

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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MAY 11 2018

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
General Sessions Court
John C. Hayes, III, Judge

Appellate Case No. 2015-001810

State of South Carolina.....Respondent,

vs.

Marquez D. Glenn.....Appellant.

**MOTION FOR REHEARING OR EN BANC REHEARING
PURSUANT TO RULES 219 & 221, SCACR**

Appellant hereby moves the Court for rehearing or an en banc rehearing pursuant to Rules 219 and 221, SCACR. This Motion is being made in good faith and for good cause as the Court has overlooked several of Appellant's main arguments, resolution of which in the favor of Appellant would result in a decision in favor of Appellant. Specifically, and despite briefing and extensive argumentation during oral arguments, the Court has failed to address Appellant's argument that to strip victims of violent attacks of their right to defend themselves and to statutory immunity where the victims presence at the place of the attack was not the proximate cause of the attack would be unreasonable, illogical, inconsistent with common sense and the

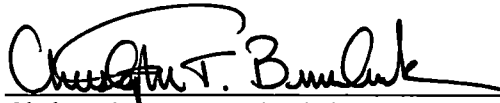
intent of the Protection of Persons and Property Act, and contrary to the interests of justice and existing case law concerning individuals' right to defend themselves. See State v. Burriss, 334 S.C. 256, 262 (1997) (“[A] person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting.”) (emphasis added); State v. Goodson, 312 S.C. 278, 280, 440 S.E.2d 370, 372 (1993) (holding the “burden rests upon the State to prove beyond a reasonable doubt that the unlawful act in which the accused was engaged was at least the proximate cause of the homicide.”). If, as it appears from the filed Opinion, the Court finds Appellant to have been a trespasser, the Court should nonetheless have moved to the second step of the analysis directed by Burriss and Goodson to determine whether Appellant’s “unlawful act,” the alleged trespass, was the proximate cause of the Appellant’s attack by Kevin and Elfonzo.

Moreover, the Court also appears to have overlooked the argument that Appellant was not a trespasser, and thus in a place he had a right to be when he defended himself, because the owner of the Spring Grove Apartment Complex who allegedly placed Appellant on trespass notice had sold the property and Appellant had never been placed on trespass notice by the subsequent owner. The fact that the right to place someone on trespass notice arises from a right to exclusive possession of land indicates that trespass notices are gross in nature because they benefit a particular person or entity and not the land itself. The underlying question of whether the right and ability to place and maintain an individual on trespass notice is gross or appurtenant in nature, and the impact of that distinction, does not appear to have been addressed in the Court’s opinion.

As to the issue of Appellant's request for an en banc rehearing, this case certainly involves a question of exceptional importance. Not only are several questions of first impression raised by this appeal, the outcome of this appeal will directly and materially impact every South Carolinians' right and ability to defend themselves and their property. As it stands, the grounds stated in the Court's Opinion will undoubtedly have a chilling effect on the right and ability of every individual in South Carolina to defend themselves pursuant the Protection of Persons and Property Act. As clearly contemplated by the legislative intent of the Protection of Persons and Property Act, the right to self-defense should not be based on the threshold of a doorway, a sign stating that a city park closes at a specific time, or an arbitrary property line that is crossed by mistake or under a bona fide claim of right. Determining whether the General Assembly's expansion and codification of the doctrine of self-defense was intended to loose an innocent person's right to defend themselves from the archaic and technical geographic limitations previously placed on the right to self-defense is certainly a question deserving of en banc consideration.

Respectfully submitted,

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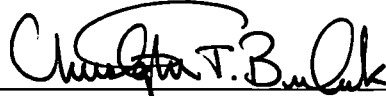
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PROOF OF SERVICE

I certify that I have filed with the Court of Appeals and served Appellant's Motion for Rehearing or En Banc Rehearing on Respondent's attorney, J. Benjamin Aplin, by First Class United States Mail addressed to Post Office Box 11549, Columbia, SC 29211-1549 on May 8, 2018.

May 8, 2018

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