

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Spartanburg County  
J. Mark Hayes, Circuit Court Judge

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**RECEIVED**

**May 13 2020**

S.C. SUPREME COURT

JEREMY JEROME KNIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-001474

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SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA  
In The Court of Appeals

**ORIGINAL**

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APPEAL FROM SPARTANBURG COUNTY  
Court of General Sessions  
J. Derham Cole, Circuit Court Judge

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Indictment No. 2002-GS-42-1401

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The State,

Respondent,

vs.

Jeremy Jerome Knight,

Appellant.

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**FINAL BRIEF OF RESPONDENT**

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**STATEMENT OF ISSUE ON APPEAL**

Whether the trial judge properly declined to charge voluntary manslaughter when the only evidence of a fight between Appellant and his victim stemmed from victim's attempt to resist her attacker, and defensive acts cannot support an assertion of legal provocation.

### STATEMENT OF THE CASE

A Spartanburg County grand jury returned an indictment against Appellant, Jeremy Jerome Knight, during an April 2002 term of general sessions, charging him with murder of Miranda Aull. (2002-GS-42-1401). The Honorable J. Derham Cole presided over Appellant's jury trial held July 8 through July 9, 2002. The jury convicted Appellant as charged. The judge sentenced him to life imprisonment.

### STATEMENT OF FACTS

On February 24, 2002, the night before the murder, Appellant attended a gathering at a house shared by Bryan Cheeks and Jerome Petty. His victim, Miranda Aull, was also in attendance. Certain guests, including Appellant and Aull, were drinking, smoking marijuana, and using cocaine. Appellant, Miranda, Bryan, Jerome and another guest, Ryan Mitchell, left to travel to Pacolet to continue partying at another home. The five returned about 2:30 a.m. (R. p. 12, line 1 - p. 15, line 6; p. 35, line 2 - p. 36, line 14).

Bryan testified that he and Miranda went into his bedroom and had sex. (R. p. 15, lines 7-14). He testified that Appellant repeatedly knocked on the door and posed “[q]uestions about movie, the T.V., could I show him how to work the T.V., just little questions” until Bryan told Appellant to stop pestering him. (R. p. 17, line 11 - p. 18, line 6).

The next morning, Bryan’s brother, Michael Cheeks, came by the house to take him to work. Bryan was up getting ready for work. Miranda was awake, planning to go to her grandmother’s house nearby to shower and change. She indicated to Bryan that she would return later that evening. Bryan walked out of room and pulled the door shut. He noticed that Appellant was still in the living room. When Bryan tried to get him up, Appellant stated he was “too drunk to go home right now” and asked to stay longer. When Bryan left at approximately 7:30 a.m., Miranda was in his bedroom, Appellant was in the living room and Bryan’s roommate, Jerome, was sleeping in his bedroom. (R. p. 19, line 1 - p. 22, line 19; p. 36, line 13 - p. 38, line 3).

Bryan testified that at approximately 8:00 a.m., while on his way to work, he received a telephone call from Jerome’s mother, Brenda Petty. Ms. Petty told Bryan she was going

to the house. (R. p. 31, lines 1-5). Ms. Petty testified that her sister drove to Jerome's house, but that she went in to wake her son. As she passed Bryan's room, she noticed the door was "cracked" and she saw Appellant laying "spread eagle" on Bryan's bed. She went into Jerome's room and woke him, then returned to the living room. Appellant came out of Bryan's room, "slammed the door" and went out to the porch. Ms. Petty followed Appellant outside. He asked her for a cigarette, and Ms. Petty was able to see fresh scratches on the side of his face. (R. p. 47, line 1 - p. 48, line 15). She went back into the house and asked Jerome if he had been in a fight, noting that the scratches she saw on Appellant "had just been done. They was bleeding. You could see the white where the skin just came off. You could see the white spot, and the blood was running down his face." (R. p. 49, lines 6-11).

Jerome responded that he knew nothing about a fight. He then dressed and left to go car shopping with his mother and father. Appellant indicated that he would be leaving as well; however, Appellant asked Jerome to leave the door to the house unlocked so he could return. (R. p. 37, lines 8 - 18; p. 40, lines 8- 24).

