

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Oct 14 2020

Appeal from Spartanburg County

SC Court of Appeals

Honorable Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

APPELLANT

APPELLATE CASE NO 2019-001117

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

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?

STATEMENT OF THE CASE

On June 7, 2019, a Spartanburg County grand jury indicted Appellant for one count of murder and one count of possession of a weapon during the commission of a violent crime. R. 266. The state, represented by Eddie Hunter and Hope Coleman-Hicks, called the case to trial before the Honorable Lee Alford and a jury on June 24, 2019. R. 1. Beverly Jones represented Appellant. R. 1.

On the third day of trial Appellant entered a guilty plea to one count of murder. R. 42-54. The following day Judge Alford sentenced Appellant to forty-five (45) years imprisonment. R. 59. On June 28, 2019, a hearing was held to determine if Appellant qualified for the one-fourth parole eligibility as a victim of domestic violence pursuant to S.C. Code Ann. § 16-25-90. R. 61-63. Judge Alford ruled that Appellant had not met her burden of proof and was therefore not entitled to one-quarter parole eligibility pursuant to S.C. Code Ann. § 16-25-90. R. 247-262.

Following the conclusion of that hearing, Appellant moved for a sentence reconsideration. R. 261. 262. Judge Alford reduced Appellant's sentence to thirty-five (35) years imprisonment. R. 263-265. On July 2, 2019 Appellant filed a notice of appeal. At the direction of the Court of Appeals, Appellant filed an explanation of appeal pursuant to Rule 203 (d)(1)(B), SCACR on July 17, 2019, and this appeal was allowed to proceed.

This brief follows.

STANDARD OF REVIEW

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. Laney, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006). “An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” State v. Black, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012) (quoting State v. Jennings, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)). The appellate court does not reevaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial judge's ruling is supported by any evidence. State v. Winkler, 388 S.C. 574, 583, 698 S.E.2d 596, 601 (2010).

ARGUMENT

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.

Relevant Facts

Taylor and Sprouse’s Relationship

Appellant Amy Taylor (hereinafter Amy) first met the decedent, James Sprouse (Sprouse), when she was fourteen years old, in 1999. R. 102, ll. 12-15. At that time Sprouse worked for Jason Lyda¹ in an automotive repair garage. R. 102, ll. 16-20. There was a twenty-five-year age gap between Amy and Sprouse. R. 5, ll. 8-9; R. 103, ll. 5-9. Amy and Sprouse remained friends, working together at the garage over the course of many years. R. 4, ll. 6-11. In 2010, Amy and Sprouse began a sexual affair that spanned several years. R. 108-109.

During 2012, Amy, her second husband,² and their children were evicted from their home due to financial problems. The decedent offered them a place to stay. R. 105, ll. 14-17. The two families lived together in a two-bedroom trailer for a few months before Amy and her family

¹ Jason Lyda was Amy’s first husband. They were married in North Carolina, with parental consent, when Amy was fifteen years old. Together they had one child, Destiny Lyda, who was charged as an accessory in the death of Sprouse. Lyda and Amy divorced in 2003 after Lyda attempted to kill Amy and Destiny. He was ultimately convicted of criminal domestic violence. The marriage lasted roughly three years. R. 103, l. 10-R. 104, l. 8; R. 147, ll. 9-23.

² Amy married her second husband, Kenny Taylor, a few years after divorcing Lyda. Together they had two daughters, one born in 2005 and the second born in 2011. R. 57-58; R. 104-107.

were able to find a new place to stay. Amy and her family ultimately ended up moving back in with the Sprouses in 2014. R. 106-107. During this period Amy and Sprouse continued their affair. R. 109, ll. 2-5. Eventually the marriages of Amy and Sprouse ended. After their respective spouses moved out of the trailer, Amy and Sprouse began to live together openly as a couple. R. 108, l. 24-R. 109, l. 14.

In addition to having a romantic relationship with Sprouse, Amy also acted as his caretaker, particularly in the last two years of his life. R. 110, ll. 15-16; R. 169, ll. 2-9. Amy coordinated and accompanied Sprouse to doctor's appointments, gave him his various medications, and took care of the home. R. 112, ll. 5-16. Sprouse suffered from various health problems including COPD, diabetes, and heart problems. R. 188, ll. 10-16. Both Sprouse and Amy abused Sprouse's Percocet and Xanax prescriptions and Amy purchased additional pills from an acquaintance. R. 125-126.

