pro se defendant who is disruptive in the courtroom may forfeit his right to self-representation. Faretta, 422 U.S. at 834 n. 46, 95 S.Ct. 2525 ("[T]he trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct."). In these cases, the proper course of action is to revoke the defendant's right to self-representation and appoint counsel. See, e.g., United States v. Mack, 362 F.3d 597, 601 (9th Cir.2004) ("A defendant does not forfeit his right to representation at trial when he acts out. He merely forfeits his right to represent himself in the proceeding."); United States v. Pina, 844 F.2d 1, 15 (1st Cir.1988) (suggesting that a trial judge "employ his or her wisdom to appoint standby counsel" to represent a defendant who is removed or discharges counsel); see also United States v. West, 877 F.2d

> 281, 287 (4th Cir.1989) (affirming the defendant's conviction where the district court found him incompetent to represent himself and immediately appointed his standby counsel to replace him).

Ductan at 654. (n. 2 omitted).

Petitioner maintains that the trial judge erred in finding that Petitioner forfeited his right to self-representation because he did not deliberately engage in serious and obstructionist misconduct. Assuming, arguendo, that the judge did not err in that finding, the judge erred by not asking standby counsel to return in Petitioner's absence. "The Sixth Amendment guarantees to a criminal defendant the right to the assistance of counsel before he can be convicted and punished by a term of imprisonment. U.S. Const. amend. VI; Gideon v. Wainwright, 372 U.S. 335, 339–40, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). The right to counsel is fundamental to our system of justice; beyond protecting individual defendants, it is 'critical to the ability of the adversarial system to produce just results.' Strickland v. Washington, 466 U.S. 668, 685, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)." United States v. Ductan, 800 F.3d 642, 648 (4th Cir. 2015). Allowing the trial to go forward in Petitioner's absence while entirely unrepresented violated Petitioner's Sixth Amendment right to counsel. Under the unusual circumstances of this case, Petitioner did not waive the right to counsel once he was removed from the courtroom.

In affirming this Court wrote:

> While appointment of counsel or standby counsel may be "prudent practice," we hold the trial court here was not required to have standby counsel return to the courthouse or appoint counsel given Singleton's previous waiver of the right to counsel and his adamance—throughout various points during trial—that he did not want standby counsel to participate in this case. See Faretta, 422 U.S. at 834 n.46, 95 S.Ct. 2525 ("[A] State *may*—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary." (emphasis added));

State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *9 (S.C. Ct. App. Sept. 23, 2026).

Respectfully, this Court overlooked the persuasive language from the Fourth Circuit concurrence in Ductan, writing, "In these cases, the proper course of action is to revoke the defendant's right to self-representation and appoint counsel." 800 F.3d at 654. Additionally, in relying on the North Carolina Court of Appeals case of State v. Fuller, 298 N.C.App. 199, 914 S.E.2d 36 (N.C. Ct. App. 2025), this Court overlooked the fact that in that case the trial court considered appointing standby counsel, but decided against it because of Defendant's behavior. In Fuller the court wrote:

> Moreover, the Record shows the trial court considered appointing standby counsel, but decided against it because of Defendant's behavior: [Trial Court]: I don't find at this point appointing counsel to go back and forth would be helpful for a number of reasons, one of which, pretty clear to me, he's not going to cooperate with anyone. And, second, I think it puts a lawyer in a very difficult position as to know what conduct -- what the wishes of the defendant would be. Consequently, Defendant has failed to show the trial court abused its discretion by not appointing standby counsel for him.

298 N.C. App. at 215, 914 S.E.2d at 47 (2025). In contrast in the present case, when Petitioner was removed from the courtroom the prosecutor asked if she should contact standby counsel and noted that standby counsel was present in the Faretta case. The judge responded, "At this point it would just be – he's not abreast of the case; he was just standby counsel for procedural purposes only, and that's been a nonissue, so it's moot, so we don't need to bring him back." (R. p. 197, lines 8-18). The trial judge in the present case abused his discretion in not asking standby counsel to return when Petitioner was removed from the courtroom.

Based on the above arguments, counsel respectfully seeks rehearing.

Kathrine H. Hudgins
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

This 8th day of October, 2026.

RECEIVED
Oct 08 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE T. SINGLETON,

PETITIONER

APPELLATE CASE NO. 2023-000553

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Maurice T. Singleton, #390651, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 8th day of October, 2026.

Kathrine H. Hudgins
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

The South Carolina Court of Appeals

The State, Respondent,

v.

Maurice Trimaine Singleton, Appellant.

Appellate Case No. 2023-000553

ORDER

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



J.



J.



J.

Columbia, South Carolina

cc:
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
Kathrine Haggard Hudgins, Esquire
W. Jeffrey Young, Esquire
Donald J. Zelenka, Esquire
Scarlett Anne Wilson, Esquire
The Honorable Bentley Price

FILED
Oct 19 2026