

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge

Appellate Case No. 2013-002124

THE STATE

APPELLANT,

V.

SHANNON SCOTT,

RESPONDENT.

INITIAL REPLY BRIEF OF APPELLANT

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ARGUMENT

Contrary to Respondent's assertions, the State has not argued that Respondent's curtilage should not be considered "another place" for the purposes of S.C. Code Ann. § 16-11-440(C). Appellant agrees that the curtilage to one's home constitutes "another place" under subsection (C) because the curtilage does not fall within the parameters of a residence, dwelling, or occupied vehicle as defined in S.C. Code Ann. § 16-11-430.¹ This would appear to have been a matter the parties agreed upon at the hearing as Respondent never argued that he was entitled to immunity under § 440(A) because curtilage was considered part of one's residence under the statute.

Furthermore, contrary to Respondent's contentions otherwise, a finding that curtilage is not part of the residence as defined under S.C. Code Ann. § 16-11-430(1) is not inconsistent with the legislature's intent of codifying the Castle Doctrine. The Castle Doctrine in this State has long provided that one attacked outside his home but within his curtilage does not have a duty to retreat. See State v. Gibbs, 113 S.C. 256, 102 S.E. 333, 334 (1920) (finding following charge appropriate for a claim of self-defense: "A person on his own premises and outside of his dwelling, but within the curtilage, if assaulted by a deadly weapon, is not bound to retreat, but may stand on his own ground, and meet such attacks even to killing his assailant."); see also State v. Bradley, 126 S.C. 528, 120 S.E. 240, 243 (1923) (noting same). Appellant submits this principle is what is codified in S.C. Code Ann. § 16-11-440(C) and expanded to include other places

¹ Appellant merely noted that if this Court finds that the definition of residence does incorporate curtilage, then Respondent would not have been entitled to immunity under S.C. Code § 16-11-440(C).

like a place of business. The presumption afforded under subsection (C) is the exact same as one would not be required to show they had other means by which to avoid the danger if one shows that subsection (C) applies. State v. Curry, 406 S.C. 364, 375, 752 S.E.2d 263, 268 (2013). Appellant would also note that the Castle Doctrine in and of itself does not provide for immunity; that was an added protection provided by the legislature with the Act.

Altogether, Appellant submits the grant of immunity under the Protection of Persons and Property Act in this case was improper. As was the case in Curry, Respondent's case "presents a quintessential jury question, which, most assuredly, is not a situation warranting immunity from prosecution." Curry, 406 S.C. at 372, 752 S.E.2d at 267. The trial court's Order Granting Immunity should therefore be vacated, and Respondent's case should be remanded for further proceedings.

CONCLUSION

For the foregoing reasons and the reasons stated in the Brief of Appellant, Appellant respectfully requests this Court vacate the trial court's Order Granting Immunity and Dismissing Criminal Charges and remand the case for a jury trial.

Respectfully submitted,

ALAN WILSON
Attorney General

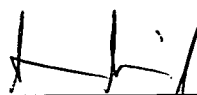
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September 18, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Maite D. Murphy, Circuit Court Judge

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THE STATE OF SOUTH CAROLINA,

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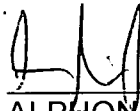
RESPONDENT.

CERTIFICATE OF SERVICE

I, Alphonso Simon, Jr., counsel for the Appellant, certify that I have served the within Initial Reply Brief of Appellant on Respondent by depositing two (2) copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, South Carolina 29201.

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

This 18th day of September, 2014.



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