Amy described Sprouse as having a "nasty temper" that got worse as his health declined. R. 117, ll. 6-11. She further stated that he had a "violent streak" that caused her to fear Sprouse at times. R. 126, ll. 20-25. Added to that fear was the fact that Sprouse had numerous guns in the home and that he had threatened to "put a cap in people's asses" that owed him money as well as "put a cap" in Amy's family's ass. R. 114-116.

Amy stated the first time that Sprouse struck her was many years into their relationship. They had been in the garage working when something Amy said angered Sprouse. R. 118, ll. 3-24. Sprouse struck Amy in her face with enough force to knock her off of the table she was sitting on. Amy suffered a broken tooth and facial bruises as a result of the incident. R. 119, ll. 7-16.

The next time Sprouse struck Amy, he again hit her in the face for being a “smart aleck” to him while they were in their bedroom and the children were at school. R. 120, ll. 1-23. Sometime after that, while trying to find keys for a metal safe, Sprouse again became angry with Amy and set the safe down on her feet. As a result, she suffered some broken toes and numerous bruises. R. 121, ll. 4-19. Sprouse even threw Amy against the interior wall of their trailer in January of 2017. Amy had bruises along her chest, side and leg that her eldest daughter, Destiny, observed after the incident. R. 122, l. 14-R.123, l. 5.

Amy described not only the physical abuse inflicted upon her by Sprouse but mental and emotional abuse as well. Sprouse threatened to “shoot up” the house or “pop a cap in somebody’s ass” and stated he was not afraid of going back to jail. R. 126, l. 23-R. 127, l. 1. He repeatedly threatened to kick Amy and her children out of the home when they had no where else to go. R. 80, ll. 11-13; R. 125, l. 9-10. He threatened to beat Amy’s “ass” and stated he would shoot her and her children if she ever tried to leave. R. 117, ll. 16-17; R. 150, ll. 21-23.

Sprouse’s Death

On March 2, 2017, the day before Sprouse’s death, Sprouse became angry and accused Amy of taking some of his pills. During the argument Sprouse grabbed a gun and shot in the direction of Amy, leaving bullet holes in the wall. R. 127, l. 14-R, 128, l. 2. Amy texted their neighbor, Michael Head, and told him that Sprouse had “shot up” the house. When Sprouse learned that Amy had told Head what had happened he became even more angry and told her in a text that “what I do here is no damn body business.” R. 40-436; R. 128, ll. 3-18.

That night Amy slept on the couch with her youngest daughter. Throughout the night Sprouse paced through the trailer, mumbling and cursing. Amy heard Sprouse repeatedly say “I’m going to get you” and “I’m gonna kill you, bitch” as he moved through the home that

evening. R. 128-130. Sprouse's words and actions that evening left Amy in fear for her life. She believed that Sprouse has "flipped his gourd" and she did not know what he would do. R. 128, ll. 11-12; R. 129, ll. 21-22.

After a stressful and fear filled evening Amy awoke the next morning afraid of what Sprouse might do to her. R. 128. Amy entered the bedroom and was walking to the closet when she noticed the gun sitting in the top drawer of a chest of drawers. Sprouse was in the bed talking and as Amy walked by, he leaned toward chest of drawers and extended his arm. Amy thought that Sprouse was reaching for the gun and was going to kill her. She grabbed the gun and shot Sprouse, killing him. R. 130; R. 138-139.

The Police Investigation

On March 4, 2017, Spartanburg County Sheriff's Office received a call from James Fowler. Fowler stated that his son, Anthony Fowler,³ had just told him that his "girlfriend's mom had shot her boyfriend." Fowler said his son told him that there was "blood all over the place and bullet holes in the walls" and that the police had been called. However, because the coroner was busy, Anthony said they had been instructed to place the body of the boyfriend in a tarp and move him out into a field. R. 2, l.11-R. 3, l. 16.