At approximately 3:30 p.m., Bryan returned home from work and found Miranda's dead body on his bed. She had been strangled to death. (R. p. 24, lines 1-20; p. 63, lines 15-24). The paramedics were called and immediately responded. They noted that Miranda was already "very cold and stiff" indicating "[s]he had been down for a while." (R. p. 2, line 18 - p. 5, line 18). The paramedics notified the Spartanburg County Sheriff's Office. (R. p. 6, lines 1-6).

A sheriff's office forensics investigator found several small wooden beads in the bed with the body, and a small puncture wound on Miranda's right hand. (R. p. 51, lines 3-19). A broken necklace and a sharp tooth was also recovered. (R. p. 54, line 14 - p. 55, line 19).

Bryan and Jerome testified Appellant always wore a wooden bead and shark tooth necklace. (R. p. 21, line 5 - p. 22, line 14; p. 41, lines 2-7). Michael Cheeks testified that Appellant wore the necklace at the party the night before the murder. (R. p. 50, lines 15-23).

The forensics investigator also took fingernail scrapings from the victim. (R. p. 51, line 7 - p. 52, line 15). SLED confirmed that DNA material recovered matched Appellant. (R. p. 56, line 3 - p. 57, line 25).

Appellant gave two statements. In both statements he contended that he went into Bryan's bedroom to lecture Miranda about promiscuity. He also admitted in both statements that he was the first aggressor, grabbing Miranda while trying to talk to her. She retaliated, scratched him, and struggled against him. He then choked her. (R. p. 55A, line 18 - p. 55C, line 25; p. 59, line 12 - p. 62, line 10).

## ARGUMENT

The trial judge properly declined to charge voluntary manslaughter when the only evidence of a fight between Appellant and his victim stemmed from victim's attempt to resist her attacker, and defensive acts cannot support an assertion of legal provocation.

### Relevant Facts:

Appellant gave two statements to law enforcement officers. In both statements he maintained that he went into Bryan's bedroom to lecture Miranda about her promiscuity. He also admitted in both statements that he grabbed her to make her listen. Only after she was assaulted did she scratched him, and struggle with him. (R. p. 55A, line 18 - p. 55C, line 25; p. 59, line 12 - p. 62, line 10). The trial judge rejected Appellant's request for a voluntary manslaughter charge based on the facts in the statement, finding no evidence of legal provocation or heat of passion. (R. p. 68, lines 13-16). He concluded: "In both statements the defendant indicated that he first assaulted the victim in some fashion, whether it be grabbing her around, from the rear, or whether it be grabbing her shoulders so that she couldn't turn her back on him. That's an assault." (R. p. 68, lines 17-21). Defense counsel questioned his finding on the first statement. (R. p. 68, line 21 - p. 69, line 2). The judge noted: "It says, ' I was trying to tell her that her actions did not look good that preceded her. I tried to set her up from behind.' In other words, he is making physical contact with her, not she with him, and says she became upset and started cussing him." (R. p. 69, lines 5-9). Finding her defensive actions could not show legal provocation, the judge rejected the request for a voluntary manslaughter charge.

The judge also denied a request for an involuntary manslaughter charge, finding Appellant was not acting lawfully. Not only was he committing an unlawful assault the

assault, i.e. manual strangulation during an altercation, was of the type that had “a natural tendency to result in death or serious bodily harm.” (R. p. 69, line 24 - p. 70, line 9).

Given these findings, the judge did not charge any lesser included offenses. Counsel objected to the exclusion of charges for voluntary and involuntary manslaughter. (R. p. 90, lines 17-19).

Discussion:

The law to be charged is determined by the facts adduced at trial. State v. Lee, 298 S.C. 362, 380 S.E.2d 834 (1989). “To warrant a court’s eliminating the offense of manslaughter, it should very clearly appear that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter.” State v. Cole, 338 S.C. 97, 101, 525 S.E.2d 511, 513 (2000). The facts will be considered in the light most favorable to the defendant to determine if the charge is warranted. Id.

