STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
The Honorable Lee S. Alford, Circuit Court Judge

THE STATE,.....RESPONDENT

v.

AMY N. TAYLOR,.....APPELLANT

INITIAL BRIEF OF RESPONDENT
Appellate Case No. 2019-001117

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Whether the trial court abused its discretion in denying Appellant Amy Taylor one-fourth parole eligibility where she proved by a preponderance of the evidence she suffered a history of criminal domestic violence at the hands of a household member, her live-in boyfriend, where the court erroneously ruled that the change in her live-in relationship with the decedent from being a cohabitating sexual relationship to a cohabitating caregiver relationship as the decedent grew more infirm, but still violent, disqualified appellant from showing a "long-term" history of domestic violence sufficient to satisfy the standard required by S.C. Code Ann. §16-25-90?

RESPONDENT'S COUNTER STATEMENT ON APPEAL

Did the trial court err in the denial of a ruling that the Appellant suffered a history of criminal domestic violence, thereby, denying the Appellant an opportunity of being granted parole upon the service of one-fourth of her sentence?

STATEMENT OF THE CASE

On March 4, 2017, Amy Taylor (Appellant), shot her live-in boyfriend James Sprouse (victim) three times as he lay in the bed sleeping. Mr. Sprouse was shot twice in the back and once in the side. (T. p. 453 lines 24 – p. 454 line 4) As he lay dying the Appellant called her daughter Destiny Lyda (Destiny). She informed her that she shot the victim in self-defense. Destiny repeatedly begged the Appellant to call the police immediately. Destiny thought that because if it was self-defense it would be better for her mother if she notified the police. (T. p. 412 line 17 – p. 415 line 13) The Appellant informed Destiny that she was going to call the police. (T. p. 415 line 18) However, the Appellant never called for assistance and allowed the victim to lay dying from ten to twenty-five minutes. (T. p. 454 lines 5-7)

Destiny was later picked up from school by her boyfriend Anthony Fowler (Anthony) and he brought her back to the incident location. When they arrived the Appellant informed them that she did call the police and they told her that the coroner was busy. They would not be able to retrieve the body until later, and that she should wrap it into a tarp and place it into the woods. (T. p. 24 lines 12-16) The Appellant, Destiny and Anthony was found on a video recording buying tarp, bungee cord, and duct tape. (T. p. 347 lines 12-19)

The victim was wrapped into a tarp and taped together with duct tape. The body was then placed into the woods. They took the mattress and placed into the back yard with a "peppa pig" pillow used by the Appellant to muffle the gun sound. (T. p. 235 lines 3-12, T. p. 287 lines 1-2) During the cleaning up and hiding of evidence Anthony called his father. He told him that his girlfriend's mother had shot her boyfriend and there is blood everywhere.(T. p. 24 lines 10-12) He asked his father to call the police. His father called the Spartanburg County Sheriff's Department. They responded to the scene to do a welfare visit.

Once they arrived they spoke to the Appellant who told them that the victim was at his mother's house. (T. p. 157 lines 12-14) They asked to go inside and the Appellant gave the officers consent to enter. Once inside sheriff deputies observed fresh spackling on the walls and a box spring on its side in the bedroom. (T. p. 164 lines 17-22) There also what appeared to be blood on the floor, cleaning supplies, and trash bags with bedding inside. (T. p. 164 line 23 – p. 165 line 2) They also checked around the house and found a mattress with blood all over it in the back yard. (T. p. 235 lines 3-12) The Appellant, Destiny, and Anthony was then brought in for questioning.

While being questioned the Appellant first informed them that she had a miscarriage which explained the blood all over the mattress. She informed the authorities that after she miscarried they got into an argument and the victim left for his mother's house. (T. p. 308 lines 4-7) After being confronted by what was said by Anthony and Destiny, Appellant decided to change her story.