Deputies responded to Amy and Sprouse's home to perform a welfare check. R. 7, ll. 8-16. They spoke with Amy and were given permission to walk through the mobile home. R. 8, ll. 7-15. Inside deputies observed fresh spackling on the living room wall and what appeared to be blood on the floor and walls of the back bedroom. They also saw that the box spring was on its side, the mattress was not in the trailer, the bedding was in a number of trash bags and there were

³ Anthony, who was nineteen, was dating Appellant's daughter Destiny, who was sixteen, at the time of the incident. Anthony was also living in a camper on Appellant and Sprouse's property at the time of the incident. R.74-483; R.85

latex gloves and cleaning supplies on the dresser. R. 8, l. 17-R. 9, l. 2. Based on those observations the deputies called for investigators to respond to the scene. R. 22, ll. 8-24.

Investigators arrived on scene and discovered the body of Sprouse wrapped in a tarp, roughly two to three hundred yards into the woods. R. 23, ll. 7-14. Amy, Destiny, and Anthony Fowler were separately transported to the Sherriff's office to be interviewed. Search warrants were drawn and executed at the mobile home and on the various vehicles found at the property. R. 10, ll. 20-22; R. 12, ll. 6-10; R. 13, ll. 2-8. Law enforcement also received consent to search the cellphones of Amy, Destiny and Anthony. R. 27, ll. 15-20; R. 28, ll. 17-18.

The investigation concluded that Sprouse had been shot and killed on the previous morning, March 3, 2017. Amy had told Destiny and Anthony that she called the police who instructed her to remove Sprouse's body from the home in a tarp and place it in the woods until the coroner could arrive. Amy gave various versions of the events leading up to the death of Sprouse before eventually stating that Sprouse had beaten her, she was afraid of him and that she had shot him because she thought he was going to kill her. R. 16-21.

The Expert Testimony of Dr. Lois Veronen

Dr. Loise Veronen is a clinical psychologist who has devoted her career to the research of how violence or traumatic events impact the functioning of women. R. 155-156. In the legal field this area of study is often referred to as Battered Women's Syndrome. R. 157, ll. 12-17. The court qualified Veronen as an expert in "clinical psychology with research, variance in victims of violence." R. 157, ll. 4-9.

Veronen testified that abuse manifests in many forms, not just physical violence. She identified threats of violence, control of contacts, and isolation as forms of emotional or mental abuse. She stated that any of these forms of abuse can be used to batter or control a woman. R.

159, ll. 2-10. In describing how fear and anxiety can impact the reaction of a victim of violence

Veronen stated:

In general, what we find is that people who had those kinds of histories, they become sensitized to potential for violence. So they may recognize small cues that somebody is going to be violent because they have this intimate association and knowledge of them. You know, could be the change in the voice tone. That means that violence is imminent. Or it could be, you know, movement toward. But women who have a close, intimate relationship usually are generally more attuned to when violence is imminent ... their reaction may be, you know, quicker than it would be. Other people might not view it as the same threat, but because of their close association with that individual, they may view it as very threatening. Their state of mind is different potentially than, you know, how another person might view it.

R. 177, l. 10-R.181, l. 2.

Veronen met with Amy and interviewed her over the course of three days and eight or nine hours. R. 181, ll. 17-23. She performed various psychological and personality test and conducted a lengthy clinical interview with Amy. R. 165-166. Veronen stated that the tests were designed to catch attempts to manipulate them and she believed Amy was truthful in her responses. R. 200, l. 20-R. 201, l. 25. The interview and tests revealed that Amy was suffering from identifiable substance abuse and multiple clinical diagnoses. R. 170, ll. 15-22. Further, the test showed Amy had very poor self-esteem and poor reasoning skills which could have led to instances where her thinking was severely impaired. R. 171, ll. 4-10.

Veronen found that Amy and Sprouse had a co-dependent relationship and that Amy was particularly dependent on Sprouse for a place for her and her children to live. R. 175, ll. 13-17. Veronen noted that Sprouse had paid to have a drug arrest expunged from Amy's records following a 2014 arrest but then continued to give Amy drugs to support her habit. R. 186, ll. 16-23. She stated that Amy likely did not exercise "options or opportunities" to leave the

relationship, call the police, or do other things to remove herself from the situation because of how co-dependent the relationship was for her. R. 175, ll. 13-19.

