STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
Honorable R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2019-000477

THE STATE,

Respondent,

v.

LAWTON LEROY HOLLOWAY,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit

180 Magnolia St.
Spartanburg, SC 29306
(864) 596-2386

ATTORNEYS FOR RESPONDENT

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The Protection of Persons and Property Act provides immunity from prosecution to murder defendants who prove to the court by a preponderance of evidence that they acted in self-defense. Holloway's motion for immunity was supported by dubious testimony inconsistent with physical evidence. Does evidence support the trial court's denial of immunity?

II.

Law enforcement officers may not coerce a confession. Holloway's rambling, drunken statements to police in the hours after the crime were volunteered without police interrogation. Does evidence support the trial court's finding that Holloway's statements to police were voluntary?

STATEMENT OF THE CASE

A Spartanburg County grand jury indicted Lawton Holloway for the murder of Jeremy Bell and for Possession of a Weapon during the Commission of a Violent Crime (PWDCVC). On March 11–15, 2019, Holloway proceeded to jury trial before the Honorable R. Keith Kelly. He was convicted of voluntary manslaughter and PWDCVC and sentenced to concurrent terms of twenty and five years' incarceration. This direct appeal follows.

STATEMENT OF FACTS

Appellant Lawton Holloway killed Jeremy Bell by stabbing him 14 times with a kitchen knife. The stabbing occurred at Holloway's girlfriend's home in the early morning hours of August 31, 2017. (R.p.181). Except for Holloway, there were no witnesses to the stabbing. Holloway sought immunity under the Protection of Persons and Property Act.[1]

At a pretrial hearing, Holloway testified he and Bell were friends, and that Bell came over after drinking with Holloway and his girlfriend, Lisa Wood, at a local bar. (R.p.74-76). The three of them, along with another friend, continued drinking and socializing late into the night. According to Holloway, he and Bell had a contentious conversation about the respective merits of Apple and PC computers. (R.p.79). Holloway testified Bell eventually left the home and Holloway went to the back yard to put out a bonfire. Holloway claimed that when he came back inside, he saw Bell straddling Wood on the living room couch with his hands around her neck. Holloway claimed Bell looked at him and said: "I'm going to kill Lisa, I'm going to rape her, then I'm going to rape your daughter . . . I'm going to kill your entire family." (R.p.90). Holloway testified he retrieved a knife from the kitchen and returned to find Bell with his hands still around Wood's throat. Holloway claimed he screamed at Wood to wake up, but Bell charged at him. Holloway claimed Bell was "coming off of Lisa and he's running at me telling me he's going to kill her," and threatened to kill him as well. (R.p.93-94). Holloway admitted to stabbing Bell to

[1] S.C. Code Ann. § 16-11-410 et al.

death, but he gave no details explaining how the struggle transpired. According to Holloway, Wood somehow did not wake up through this entire event. Holloway admitted he then fled the home in his truck because he was "scared." (R.p.96).

Holloway returned roughly a half hour later. An officer observed him standing silently near the front of the home. He was visibly intoxicated and appeared to have blood on his shoes. The officer sensed something was amiss with Holloway and asked more specifically about his connection to the home. Holloway told police he was there to check on his family and began to volunteer his version of events. It became clear he was admitting to stabbing Bell. Officers detained Holloway while they began to investigate the scene. Holloway continued to drunkenly volunteer information to police, but the officers did not interrogate him. Holloway's statements were captured on police body camera videos. (State's Exhibit Nos. 1 and 2). The Court viewed the videos during the pretrial hearing. (R.49).

To rebut Holloway's version of events, the State presented the testimony of the first responding police officer. He testified he found Bell dead, "slumped up against the wall with blood all over the front of his body." (R.p.126). There were 14 stab wounds in the front and back of his body. (R.p.133). A kitchen knife was on the floor near Bell's body. (R.p.129). While Holloway told officers Bell had "chased him around the house like it was a TV show," there were no signs of a struggle. (R.p.129–33). Wood denied that Bell attacked her. (R.p.130).

The trial court denied the motion for immunity. The court found "the defendant's version of the event is not credible because it is not consistent with the

other physical evidence in the case." (R.p.148). The trial court thoroughly announced his reasoning, recounting the facts presented at the hearing and essentially concluded he did not believe Holloway's story. (R.p.148–50).