She then told the authorities that while in the bathroom the victim came at her with a gun pointed at her behind a pillow. The Appellant stated that he fired but because he did not have on his glasses he shot himself then almost dropped the gun, she grabbed the gun and shot him in the shoulder. (T. p. 326 line 2-6) She then told them that after he died she rolled him in a tarp, put him in the back of a truck and drove him down on the back of the property. (T. p. 326 lines 21-25) She told them she acted alone, but when confronted with other statements she finally confessed that she was assisted by Anthony and Destiny. (T. p. 327 lines 1-8) She was arrested and charged with the offense of murder and possession of a weapon during the commission of a violent crime. Anthony and Destiny were charged with accessory after the fact of a murder.

The authorities found the body wrapped in a tarp taped with duct tape. (T. p. 194 lines 16-18) The body was taken by the coroner and once unwrapped it was believed that the victim was

shot five times.[1] (T. p. 343 lines 5-13) Officers also obtained all of their cell phones including that of the victim's mother. (T. p. 345 lines 15-22, p. 346 lines 4-7)

On June 24, 2019, the case was called for trial before the Honorable Lee S. Alford. Prosecuting the case for the seventh circuit solicitor's office was assistant solicitors Eddie James Hunter and Hope Coleman-Hicks, representing the Appellant was Beverly Jones of the seventh circuit public defender's office.

During trial the solicitors entered into evidence video from Fred's discount store of the Appellant along with her co-defendants purchasing a tarp, bungee cord and duct tape. Ms. Lindsey McGraw a computer forensics investigator for the Spartanburg County Sheriff's Department also testified as to the contents of the Appellant's phone. Investigator McGraw testified that while searching the Appellant's phone she found searches for, "Does lime help decompose dead animals?"; "What can you pour on dead animals to hurry up to make them disappear?"; "A handgun when red is showing on the side, does it mean it's on safety or off?"; "Undetectable poisons in autopsy"; "What is a way you can poison someone without it being traceable in blood stream?"; and, on a message board the question, "What do I do with a dead body?" (T. p. 386 line 10 – p. 390 line 13)

There were also text messages from the Appellant to her daughter Destiny that stated that they needed to clean up and put the bed stuff in a bag. (T. p. 395 lines 8-13) The Appellant texted Destiny telling her that the shooting was in self-defense. Destiny told her to call the police, because if she waits it will look worse. The Appellant told her that she did call the police, but never did. The Appellant also lied to Destiny and Anthony that the police told her that the coroner could not

[1] It was initially thought that the victim was shot 5 times it was later discovered that he was only shot 3 times, twice in the back and once in the side. The other wounds were exit wounds.

come until night so they needed to move the body. So both Destiny and Anthony ended up being accomplices by helping her wrap up and move the body.

After five days of testimony the Appellant decided to plead guilty. She later appeared before the trial judge pleading to one count of murder and one count of possession of a firearm during the commission of a violent crime. Upon the conclusion of this appearance the court sentenced the Appellant to a forty-five year period of incarceration. (T. p. 467 line 24 – p. 468 line 3) After the trial court sentenced the Appellant, she decided to make a motion before the court for a determination of long term domestic abuse in order to obtain parole eligibility.

During this mitigation hearing the Appellant testified that she was only fourteen when she first met the victim, who was twenty years her elder. (T. p. 510 lines 14-15, p. 511 line 2) She met him while he was working with her first husband at a garage. (T. p. 510 line 16-18) She had a daughter from her first husband, then later got divorced and married another individual Kenny Taylor (Kenny) with whom she had two more children. They fell upon hard times so they ultimately moved the entire family into the house of the victim and his wife. (T. p. 512 lines 21-24) They lived in the house for a short period of time then moved out, only to return in 2014. (T. p. 514 line 24 – p. 515 line 1) During their time staying at the house the Appellant and the victim started an affair. After two months living at the house Kenny moved out. (T. p. 515 lines 14-17)The victim's wife later moved out in 2016. (T. p. 516 lines 3-4) The Appellant and victim's relationship then became more open.