Veronen concluded that Amy had suffered multiple events of a violent nature and a very traumatic event of being shot at on the day prior to Sprouse's death. R. 174, ll. 19-23. Based on the data from the tests and the clinical interview, Veronen opined that Amy's perception of danger posed by Sprouse on the morning of March 3, 2017, was highly significant and that Amy was "very, very fearful." R. 175, ll. 2-5. When Amy fired the gun, she was in a "high state of fear and anxiety ... in a state of fear, terror, for herself and her children." R. 175, l. 23-R. 176, l. 2. Given Amy's history with Sprouse and the incident the evening before, Veronen determined that Amy's response the morning Sprouse was killed was reasonable. R. 176, ll. 8-10.

The state, after having its expert review Veronen's testing data, reports, and findings, focused its cross-examination on minor errors in her report, such as the age of Sprouse at the time of his death or the number of years in age between Amy and Sprouse. R. 182, ll. 18-24; R. 186, ll. 13-R. 187, l. 8. The state confirmed that all of the information Veronen received was from the discovery materials and her meetings with Amy. R. 200, ll. 1-7. Veronen also stated that Amy knew the purpose of the meetings with Veronen was to determine Amy's "history of victimization and the nature of her relationship" with Sprouse which could potentially be used as a defense or mitigation during Amy's trial. R. 190, ll. 8-21.

Testimony of Other Witnesses at the Domestic Violence One-Quarter Parole Eligibility Hearing

In addition to Amy and Dr. Veronen, defense counsel also called Virginia Lee Teague and Destiny Lyda to testify during the one-quarter parole eligibility hearing. Teague testified that when Amy was married to her second husband, she and Amy became friends. She had known Amy for about ten years and at the beginning of their friendship Amy would sometimes

watch her daughter for her. R. 62, l. 1-13. When asked about her relationship with Amy in the years leading up to Sprouse's death, Teague stated, "I wouldn't say we were friends, but I wouldn't say we weren't friends. Like, we were acquaintances." R. 63, l. 4-10. Eventually, Teague became Amy's drug dealer, supplying her with prescription pills. R. 63, ll. 13-22.

Teague recalled two times, in the roughly eight weeks before Sprouse's death, that Amy had come to her home to get pills with visible injuries. R. 64, ll. 5-10. Once Amy had a bruise on her face and the second time Amy had broken toes. Amy told her that the injuries were from Sprouse hitting her. R. 64, ll. 12-25. Amy told Teague that Sprouse had shot live rounds in the house and said, "if I end up dead you know who did it." R. 65, ll. 6-7; R. 66, ll. 23-25. When Teague asked Amy why she did not leave Sprouse, Amy told her she had no where else to go. R. 65, ll. 7-10. Teague testified that she never saw anything happen, that she did not know Sprouse personally and that she had heard nice things about Sprouse. R. 72, ll. 4-7.

Destiny testified that when her mother and Sprouse would argue she would take her younger sisters inside of her bedroom to shelter them from what was happening. R. 79, l. 1-21. While Destiny never saw Sprouse be physically violent toward her mother, she would hear Sprouse threaten to kick them all out of the house and threaten to hit her mother. R. 80, ll. 11-13; R. 94, ll. 1-9. Destiny also heard Sprouse loudly talk about his guns and angrily threaten to shoot people, stating he would "blow a cap in their ass." R. 80, l. 19-R. 82, l. 15. She would also hear Sprouse state that he was not "scared to go to jail" and that if they called the police it would not matter because "he had connections and would be able to get out." R. 82, ll. 20-23.

Destiny stated her mother told her about Sprouse hitting her sometimes. R. 93, ll. 4-7. Once, Destiny saw bruises along her mother's side and chest and when she asked what had happened, and Amy said she ran into the side of table. However, Destiny did not think her

mother was telling her what really happened. R. 83, ll. 19-24. In the last few months of his life, Destiny saw Sprouse become moodier, yelling and frightening Destiny. R. 86, l. 23-R. 87, l. 7.