The Court also denied Holloway's motion to suppress the statements he made to officers at the police station, finding they were voluntary. Officers brought Holloway to the police station and he was placed in an interview room. He continued to drunkenly volunteer information to the officer who brought him there while the officer listened without asking questions. A separate investigator entered the room to speak with Holloway and started to read Holloway his Miranda rights. (State's Exhibit No. 4 at 9:30). Before he could ask any questions, another officer pulled him aside and advised him Holloway had invoked his right to counsel at the scene. The investigator then informed Holloway he would not ask him any questions about what happened, but wanted to take down his name and basic identifying information. (State's Exhibit No. 4 at 10:55). Holloway continued to ramble. Another investigator came in and explained to Holloway that they could not speak with him any further unless he affirmatively waived his right to counsel and asked to speak further. Holloway continued to ramble and volunteer information, ignoring the officer's advice. The officers repeatedly told him they could not continue speaking with him without a clear statement that he wanted to waive his right to counsel. Holloway continued to deflect the questions, give equivocal answers, and ask the officers questions of his own. Holloway finally

decided he wanted an attorney, and the officers immediately left the room. (State's Exhibit No. 4 at 16:30).

The court found the officers did not interrogate Holloway. He noted that Holloway "had the right to remain silent but he did not possess the ability to remain silent." (R.p.156). He accordingly denied the motion to exclude the video and the case proceeded to jury trial.

The State presented more comprehensive physical evidence at trial. A forensic pathologist testified that Bell had no defensive wounds. (R.p.372). He gave an opinion that the six wounds to Bell's back were inflicted before the wounds to his front, and that the eight wounds to the front of his torso and neck were likely inflicted after he had fallen down. (R.p.375).

Lisa Wood testified and confirmed she fell asleep on the couch in the living room, but she did not "pass out" from drinking. (R.p.272). She denied Bell attacked her. (R.p.282). She awoke and saw Holloway standing by the couch, noticed blood on the wall, and observed Bell slumped over making a "gurgling" sound. (R.p.274–76). She asked Holloway, "what did you do?" (R.p.276). Holloway responded by claiming that Bell was "going to rape" her. (R.p.276). Wood backed away from Holloway and told him to stay away from her. She called 911. (R.p.277).

The State also called Christina Cormican, the fourth person present at the home that night. Cormican was the bartender who served Holloway, Wood, and Bell earlier in the evening. She testified Holloway seemed "agitated" at the bar. (R.p.337). Contrary to Holloway's claims, she denied Bell ever acted in a

threatening manner, or that she feared him. (R.p.336). On the contrary, Bell was cordial, and even walked her to her car when they left the bar. (R.p.331). She denied hearing any arguments at Woods's house, but did hear Holloway refer to Bell as an "asshole." (R.p.334–35).

Holloway did not testify at trial.

ARGUMENT

I. Evidence supports the trial court's finding that Holloway failed to show he acted in self-defense.

Holloway claims the trial court abused his discretion by denying his motion for immunity. His argument fails because evidence supports the trial court's ruling. This Court should affirm.

A. Standard of Review

The appellate court reviews an immunity determination for abuse of discretion. A circuit court abuses its discretion when its ruling is based on an error of law, or when grounded in factual conclusions, is without evidentiary support. State v. Cervantes-Pavon, 426 S.C. 442, 449, 827 S.E.2d 564, 567 (2019), reh'g denied, (May 30, 2019).

B. Discussion

To be entitled to immunity from prosecution under the Protection of Persons and Property Act, a defendant bears the burden of proving by the preponderance of the evidence that he acted in self-defense. State v. Duncan, 392 S.C. 404, 411, 709 S.E.2d 662, 665 (2011). When the killing occurs on his own premises, the defendant must show 1) he was without fault in bringing on the difficulty; 2) he reasonably believed he was in imminent danger of losing his life or sustaining serious bodily injury, or 3) he actually was in such imminent danger, and the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. State v. Curry, 406 S.C. 364, 371, 752 S.E.2d 263, 266 n.4 (2013).

Evidence supports the trial court's factual finding that Holloway failed to prove he acted in self-defense. The physical evidence alone (which Holloway ignores in his brief) disproves self-defense. There was evidence that:

- Bell was stabbed 14 times, including 6 times in the back. (R.p.363).
- The stab wounds to Bell's back were inflicted before the wounds to his front. (R.p.375).
- The wounds to his front were likely inflicted after he had fallen down. (R.p.365–66).
- Bell had no defensive wounds. (R.p.372).
- Holloway was uninjured. (R.p.350).
- There were no signs of a struggle. (R.p.279–80).
- Bell was unarmed.

Bell was over six feet tall and 278 pounds. It is simply unbelievable that Bell charged and attacked Holloway and received six wounds to his back and no defensive wounds, while Holloway was completely uninjured. Rather, the evidence (particularly the testimony of the pathologist) suggests Holloway stabbed Bell in the back when he wasn't looking, and finished the job by stabbing him in the chest and neck after he fell down. (R.p.365–75). Bell's body was found by the front door, not near the kitchen where it would have been had he charged at Holloway, who came from the kitchen with a knife. The trial court correctly noted "the defendant's version of the event is not credible because it is not consistent with the other physical evidence in the case." (R.p.148). The physical evidence alone supports the trial court's ruling.