During the mitigation hearing the Appellant testified as to the abuse she suffered at the hands of the victim. She testified that the first occasion occurred when he threw her up against a wall in 2016. Later he hit her in the face with the back of his hand, knocking her off a table in the garage. (T. p. 525 line 23-24) She testified that this caused her to have a broken tooth and a bruised

face. She testified that in August of 2016 he hit her while they were in the bedroom. (T. p. 528 lines 14-17) The victim purposely dropped a safe on her foot breaking several of her toes. (T. p. 529 lines 10-19) She testified that he had a temper and constantly threatened to shoot her and the kids if they moved out. He also threatened to shoot Kenny and other individuals. She stated that the day before the incident, he shot in the air above her head, and that night he was pacing mumbling to himself about killing her and the kids. (T. p. 535 line 14 – p. 537 line 2) So the next day as he was in the bed she thought he rolled over to reach for his gun, she grabbed it first and shot him. (T. 538 line 7-13) On cross-examination the Appellant admitted that since the first incident in 2016 she never called the police, never told any authority figure at her kid's school about the abuse she was going though. (T. p. 540 lines 2-14) She also admitted to all of the previous untruths she told to the police after being arrested, and the fact she never told the police about these incidents of abuse even when they asked her. She also admitted to being addicted to Oxycodone and Percocet taking the victim's medication on a regular basis. The Appellant testified that the victim was not a well man near the end, suffering from COPD and heart problems, he was hospitalized at least 3 times in February before the murder.

A neighbor by the name of Virginia Lee Teague testified that she knew the Appellant for about ten years before the incident. (T. p. 470 line 3) They were not friends but more of acquaintances. (T. p. 471 lines 10-12) She sold the Appellant her prescription pills. (T. p. 471 lines 13-22) She testified that she once saw the Appellant with a broken toe and bruising on the face.(T. p. 472 lines 12-13) About a week or two before the alleged murder she stated that the Appellant told her that, "if she end up dead you know who did it." (T. p. 473 lines 6-7) But she also testified that the victim seemed like a nice guy, that she never saw anything to believe that he would have done anything ugly. (T. p. 480 lines 4-9)

During the mitigation hearing, Dr. Lois Veronen, a clinical psychologist who specializes in the impact of violence or traumatic events on the functioning of women testified on the behalf of the Appellant. She testified that due to the abuse, she shot the victim while in a high state of fear and anxiety for herself and her children. (T. p. 583 line 23 – p. 584 line 2) Dr. Veronen testified that the Appellant met the criteria for substance abuse disorder, major depressant disorder and post-traumatic stress disorder. (T. p. 613 lines 7-9) On cross-examination Dr. Veronen admitted that the only person she interviewed was the Appellant. (T. p. 590 lines 3-15) The doctor's determination came just from her examination of the Appellant, who has told numerous lies preceding this hearing.

Both of the Appellant's daughters testified. First was the Appellant's nineteen year old daughter Destiny Lyda. She testified that her boyfriend Anthony Fowler was staying in a camper in the yard. (T. p. 482 lines 17-19) She also said that the victim would threaten to kick them out so they would have nowhere to stay. The victim would brag about his guns, and would threaten to shoot people. (T. p. 483 lines 11- 21) She also testified that once she saw the Appellant getting into the shower with bruises on her breast and side. The Appellant told her that they came from falling against a table, and did not want to talk about it. (T. p. 491 lines 19-24) She said that she never personally saw him hit the Appellant but heard them talking about it. (T. p. 502 lines 9-10)

The solicitor called to the stand the Appellant's fourteen year old daughter Kelsey Taylor. She testified that she had seen the victim angry but never took it out on her mother, nor had she ever seen the victim hit or verbally abuse the Appellant. (T. p. 616 lines 7-18) She did testify that she saw what appeared to be bruises on her mother. However, she thought they were not real because after she got out of the shower they were gone. (T. p. 618 line 20 – p. 619 line 1) She thought that her mother in the past frequently in the past faked injuries by putting makeup on her

body to look like injuries because she is an attention seeker. (T. p. 621 line 23 – 622 line 3) She stated that while the Appellant was taking them to school she confessed to killing the victim to her older sister using code language but she understood what they were talking about. (T. p. 620 lines 1-13) In three years living with the victim she never saw any violence perpetrated against her mother. (T. p. 620 lines 14-17)

At the conclusion of this hearing the trial court was not convinced of the Appellant's testimony. Despite the fact that shots were fired in the house the day before the incident there was no evidence produced revealing that the victim was shooting at the Appellant. There were no 911 calls, no police record of any prior abuse, and the police was never called to the residence. The court doubted her credibility due to the numerous untruths made to the police during this entire incident. The court determined that the Appellant basically had no credibility.