The state called Amy's fourteen-year-old daughter to testify that she thought the marks she had seen on her mother were fake. The minor said she thought that Amy was using makeup to draw on bruises to get attention and openly admitted that she hated Amy. R. 210, l. 8-R. 211, l. 7; R. 213, ll. 5-10. The state did have Dr. Robert Nelson, a psychological expert, present at the hearing who reviewed Dr. Veronen's testing data and reports, but Nelson was never called to testify. TR. 586-588.

The Trial Court's Ruling

At the conclusion of the testimony the trial court stated that the defendant had the burden of proof to show "by trustworthy evidence, credible evidence ... that she [Amy] meets the definition of a battered, in this case, girlfriend I guess, since they weren't married." R. 215, l. 22-TR. 216, l. 2. Respectfully, defense counsel was often interrupted by the court during her presentation of proof for the statutory "domestic abuse" element. R. 216-236; R. 241-246. Prior to issuing its ruling, the court made observations about the nature of Amy and Sprouse's relationship.

The trial court stated that Amy and Sprouse had not been in an "open relationship" until sometime after "August 2016 up until she killed him." While the court noted that the two were in an illicit sexual relationship for a number of years during which they did live together, what mattered for the purposes of the domestic violence statute was the amount of time that Amy and Sprouse were in a relationship openly as a couple. R. 223-224.

In discussing when S.C. Code Ann. § 16-25-90 was applicable that court stated,

"You know the statute is a special statute. It is very specific. It's specifically addressed to those situations where

you've got a spouse subjective to domestic abuse over a long period of time and is dominated basically controlled, totally controlled by somebody. And there is domestic abuse over a long period of time. That's not what we have here, is what I'm telling you. I don't see that here."

R. 241, ll. 18-24. Defense counsel argued that they were not required to prove that Amy was under total control of Sprouse but that there was a credible history of domestic abuse. R 242, ll. 1-6. In response the court stated, "You know about spousal abuse like that and domestic violence abuse, it's just not slapping somebody a couple times. That's not gonna qualify." R. 242, ll. 11-14.

In announcing its ruling on the record, the trial court explained,

"[A]lthough there was some sexual activity between the deceased and the defendant in this case several years earlier, *they weren't living together as spouses at that time in an open relationship of like husband and wife.* They weren't living together like that. And whatever went on with them was some kind of elicit [sic] sexual affair, should say adulterous affair because both of them were married at the time, and that was conducted outside of the marriage."

R. 248, l. 222-R. 249, l. 6. The court determined that the actual amount of time that Amy and Sprouse were living together as a couple was about a "seven-month period" which the court found was not a "long-term relationship as intended by the statute." R. 250, ll. 15-17.

The court found that there was one alleged instance of domestic abuse during that seven-month time period, other than the shooting of the gun. R. 249, ll. 7-9. Based on the testimony and evidence at the hearing the court ruled against Amy stating,

"I don't find credible evidence of any long-term domestic abuse by a partner who was able to put them in a home. I just don't find it. There may be a little. There may be some. The best example being somebody firing off a gun ... and I don't think it meets the test for long-term domestic abuse."

R. 261, ll. 11-25.

Discussion

Appellant Amy showed by a preponderance of the evidence that she qualified for one-quarter parole eligibility pursuant to S.C. Code Ann. § 16-25-90. See State v. Grooms, 343 S.C. 248, 540 S.E.2d 99 (2000). A defendant who presents “credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member” is entitled to be considered for parole after serving one-fourth of their sentence. S.C. Code Ann. § 16-25-90. Pursuant to S.C. Code Ann. § 16-25-20, it is unlawful to cause physical harm or injury or offer or attempt to cause physical harm or injury, to a person’s own household member. “Household member” is defined as “a male and female who are cohabiting or formerly have cohabited.” S.C. Code. Ann. § 16-25-10. There is nothing in the domestic violence statute that requires a male and female who are living together to be living together as a romantic couple, or openly as a couple. The only required element is cohabitation.

The basic principles of statutory construction as applied to criminal statutes have been clearly and repeatedly set forth by the courts of this state. When the terms of the statute are clear and unambiguous, the court must apply them according to their literal meaning. Furthermore, in construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991) (citations omitted).

