



The Supreme Court of South Carolina

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May 31, 2017

The Honorable Connie Reel-Shearin
180 N Irby St MSC-E Rm B11
Florence SC 29501-3456

REMITTITUR

Re: The State v. Wayne A. Scott, Jr. - Appellate Case No. 2016-000067
Lower Court Case No. 2013GS2100391

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc: LaNellē Cantey DuRant, Esquire
Donald J. Zelenka, Esquire
Edgar Lewis Clements, III, Esquire
J. Robert Bolchoz, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Respondent,

v.

Wayne Albeon Scott, Jr., Petitioner.

Appellate Case No. 2016-000067

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Florence County
Howard King, Circuit Court Judge

Memorandum Opinion No. 2017-MO-010
Heard May 2, 2017 – Filed May 31, 2017

**CERTIORARI DISMISSED AS IMPROVIDENTLY
GRANTED**

Appellate Defender LaNelle Cantey DuRant, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General J. Robert Bolchoz, and Senior Assistant
Deputy Attorney General Donald J. Zelenka, all of

Columbia; Solicitor Edgar Lewis Clements, III, of
Florence, all for Respondent.

PER CURIAM: We granted Wayne Albeon Scott, Jr.'s petition for a writ of certiorari to review the Court of Appeals' decision affirming the circuit court's refusal to grant Scott immunity under the South Carolina Protection of Persons and Property Act. *State v. Scott*, Op. No. 2015-UP-513 (S.C. Ct. App. filed Nov. 12, 2015). We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED.

BEATTY, C.J., KITTREDGE, HEARN, FEW, JJ., and Acting Justice DeAndrea Benjamin, concur.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Wayne Albeon Scott, Jr., Appellant.

Appellate Case No. 2013-002365

Appeal From Florence County
George C. James, Jr., Circuit Court Judge

Unpublished Opinion No. 2015-UP-513
Submitted October 1, 2015 – Filed November 12, 2015

AFFIRMED

Appellate Defender LaNelle Cantey DuRant, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, and
Assistant Attorney General Kaycie Smith Timmons, all
of Columbia; and Solicitor Edgar Lewis Clements, III, of
Florence, for Respondent.

PER CURIAM: Wayne Scott appeals his convictions for murder and possession of a weapon during a violent crime, arguing the trial court erred in failing to (1) grant him immunity from prosecution for the murder charge pursuant to section 16-11-410 South Carolina Code (Supp. 2014), the Protection of Persons and Property Act (the Act), and (2) charge the jury on the Act. We affirm¹ pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in failing to grant immunity under the Act: *State v. Curry*, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013) ("A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard, which [the appellate] court reviews under an abuse of discretion standard of review."); *State v. Douglas*, 411 S.C. 307, 316, 768 S.E.2d 232, 238 (Ct. App. 2014) ("[T]he abuse of discretion standard of review does not allow this court to reweigh the evidence or second-guess the trial court's assessment of witness credibility."); *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) ("An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law."); *Curry*, 406 S.C. at 371, 752 S.E.2d at 266 ("Consistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity."); *id.* ("This includes all elements of self-defense, save the duty to retreat."); *id.* at 372, 752 S.E.2d at 267 ("[I]mmunity is predicated on an accused demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence.").

2. As to whether the trial court erred in failing to charge the jury on the Act: *State v. Dunbar*, 356 S.C. 138, 141, 587 S.E.2d 691, 694 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal."); *State v. Rios*, 388 S.C. 335, 342, 696 S.E.2d 608, 612 (Ct. App. 2010) (stating failure to contemporaneously object to jury charges fails to preserve the issue for appellate review); *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.").

AFFIRMED.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

HUFF, WILLIAMS, and THOMAS, JJ., concur.