The trial court went on to address the fact that the Appellant had resources battered spouses typically do not have. The Appellant had access to an automobile and was collecting one-thousand eight hundred ($1,800.00) dollars per month in child support and alimony. The Appellant's ex-husband visited the kids regularly, and could have kept the two youngest kids until she found a new residence.

The court decided that according to Section 16-25-90 of the South Carolina Code of Laws, the defendant is required to produce credible evidence of a history of criminal domestic violence. There also must be some evidence of "long term" abuse which he ruled did not exist. In the opinion of the trial court they became household members when the victim wife left in August 2016. There was no "long term" abuse when they had only been household members for a few months. The trial court found that the standard is credible evidence, and there exists no credible evidence of domestic violence at the hands of the victim. So the trial court decided to deny the Appellant's

motion to allow the Appellant parole eligibility due to the existence of long term domestic abuse. The court did however, upon the Appellant's motion, reduce the sentence from forty-five to thirty-five years.

At the conclusion of this hearing the Appellant decided to file a timely notice of appeal before this court. Within this appeal the Appellant argues that the trial court abused discretion when they denied her the one-fourth parole eligibility. It is the opinion of the Appellant that she proved she suffered a history of abuse at the hands of the victim. She argues the trial court erroneously changed her live-in relationship from a cohabitating sexual relationship to a cohabitating caregiver relationship, disqualifying the Appellant from showing a "long term" history of domestic violence sufficient to satisfy the requirements of section 16-25-90 of the South Carolina Code of Laws.

The Respondent argues that the trial court was justified in the final decision, denying parole eligibility for the Appellant. Pursuant to South Carolina law the decision of the trial court cannot be overturned by this court unless the Appellant can reveal the decision was made in an abuse of discretion. The Appellant must provide substantial evidence of any "long term" history of domestic violence. That history was just not shown. The trial court was correct in their determination that the Appellant failed to reveal she suffered "long term" domestic abuse at the hands of the victim. The decision of the trial court did not relate to the Appellant being a caregiver, but it had to do with the fact she failed to reveal any evidence of abuse. The only evidence that was revealed was through her testimony. The trial court has the authority to weigh testimony and make a determination as to the credibility of one witness over another. The court made it clear that since the Appellant lied numerous times to law enforcement, she was not credible. Therefore, the trial

court made the decision that this abuse did not exist and she was not entitled to parole eligibility. The brief of the Respondent supporting these arguments follows.

STANDARD OF REVIEW

In criminal cases the appellate court sits to review errors of law only. *State v. Wilson,* 345 S.C. 1, 5, 545 S.E.2d 827 (2001). In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Blackwell-Selim,* 392 S.C. 1, 3, 707 S.E.2d 426, 427 (2011) An inmate who was convicted of, or pled guilty to, or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, nolo contendere to, or was convicted of an offense against the household member, or in post-conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member. S.C. Code Ann. §16-25-90 (2018). A household member means: (a) a spouse; (b) a former spouse; (c) persons who have a child in common; (d) a male and female who are cohabiting or formerly cohabited. S.C. Code Ann. §16-25-10 (2018).

ARGUMENTS

1. **The trial court did not err in making the determination that the Appellant failed to present sufficient evidence of long-term domestic abuse to be granted parole eligibility.**

The Appellant argues that the trial court erred in determining that she was not eligible for parole eligibility upon the service of one-fourth of her sentence due to a history of domestic violence. Pursuant to South Carolina law a person who claims that they were a victim of a history of domestic violence suffered at the hands of an household member shall become eligible for parole upon the service of one-fourth of their sentence. This must be proved by a preponderance