The rest of the testimony further supports the trial court's ruling. Wood denied being attacked by Bell. She testified she did not feel anyone touching or trying to assault her. (R.p.278). Holloway's ridiculous story—that Wood slept through being straddled and choked by 300-pound Bell while he threatened to kill her entire family—is beyond belief. Both the court and jury rightly rejected it.

Every witness except Holloway denied Bell acted in an aggressive manner at any time that evening. (R.p.282, 334). On the other hand, Wood testified Holloway was distraught about losing his job a week before the killing. (R.p.305). Christina Cormican testified Holloway seemed "agitated" that night. (R.p.337). Holloway showed a consciousness of guilt when he fled the home after the stabbing. Nothing supports Holloway's version of events except his self-serving testimony.

Holloway claims it is "undisputed that [he] defended himself in his home." Brief of Appellant at 15. Nothing could be further from the truth. Of course, the State could not offer its own eyewitness account of the stabbing because Holloway killed the only other witness. But the trial court is not required "to accept the accused's version of the underlying facts." State v. Curry, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013). The trial court rejected Holloway's version of events.

Holloway's argument on appeal depends entirely on this Court accepting his farcical, self-serving story. In order to do that, the Court would have to overturn the trial court's credibility-based factual finding that Holloway's version of events was not believable. The abuse of discretion standard of review does not allow the appellate court to substitute its factual findings for those of the trial court. State v.

Larmand, 415 S.C. 23, 31, 780 S.E.2d 892, 896 (2015). The trial court's factual determinations regarding this "quintessential jury question" must be affirmed because they are supported by evidence. State v. Curry, 406 S.C. 364, 372, 752 S.E.2d 263, 267 (2013).

The trial court's denial of immunity is strongly supported by the evidence. Holloway has not shown an abuse of discretion. This Court should affirm.

II. Evidence supports the trial court's finding that Holloway's statements to police were voluntary.

Holloway asserts the trial court should have excluded State's Exhibit No. 63, a redacted video recording of Holloway's conduct at the police station after he was detained. He claims police badgered and pressured into giving incriminating statements. A review of State's Exhibit No. 63 (identified as State's Exhibit No. 4 during the pretrial hearing) shows these assertions are patently false. Not only were Holloway's statements volunteered without interrogation, he has not offered an explanation how any specific statements were prejudicial to his case. The statements essentially consist of drunken, rambling claims that Holloway was defending his family when he killed Bell. This was Holloway's defense at trial. Accordingly, even if the video should have been excluded, it was not prejudicial to Holloway. His argument is meritless. This Court should affirm.

A. Standard of Review

Factual conclusions as to the voluntariness of a statement will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion. When reviewing a trial court's ruling concerning voluntariness, this Court does not reevaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial court's ruling is supported by any evidence. State v. Parker, 381 S.C. 68, 74, 671 S.E.2d 619, 622 (Ct. App. 2008).

B. Discussion

Holloway's statements to police at the police station were not coerced; they were voluntary. The police-station video admitted as State's Exhibit No. 63 shows

the statements were not even made in response to police questioning as required by Miranda v. Arizona[2] and Jackson v. Denno.[3] On the contrary, officers repeatedly told Holloway they could not interrogate him based on his earlier request for a lawyer. Holloway begged to speak with them further, repeating the same rambling assertions that Bell was trying to hurt his family. Even defense counsel admitted "he was rambling . . . . he was talking so much you didn't have time to ask him any questions." (R.p.426). This is a far cry from the "badgering and coercive pressure" Holloway alleges in his brief. Contrary to Holloway's false assertion on page 24 of his brief, the officers did not "repeatedly sugges[t] he prove his innocence." Far from nefarious, the officers' actions demonstrated remarkable restraint. The officers did not interrogate Holloway; he simply would not stop talking.

Furthermore, even if the video should have been excluded, the statements were not prejudicial to Holloway. On the contrary, they were completely self-serving statements to the effect that Holloway was defending his family. The same story was introduced—by Holloway—during Lisa Wood's cross-examination and through hearsay statements recorded on Wood's 911 call. (R.p.300, 441). He has not even identified any specific statements or explained how they were prejudicial. This Court should affirm.

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[2] 384 U.S. 436 (1966).
[3] 378 U.S. 368 (1964).

CONCLUSION

For all the foregoing reasons, the State respectfully asks that this Court affirm the decision of the court of appeals.

Respectfully submitted,

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

WILLIAM B. ROGERS, JR.
Solicitor, Fourth Judicial Circuit

BY: FOR Joshua A. Edwards
Bar # 101188

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit

BY: _____
for Joshua A. Edwards

Bar # 101188

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

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