

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

THE STATE,

RECEIVED  
APPELLANT, MAY 18 2017

V.

S.C. SUPREME COURT

SHANNON SCOTT,

RESPONDENT RECEIVED  
MAY 18 2017  
SC Court of Appeals  
SC COURT OF APPEALS  
mcs

APPELLATE CASE NO. 2013-002124

Appeal from Richland County

Honorable Maite Murphy, Circuit Court Judge

Opinion No. 5483

PETITION FOR REHEARING

Respondent Shannon Scott seeks rehearing out of an abundance of caution since this Court correctly found respondent was entitled to immunity pursuant to S.C. Code §16-11-440 (C). This Court declined to address Circuit Court Judge Murphy's additional grant of immunity under S.C. Code §16-11-440 (A) given its finding of immunity under pursuant to S.C. Code §16-11-440 (C), *citing* Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999).

Thus, should the state seek rehearing of the Court's affirmance under subsection S.C. Code §16-11-440(C), and later seek certiorari from the Supreme Court on that basis, respondent

will argue that Respondent Scott was also entitled to immunity under S.C. Code §16-11-440 (A) as an additional sustaining ground for this Court's affirmance of the circuit court's order.

That said, Respondent Scott seeks rehearing here pursuant to Rule 221(a), SCACR, because Respondent Scott does not think the circuit court conflated the concepts of his belief the shooters were a *threat* for purposes of self-defense, with the concept that his family and he were also being *attacked* by the shooters to excuse the duty to retreat. The circuit court respectfully found Respondent Scott and his family were under *attack* while on their own property – in their own home – by the people shooting at them, and he had to feel *threatened* by the shooters.

The actions of the shooter(s) from the car were blatantly illegal, and outrageous since Respondent's children, the others in the house, or Respondent could have easily been killed. At least one member of this Court openly questioned the solicitor during oral argument as to why the shooter(s) were never criminally charged in this case. They willfully set this whole series of events into motion, and they were responsible for the aftermath.

Respectfully, if ever there was a case where the Legislature meant immunity for a homeowner protecting himself and his family against an invasion of bullets it was this case. Irresponsible people shooting onto Respondent's property, and into his home, after chasing his children in an automobile with guns. The Legislature meant for Respondent to have no duty to retreat, for him to act in self-defense, and for him to be immune from prosecution. Respondent was both in his own home, and he acted lawfully in a place he had a right to be at the time. See, State v. Pittman, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007).

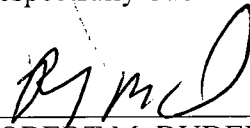
As this Court will recall, in the order granting immunity the judge concluded that respondent's testimony was "very credible". She noted that respondent testified that he knew of previous problems reported to law enforcement and that he knew "this girl [Teesha] and others were

chasing his children.” The judge also wrote: “The defendant testified that he was not a gun owner, but in order to defend and protect his family, he grabbed Mr. Williams’ [his roommate’s] gun. His testimony was that the SUV [the truck with Teesha and others inside] stopped in front of his house, and he could see arms out of the windows. This testimony is corroborated by both the statements of Ms. Carter and Ms. Davis.” R. 390.

The judge also found that respondent’s testimony was credible wherein he said that **both** the Honda [in which the decedent was driving], and the SUV [Teesha’s vehicle] drove past his home and turned around and stopped in front of the residence. “This is consistent with the gunshot entering the driver’s side window of the victim’s car. His testimony was very credible that he heard a gunshot. Hearing a gunshot, along with the threats, the chase, and being confronted at his home as a target of a drive-by shooting, with his children inside, created reasonable fear of imminent peril of death for him and his family.” R. 390. See, State v. Jones, 416 S.C. 283, 786 S.E.2d 132 (2016)’ State v. Duncan, 392 S.C. 404, 709 S.E.2d 662 (2011).

Respondent Scott requests rehearing because this Court should respectfully affirm the circuit court’s order without modification.

Respectfully Submitted,



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ROBERT M. DUDEK  
Chief Appellate Defender

This 18th day of May, 2017.

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Petition for Rehearing in the above-entitled case has been served upon Alphonso Simon, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 18th day of May, 2017.



Robert M. Dudek  
Chief Appellate Defender  
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO BEFORE  
ME this 18th day of May, 2017.



(L.S)

Notary Public for South Carolina  
My Commission Expires: October 30, 2022.