of the evidence.[2] A preponderance of the evidence is evidence which convinces as to its truth. *Gorecki v. Gorecki,* 387 S.C. 626, 633, 693 S.E.2d 419, 422 (2010). The Appellant is of the belief that she presented sufficient evidence to prove she suffered a history of spousal abuse. However, that determination can only be made by the trial court, which cannot be reversed by this court unless it is not supported by the evidence. The Appellate Court does not re-evaluate the facts based on its own view of the evidence but simply determines whether the trial court's ruling is supported by evidence. *State v. Saltz,* 346 S.C. 114, 121, 551 S.E.2d 240, 244 (2001). Prior to his decision the trial court made a complete reasoning as to why he did not believe the Appellant. He ruled that she failed to prove by a preponderance of the evidence that there exist history of domestic abuse suffered at the hands of the victim. After the review of the entire record this Court should find that the decision by the trial court was not erroneous. The trial court considered all of the evidence submitted by both parties and applied the relevant law. Therefore, this court should uphold the decision of the trial court. The Appellant Court is bound by the trial courts factual findings unless clearly erroneous. *State v. Preslar,* 364 S.C. 466, 472, 613 S.E.2d 381, 384 (Ct. App. 2005).

The Appellant argues that the judge erred in his decision due to the fact he determined they were not "household members" until their spouses moved out in 2016. The Respondent will argue that any mistake in this interpretation of the law should be considered irrelevant or harmless. That is due to the fact the couple of instances of abuse the Appellant testified to, occurred while the spouses were still living in the residence and were not believed by the trial court. In response to these allegations of domestic abuse the trial court specifically stated:

> "I'm not convinced of the credibility of that and the truthfulness of it. And the reason is there's no other evidence of it except – and she

[2] A defendant must prove by a preponderance of the evidence a history of domestic violence from the victim in order to be eligible for statutory early parole. *State v. Grooms*, 343 S.C. 248, 540 S.E.2d 99 (2000)

> has told no one about it and no one else knows about it. And the first time anybody's heard about it. And her credibility is certainly in question because she hasn't been truthful about anything, to be honest with you. And so, I discount that. I don't think it should be considered at all. T. p. 657 lines 15-25

The trial court has the ability to judge the credibility of a witness. Credibility findings are treated as factual findings, and therefore, the appellate inquiry is limited to reviewing whether the trial court's factual findings are supported by any evidence in the record. *State v. Banda,* 371 S.C. 245, 639 S.E.2d 36, 39 (2006). The determination by the trial court was supported by the record. The Appellant gave three different stories about the incident. She first told the authorities that she had a miscarriage, the victim got angry and drove to his mother's house. (T. p. 308 lines 4-7). Her second story was that she was in the bathroom and the victim came at her with the gun behind the pillow, due to the fact he did not have on his glasses he accidently shot himself. Then she got the gun and shot the victim in the shoulder. (T. p. 312 lines 11-12). During the sentencing hearing the Appellant testified that the victim was mumbling under his breath all night that he was going to kill her. The next morning while he was in the bed, the gun was on the bedroom dresser. He rolled over and she thought he was reaching for the gun so she grabbed the gun and shot him. (T. p. 538 lines 7-9). Not only did she lie to the police, she also lied to her daughter Destiny. After the incident she called Destiny who begged the Appellant to call the police. She informed her that she did call the police, and that they informed her that the coroner could not get there, they had to wrap up the body themselves and take it out to the back and hide it in the woods. Through these lies, her eighteen year daughter along with her daughter's nineteen year old boyfriend were brought into this situation making them accessories.

The trial court rightfully did not take into consideration the initial stories of abuse given by the Appellant that supposedly occurred prior to the time the victim and Appellant spouses moved

out of the house. The incident the Appellant mentioned occurred in 2016 months before the murder. (T. p. 525 lines 23-24) So even though they were household members there exist no evidence of "long term" abuse. In the South Carolina Supreme Court case of *State v. Hawes,* 411 S.C. 188, 767 S.E.2d 707 (2015), the Court decided that, "the legislative history of section 16-25-90 indicates that the statue was intended to confer early parole eligibility only to **long-term** victims of repeated abuse at the hands of a household member." *Hawes,* 411 S.C. at 708, 767 S.E.2d at 190 fn.2 (emphasis added) The trial court rightfully determined that any abuse that had occurred, was within months before the indecent. This cannot be considered "long term" so the Appellant cannot be considered for parole.