The record shows that Amy and Sprouse were a male and female that were cohabitating. The two first shared a residence in 2012 for a few months before Amy and her family moved out. Amy and her family moved back in with Sprouse in 2014 and stayed with him until his death in 2017. Based on these facts Amy and Sprouse met the definition of “household members” articulated in S.C. Code. Ann. § 16-25-10.

The trial court focused its ruling on the nature of the relationship between Amy and Sprouse, noting that for the majority of the relationship the two were engaged in an illicit affair. The court stated that the only time the couple was living in a “open relationship” as a couple was in the seven months preceding Sprouse’s death. Relying on a footnote in State v. Hawes, 411 S.C. 188, 767 S.E.2d 707, 709 n.2 (2015), the court found that seven months was not a “long” relationship such that Amy could not establish “long-term” domestic abuse.

In State v. Hawes, *supra*, the South Carolina Supreme Court addressed the failure of the trial court to exercise discretion when it found Hawes qualified for one-fourth parole eligibility after he pled guilty to voluntary manslaughter for the killing of his estranged wife. In the 3-2 opinion, the Court stated in footnote two that “The legislative history of section 16–25–90 indicates that the statute was intended to confer early parole eligibility only to *long-term victims of repeated abuse* at the hands of a household member.” Id. (emphasis added). The Court came to this conclusion by noting the legislative history indicated that 16-25-90 was enacted alongside the defense of battered spouse syndrome. However, the legislative history also indicates that 16-25-90 was meant to confer parole eligibility on an inmate “who has presented evidence of criminal domestic violence *in connection with their offense.*” See Act No. 7, 1995 S.C. Acts 58-59 (emphasis added).

Cases that have addressed S.C. Code Ann. § 16-25-90 have never defined what qualifies as a “history” of domestic violence. Even in Hawes, *supra*, the Supreme Court did not define what it meant by “long-term.” Presumably, the terms have not been clarified because they need to be decided on a case by case basis. Constant emotional and physical abuse suffered for a seven-month period would surely be considered long term abuse by the victim.

Importantly, the combined testimony of the witnesses during the hearing showed that Amy suffered abuse for longer than the seven-month period that the trial court focused on. While the physical violence seemed to occur, or at least escalate, during the months preceding Sprouse's death, the emotional abuse had existed for years. Sprouse supplied Amy with drugs, threatened to kick her and her children out leaving them homeless, threatened to beat Amy up, threatened to harm her and her children if she ever left, and always kept close tabs on Amy's whereabouts. While this was not physical abuse, it was nonetheless abuse that qualified under the domestic violence statute and should have been considered by the trial court.

To be eligible for parole after serving a quarter of her sentence Amy had to show that the relationship between her and Sprouse fell under the domestic violence statute and that there was a history of domestic violence. Amy and Sprouse qualified as household members under S.C. Code Ann. § 16-25-10. Finding that the two were not in an "open relationship" allowed the court to narrow the question of a "history" of domestic violence to a seven-month period instead of the multiple year period it should have considered. This was improper.

The trial court abused its discretion by adding a requirement of an "open" or "romantic" relationship to the domestic violence statute. The trial court further abused its discretion when it found that even though Amy and Sprouse were living together, they were not living together as a couple at the time of the shooting nor had they lived together as a couple long enough to qualify as a long term relationship that could qualify for consideration under S.C. Code Ann. § 16-25-90.

These rulings ignored the plain meaning of the definition of "household member" used in the domestic violence statute, which, when properly applied showed that Amy and Sprouse had lived together for several years and were living together at the time of his death. See State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991) (In construing a statute, words must be given

their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation); S.C. Code Ann. § 16-25-10. The trial court's findings were based on an incorrect application of the definition of "household member" which allowed the court to truncate a multi-year, tumultuous relationship into a seven-month time frame. This was an error of law.

CONCLUSION

For the foregoing reasons, this court should reverse the trial court and find that Amy is eligible for early parole pursuant to section 16-25-90 of the South Carolina Code.

s/Jessica M. Saxon
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Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of October, 2020.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 20014, order from the South Carolina Supreme Court entitled “Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.”

October 14, 2020

s/Jessica M. Saxon

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