

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

THE STATE,

V.

JALANN WILLIAMS,

RECEIVED
JUL 01 2019
RESPONDENT,
S.C. SUPREME COURT

PETITIONER

APPELLATE CASE NO. 2017-000727

Appeal from Charleston County

Honorable R. Lawton McIntosh, Circuit Court Judge

Opinion No. 27895

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, petitioner respectfully requests rehearing because the 3-2 majority of this Court may have overlooked the fact that -- given the strong evidence in this case that petitioner was only defending himself from the attacking decedent at the time he shot him -- this opinion will be read to hold that a defendant shooting with an "illegal" gun during even a low level marijuana sale cannot assert self-defense because he "brought on the difficulty"

as a matter of law. The guilty of *murder or not guilty only* scenario mandated by this opinion whenever an illegal firearm and drugs are involved is respectfully, very unfair.¹

Anyone forced to use his illegal gun to defend himself during a low level marijuana deal (a college student for example in the footnote) is guilty of murder as a matter of law if the aggressor dies – end of story. The defendant certainly cannot be found not guilty since there is no doubt that he shot and killed the decedent.

However, this will only be the start of the widespread unfairness and carnage as solicitors will successfully argue that the opinion in this case also bars the charging of a lesser-included offense -- involuntary manslaughter for example -- or a complete defense (accident), when an illegal firearm and drugs are involved. As stated by the dissent, “The defendant who, without first being attacked, brandishes a firearm during the course of any transaction, whether it is an illegal drug deal or otherwise, will likely be considered, as a matter of law, to have ‘brought about the difficulty.’ In virtually every such scenario, any violence that breaks out would likely be ‘calculated to produce’ the violence that ensued. However, the majority makes an illogical and unnecessary leap when it broadly concludes that ‘intentionally bringing a loaded, unlawfully-possessed pistol to an illegal drug transaction is ‘calculated to produce a violent occasion.’” State v. Williams, Op. No. 27895, Shearouse’s Adv, Sh. #25 at p. 22.

Further, this case is not a natural or foreseen extension of State v. Slater, 373 S.C. 66, 71,

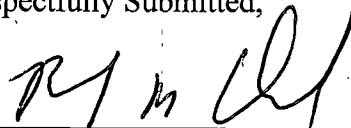
¹ Petitioner is aware this Court left the door open that some defendant, in some rare seemingly dissimilar case, could convince the trial court “he was not at fault in bringing on the violent occasion” State v. Williams, Op. No. 27895, Shearouse’s Adv, Sh. #25 at p. 20. (filed June 19, 2019). However, as was brought up during the oral argument in this case by at least one Justice, the trend in this country is for more and more states to legalize or at least decriminalize marijuana. This “guns and drugs are always dangerous” majority opinion however makes a South Carolina college student at Coastal Carolina or another college guilty of murder if he or she is buying marijuana and the unexpectedly violent seller (dealer) suddenly initiates a violent encounter, and the student defends himself with an illegal weapon and kills the aggressor to save himself. Petitioner in this case, after all, had the gun in his back pocket when he was attacked.

644 S.E.2d 50, 53 (2007), where Lord Byron “carried the cocked weapon, in open view, into an already violent attack.” State v. Williams, Op. No. 27895, Shearouse’s Adv, Sh. #25 at p. 19.

Here, petitioner only retrieved the gun from his back pocket and fired it in self-defense when the decedent attacked him.

Neither Lord Byron nor his undersigned counsel twelve years ago could have anticipated the unfortunate 3-2 majority holding in this case that so damages the right of self-defense in this state where this Court had for so long previously, honorably, and correctly had left the issue of self-defense to the jury of the defendant’s and decedent’s peers unless there was clearly no evidence whatsoever of self-defense. Petitioner most respectfully requests rehearing because the damage from this opinion will be far more than “giving the trial bench mixed signals.” State v. Williams, Op. No. 27895, Shearouse’s Adv, Sh. #25 at p. 19.

Respectfully Submitted,



ROBERT M. DUDEK
Chief Appellate Defender

This 1st of July, 2019.

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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 Sherrie Butterbaugh, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Jalann Williams, #362634, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 1st day of July, 2019.

Robert M. Dudek
[Signature]
Robert M. Dudek
Chief Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO BEFORE
ME this 1st day of July, 2019.

Marcella Sybil Boy (L.S)
Notary Public for South Carolina
My Commission Expires: July 26, 2028