The Appellant is of the opinion that she proved her case by the preponderance of the evidence. The Appellant is of the belief that they can just produce evidence of some possible abuse at the hands of a household member and she is automatically eligible for parole, that is not the case. In *Grooms* the Supreme Court decided:

> Moreover, we find the legislature did not intend the mere production of evidence to automatically result in earlier parole eligibility. If that were the case, as appellant suggests, then all individuals who are convicted of an offense against household members would be eligible for parole after service of one-fourth of their prison term simply by testifying they suffered a history of criminal domestic violence at the hands of their own victims. Instead, by enacting §16-25-90, the legislature intended a defendant who presents credible evidence of a history of criminal domestic violence, at the hands of her victim...to be eligible for parole after the service of one-fourth of her prison term.

Grooms, 343 S.C. at 253, 540 S.E.2d at 101

The Appellant failed to present any evidence corroborating the abuse to which she testified. The trial judge did not find her credible, he certainly has that right. This decision is not an abuse of discretion, it is the ability given to the trial court by the legislature. This determination must be

considered by this court. The appellate court is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Laney,* 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006).

The Circuit Court must make specific findings in ruling on parole eligibility or ineligibility with respect to a defendant's claim that there was a history of domestic violence at the hands of the victim. *State v. Blackwell-Selim,* 392 S.C. 1, 707 S.E.2d 426 (2011). The trial court did make specific findings as to why the Appellant should be denied parole eligibility.

The trial court determined that the Appellant was not credible so it did not believe that initial instances of domestic abuse actually occurred. The court believed that if any abuse occurred, it started when they determined themselves exclusively a couple in 2016, a matter of months prior to the incident date. The Court made the determination that, "we're really dealing with about a seven-month period here. I don't think that's long-term relationship, as intended by the statue." (T. p. 658 lines 15-17). The Appellant argues that they were household members at the time they lived together in 2014. She states that in early 2016 the victim slapped her off a chair in the garage knocking out a tooth. She did not report this, nor are there any hospital records confirming the injuries. The court has expressed their disbelief of this incident due to the Appellant's lack of credibility. During the hearing the trial court plainly stated its disbelief of the Appellant. The trial court stated, "I don't believe anything she said. She told so many stories to the police and made up so much stuff and everything. She's very good at that. But I just can't believe anything she said. She has no credibility with the court whatsoever." T. p. 667 lines 11-15. The numerous stories about what happened and also lying to her daughter and her boyfriend making them accessories rightfully caused a doubts by the trial court in her story of abuse.

During the hearing, the Appellant testified that she saw the victim while in bed reach for the gun, she then took the gun and shot him. However, the evidence revealed that the victim was

shot twice in the back and once in the side. There was no threat to her as she said on the witness stand. This was also something that was considered by the trial court when he stated, "She picked up the gun and she pumped two shots in his back laying in the bed and one in his side while he was laying in the bed. And then waited for him to bleed out. ... And he could have been picked up and taken to the hospital." T. p. 666 line 21 – p. 667 line 1.

With the evidence presented, the trial court also thought this to be a premeditated murder. During trial, Investigator Lindsay McGraw, a computer forensics investigator for the Spartanburg Sheriff's Department, testified as to certain searches found in the Appellant's phone. In her phone Investigator McGraw found searches including, "Does lime help decompose dead animals?", "What can you pour on dead animals to hurry up to make them disappear?", "On a handgun when red is showing on the side, does it mean it's on safety or off?" , "Undetectable poisons in autopsy" , "What is a way you can poison someone without it being traceable in blood stream?" , and "What do I do with a dead body?" These searches led the trial court to believe that this murder was premeditated. When reciting the reasons for his decision the trial court stated:

> "Now, on this – but she was, to a certain extent, this killing is premeditated and in my opinion done with malice because she searched – I don't know why she couldn't realize with that phone, that they were going to be able to check it. I guess she didn't think that far ahead. She was trying to find a way to kill him without it being detected. She wanted to get poison. How do I – how can I get poison, what poison can I get to kill somebody so it can't be detected by a coroner or somebody? So that was premeditated. She was looking to kill him." T. p. 665 line 19 – p. 666 line 4.