Appellant requested charges of voluntary and involuntary manslaughter. “Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation.” State v. Byrd, 323 S.C. 319, 322, 474 S.E.2d 430, 432 (1996). “Involuntary manslaughter is (1) the unintentional killing of another without malice, but while engaged in an unlawful activity not naturally tending to cause death or great bodily harm; or (2) the unintentional killing of another without malice, while engaged in a lawful activity with reckless disregard for the safety of others. State v. Tyler, 348 S.C. 526, 529, 560 S.E.2d 888, 889 (2002).

Appellant claims the judge erred in not charging voluntary manslaughter when there was evidence that he “accidentally strangled” victim after she cursed him and scratched him. (BOA, page 7). There are several major problems with this issue.

First, Appellant's claim of accident is inconsistent with his argument for a voluntary manslaughter charge. "Voluntary manslaughter, of course, is an offense which does involve intent on the part of the perpetrator but lacks the element of malice." State v. Blassingame, 271 S.C. 44, 46, 244 S.E.2d 528, 529 (1978). By defining his issue as one where death was unintentional, he has foreclosed the possibility of voluntary manslaughter charge. In short, Appellant has not presented an issue upon which relief may be granted.

Even if the issue is considered in light of a request for an involuntary manslaughter charge, the request is still fatally flawed. It is undoubtedly safe to conclude that strangulation would be an unlawful assault. The only way an unlawful assault could constitute involuntary manslaughter would be if the assault was not one that would naturally tend to cause death Tyler, supra. The judge found that strangulation would have a naturally tendency to cause death. (R. p. 70, lines 3-9). He is absolutely correct. To strangle is "[t]o kill by squeezing the throat as to choke or suffocate." The American Heritage Dictionary, Second College Edition (1982), page 1203. By definition, strangling has a natural tendency to cause death. Appellant was clearly not entitled to an involuntary manslaughter charge.

Turning back to the voluntary manslaughter charge, the second major problem stems from the fact that Appellant's brief is simply factually wrong. He purports to quote the statements entered into evidence. (BOA, page 5). However, the first inset paragraph presented as a quote of the first statement omits, inadvertently perhaps, the very line the judge relied upon, and actually quoted in his ruling, to find the first statement shows that Appellant was the sole aggressor, and the victim merely acted in defense. Appellant drops the entire line of "I tried to set her up behind" which shows Appellant as the aggressor. (R. p. 55B, line 23; p. 69, lines 3-6). He then argues that the evidence shows he "accidentally

strangled” the victim *after* he was scratched. (BOA, page 7). This completely ignores, in every respect, the admitted fact that he first grabbed the victim, and she only reacted in defense – the very reason why the evidence does not support the requested charge.

Evidence of fighting between the parties generally constitutes sufficient legal provocation. State v. Davis, 278 S.C. 544, 298 S.E.2d 778 (1983). However, “[a] victim's attempts to resist or defend himself from a crime cannot satisfy the sufficient legal provocation element of voluntary manslaughter. State v. Shuler, 344 S.C. 604, 632, 545 S.E.2d 805, 819, *cert. denied*, 534 U.S. 977 (2001). It is clear from both statements here that Appellant grabbed the victim to stop her from escaping his self-described “lecture” on promiscuity. That is an assault. The victim’s struggle against Appellant was strictly defensive and cannot be a basis for a charge of voluntary manslaughter. The judge concluded same. (R. p. 68, line 17 - p. 69, line 23). The judge’s findings of fact are fully supported by the record, and his conclusions are legally sound. There is no error.

Appellant’s argument to the contrary must be rejected.

**CONCLUSION**

For all of the foregoing reasons, it is respectfully submitted that the conviction in the lower court should be affirmed.

Respectfully submitted,

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September 25, 2003.

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**CERTIFICATE OF COUNSEL**

The undersigned hereby certifies that this Final Brief complies with SCACR 211(b).

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**PROOF OF SERVICE**

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I, Melody J. Brown, certify that I have served the Final Brief of Respondent on Appellant by depositing three (3) copies of same in the United States mail, postage prepaid, addressed to his attorney of record:

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