The trial court also questioned the fact there were no report of injuries, no police record, nor calls to 911. When questioned by the police initially she even told them she was not abused. T. p. 663 line 3-8.

During the sentencing hearing the Appellant did call to the stand Ms. Virginia Lee Teague, a neighbor of the Appellant. She considered herself not a friend but an acquaintance, who the Appellant would contact to buy prescription pills. (T. p. 471 lines 10-22). She testified that she once saw the Appellant with a broken toe and what looked to be a slap to the face. (T. p. 472 lines 12-13) The Appellant once told her that, "If I end up dead you know who did it." (T. p. 473 lines 6-7). However, Ms. Teague also testified that the victim seemed like a nice guy, and she never saw anything to believe that he would have done anything ugly. (T. p. 480 lines 4-9).

The court also spoke about the Appellant daughters, both of whom testified, one for the Appellant, and the other for the state. The Appellant's nineteen year old daughter Destiny testified that she saw bruises and her mother told her she got them from bumping into a table. (T. p. 491 lines 19-24). Her fourteen year old daughter Kelsey Taylor (Kelsey) testified for the state. She stated that she saw the bruises but she thought they were fake because once she got out of the shower they were not there anymore. (T. p. 618 line 20 – p. 619 line 1) She also testified that she considered the victim like a grandfather and he was the only male figure in her life. (T. p. 616 lines 18-22). Kelsey testified that the Appellant had a past of frequently faking injuries because she is an attention seeker. (T. p. 621 line 23 – p. 622 line 3). The trial court decided that the Appellant and Kelsey were fighting so he did take that into consideration when determining her credibility. (T. p. 659 lines 20-25).

During her mitigation hearing the Appellant also called to the stand Dr. Lois Veronen, specialist in the impact of violence or traumatic events on the functioning of women. The court notice that she tried to say that there was a cycle of abuse but she couldn't do it. The trial court stated:

> "And I think Dr. Veronen tried to say, tried to get into a cycle of abuse, but she couldn't do it. I mean, I didn't see a cycle of abuse. I

> just didn't see it. And even though she kind of hinted at it, she didn't establish any kind of cycle of abuse." T. p. 659 lines 15-19.

Dr. Veronen thought that the Appellant had a personality disorder. Which the trial court thought is "a person who tries to call attention to themselves, have some fantasies so it fits with her". (T. p. 662 lines 3-6). This description also fits the testimony of Kelsey regarding the Appellant faking injuries in order to gain attention.

The trial court found other aspects that led him to believe that the Appellant is not entitled parole eligibility. First, the trial court mentioned that he thought that this murder was premediated. The trial court also mentioned that the Appellant was making more money than the victim so she was not dependent on him like most long time battered spouses. She also had access to a car which she used to take the kids to school and run errands. The two younger kids belonged to the Appellant's second husband who would visit the children; so she could have asked him to take the kids once she left until she found a place to stay. (T. p. 664 lines 7-20). The trial court also addressed the testimony of the Appellant that the victim was angry and threatened to kick them out the house. He thought that the victim was frustrated because Destiny and Anthony were both of working age and could have assisted with the household finances. The victim was living on a fix income and all of these people were putting a strain on the household finances. And finally the trial court stated that the Appellant had charges filed against her first husband who was arrested and convicted of criminal domestic violence. The trial court stated:

> "She knows what to do if she was getting abused. She didn't do it. There is no record of it. And that would certainly be corroboration and make her testimony much more credible than it is." (T. p. 669 lines 1-4).

The trial court finally issued his reasoning for the denial of the Appellant's motion granting parole eligibility. The trial court ruled:

> "So I know why the statute is there, and I think it's there for a good purpose. And if you look at the legislative history and intent, it was designed to help people who were victims of long-term repeated abuse at the hands of a household member.
>
> And I don't find credible evidence of any long-term domestic abuse by a partner who was able to put them in the home. I just don't find it. There maybe a little. There maybe some. The best example being somebody firing off a gun. There's a question about how that was done.
>
> It looks like he hit the safe in there, which was metal and it wouldn't – one of them when through. The rest of them bounced the wall and ricocheted out. There was none in the ceiling. Certainly that would be evidence of, of domestic violence and cause somebody, somebody some fear. I would agree with that part of it. But that's the only credible part that – in what she's presented. And I don't think it meets the test for long-term domestic abuse.
>
> For that reason, I'm gonna deny your motion for early parole. And I think I've had time to dwell on it well enough to know. I've exercised all the discretion I have. T. p. 669 line 5 – p. 670 line 4.

The court made specific findings on the record as to why he thought that she did not suffer long-term abuse. Although long-term abuse is not based on a specific timeline, that is a matter that should be determined by the trial court. The trial court specifically maintained that he did not believe the Appellant. That to him she did not have any credibility.

Although the court may have misinterpreted the law regarding who is considered a "household member," that error should be considered harmless. Error is harmless when it could not reasonably have affected the result of the trial. *State v. Simmons,* 423 S.C. 552, 566, 816 S.E.2d 566, 573 (2018). In order for the trial court to make a determination that the Appellant is entitled to parole eligibility, the Appellant had to prove by a preponderance of the evidence that there was a history of domestic violence from the victim. The trial court made it clear that he did not believe the story given by the Appellant. The trial court has the authority to determine if a witness is

credible. *See, State v. Johnson,* 413 S.C. 458, 468, 776 S.E.2d 367, 372 (2015) He gave valid reasons as to why her credibility was damaged. The trial court based his decision on the Appellants credibility and her being unable to present credible evidence of long term abuse. The error in the determination that she was not a household member until 2016 was not the basis of his decision. Any error in the interpretation of the statute would not have changed the outcome. The Appellant would have been denied parole regardless if she was determined a household member or not.

The Appellant was obligated to reveal long-term abuse at the hands of the victim. The Appellant only revealed stories with no corroboration. With the Appellant's credibility lacking in the opinion of the court there must be more evidence revealing these abuses. The Appellant failed to present any 911 calls, police reports, or records of any injuries. The only testimony regarding the viewing of any injuries was made just months before the incident occurred. The trial court made the determination that any abuse that occurred only months before the murder does not equate to "long-term" abuse. Since the Appellant failed to prove by the preponderance of the evidence that she suffered a history of domestic abuse at the hands of the victim, the decision of the trial court denying parole eligibility was correct. This decision should be affirmed by this court.

CONCLUSION

The trial court made the proper decisions regarding this matter the Respondent respectfully request this court to affirm the decision of the trial court.

Respectfully submitted,

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August 28, 2020

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
The Honorable Lee S. Alford, Circuit Court Judge
Appellate Case No. 2019-001117

THE STATE,

RESPONDENT,

vs.

AMY N. TAYLOR,

APPELLANT.

CERTIFICATE OF SERVICE

I, Donna D'Alessio, am an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Initial Brief of Respondent, Designation of Matter, and Certificate of Service has been forwarded to Appellant's counsel, Jessica M. Saxon, Esq., jsaxon@sccid.sc.gov, and to her assistant at mallgire@sccid.sc.gov, via email today, August 28, 2020, and by depositing one copy of the same in the United States mail, postage prepaid, and addressed to her attorney of record: Jessica M. Saxon, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 28th day of August, 2020.

Donna D'Alessio

Donna D'Alessio,
Legal Assistant to Tommy Evans, Jr.
Assistant Attorney General

Donna D'Alessio

From: Donna D'Alessio
Sent: Friday, August 28, 2020 11:44 AM
To: 'jsaxon@sccid.sc.gov'
Cc: 'mallgire@sccid.sc.gov'
Subject: Taylor, Amy N. - Appellate Case No. 2019-001117, Initial Brief of Respondent, Designation of Matter and Certificate of Service
Attachments: Taylor, Amy N. - Appellate Case No. 2019-001117 - Initial Brief of Respondent, DOM and Certificate of Service 8-28-20 (02365803xD2C78).pdf

Dear Ms. Saxon:

Attached is a scanned copy of the Initial Brief of Respondent, Designation of Matter, and Certificate of Service regarding the above matter. A paper copy is being mailed to you this afternoon. The Initial Brief and supporting documents are being submitted to the South Carolina Court of Appeals through e-filing, along with a copy of this email.

Hope you are well, and thank you.

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