STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Horry County
Honorable Larry B. Hyman, Circuit Court Judge
Appellate Case No. 2020-001374

THE STATE, Petitioner,

vs.

ANTWUAN LEVON NELSON, Respondent.

Opinion No. 5768 (S.C. Ct. App. filed August 19, 2020)

PETITION FOR WRIT OF CERTIORARI

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CERTIFICATION OF COUNSEL

Counsel for Petitioner hereby certifies that a Petition for Rehearing was filed in the South Carolina Court of Appeals on September 3, 2020. The Petition for Rehearing was denied by Order filed September 16, 2020.

STATEMENT OF ISSUES ON CERTIORARI

I.

Whether the Court of Appeals erred in holding that the trial court abused its discretion in failing to grant a continuance or mistrial which resulted in prejudice to Nelson.

STATEMENT OF THE CASE

Procedural History

A Horry County Grand Jury indicted Respondent, Antwuan Levon Nelson (Nelson) for murder, a weapons charge and possession with intent to distribute crack cocaine. On June 12, 2017, a jury trial was held in the Horry County Court of General Sessions with the Honorable Larry B. Hyman, presiding. Nelson was represented by Charles Barr, Esquire. Petitioner (the State) was represented by Assistant Solicitors Mary Ellen Walter and Scott Hixon of the Fifteenth Circuit Solicitor's Office. The jury acquitted Nelson of murder and the drug charge, but convicted him of voluntary manslaughter and the weapons charge. Following the verdict, the trial judge sentenced Nelson to twenty-five years for manslaughter and consecutive five years on the weapons charge.

On appeal, Nelson claimed the trial judge erred in refusing to grant a continuance or declare a mistrial when a witness who would have testified for Nelson was in the hospital. (App. 512) The Court of Appeals issued a published opinion reversing and remanding Appellant's convictions for voluntary manslaughter and possession of a weapon during the commission of a violent crime. (App. 547, State v. Nelson, Op. No. 5768 (filed August 19, 2020) (Shearouse Adv. Sh. No. 32 at 19)). Thereafter, the State filed a petition for rehearing with the Court of Appeals on September 3, 2020. (App. 569). The petition for rehearing was denied on September 16, 2020. (App. 579). This Petition for a Writ of Certiorari now follows on behalf of the State.

Factual Background

Michael Rogers, the victim, was shot and killed by Nelson at Broadway Station, a condo or apartment complex in Myrtle Beach. Kristen Bloomer, who lived with the victim and had a child with the victim, was in the apartment when the difficulty between the victim and Nelson began. (App. 279, 283). The victim arrived home with Nelson and the two seemed fine. Shortly thereafter, their voices became hostile with Nelson demanding the victim buy drugs from him. (App. 285-86). Nelson then punched the victim and the two started scuffling throughout the kitchen. (App. 287). After fighting for some time, the victim told Bloomer to get his gun. Instead, she opened the front door and Nelson took off. (App. 289). Bloomer and the victim stayed in their apartment while Bloomer tried to calm the victim down. (App. 291).

The victim and Bloomer left the apartment and headed downstairs. When they got downstairs, the victim was still upset and was yelling for Appellant to come out and fight like a man. (App. 293-94). Bloomer realized it was time to pick up their daughter, and she and the victim went back to their apartment so they could then go and pick up their daughter. Before going back to their apartment, the victim took his shotgun out of the bed of his truck. Bloomer was unsure if he had it when he headed down or not. (App. 291, 296). After several minutes Bloomer and the victim walked to the parking lot. The victim then decided not to go pick up their daughter, and he headed back to their apartment. (App. 298).

As the victim headed back to their apartment, Bloomer saw Nelson emerge from one of the buildings. Nelson crouched down, looked around, and headed for the trunk of his car. He closed the trunk and stood up with a black rifle in his hand. (App. 298). Nelson approached

Bloomer told her to call the victim and tell him to bring Nelson's stuff. She walked off and back toward her apartment. (App. 299).

As she was walking off, she saw the victim emerge behind a doorway. The victim had his shotgun in his hands. Bloomer heard shots as she made it through a breezeway that lead around the apartments. She heard several shots, three to four overall, and when it stopped rushed to the victim's side. (App. 302-03, 306). She did not know whether the victim had ever fired his shotgun, but she did not remove any shells or see anyone disturbing the scene around the victim. (App. 306-06). Nelson approached while taking apart his rifle and Bloomer told him to get away. Nelson then headed toward the trunk of his car. (App. 304).

Officer Mackin arrived at Broadway Station around four in the afternoon to find numerous people telling him someone had been shot and Nelson was the shooter. (App. 27). Nelson, wearing a black jacket, was leaning up against a red older car, possibly a Crown Victoria, with an AR-15 rifle beside him. (App. 28-29, 33-35). Officer Mackin and his partner were told there was a man shot down the alley leading to the back of the complex, so his partner went to tend to the victim. In the area around the victim, Officer Owens testified he saw two shotgun shells, but both were unfired. (App. 60-61) He saw no spent shotgun shells. The two unfired shells were 12 gauge, No. 8 birdshot. (App. 65).

James Garrett, a former supervisor with the Myrtle Beach Police Department, arrived at the scene after Nelson was already in handcuffs. He told Officer Mackin to place Nelson in his vehicle and he would take him to the station. Mr. Garrett did not ask Nelson any questions, but Nelson volunteered: "I shot him because he was going to shoot me." (App. 91-93).

Michelle Cantey lived in the same condo complex as the victim and near where the victim was shot. (App. 95). She heard several gunshots and then a reverberation like a mini

earthquake. (App. 101). She testified the day of the shooting a bullet entered her condo and embedded in the drawer of her end table. (App. 96-97, 103). She indicated she saw an individual wearing black with red trim trying to scale a fence after she heard several gunshots. He appeared to throw something and then run toward the red Crown Victoria. (App. 101-03).

Officer Harlow, along with his K-9 officer Roscoe searched the area along the fence. They located a ball of saran wrap with a green leafy substance as well as a white powder that looked like cocaine. (App. 117). He also found several spent shells near the area where Nelson was located.

Michelle McSpadden, was a former crime scene officer with the Myrtle Beach Police Department. She indicated three fired shells were located that came from the AR-15 rifle fired by Nelson. She indicated the rifle had 16 unfired rounds in the magazine located beside the rifle on the ground. (App. 153-156). She also stated there were two unfired shotgun shells found near where the victim had been shot. She explained the shotgun itself had no shells, fired or unfired, in it when it was collected. (App. 159-60) McSpadden also performed gunshot reside tests on Nelson. (App. 170). A similar test was performed by another officer on the victim. (App. 210). She indicated officers found no evidence of birdshot or other shotgun pellets. She also testified they found no spent shells or the wadding that would have been ejected when the shell was spent. (Rapp. 175-76). According to McSpadden: "We spent quite a bit of time at that scene there, and I feel confident we would have seen evidence of a shotgun blast had it been there." (App. 188).

Jennifer Nates, an agent with SLED's Trace Evidence Section, explained gunshot residue tests and the results of the tests performed on Nelson and the victim. (App. 268-69). She located gunshot residue on the hands of Nelson. (R.271-72) However, she found no gunshot residue on the hands of the victim. (App. 272).

According to Dr. Proctor, the pathologist, the bullet that killed the victim entered the neck. It caused extensive damage to the carotid artery and the jugular vein. (App. 201-03). The jacket of the bullet and the projectile separated in the victim's body, with the projectile exiting and the jacket remaining lodged in the body. (App. 201). The victim died from a gunshot from at least two feet away which struck the victim's neck and caused extensive visceral damage and hemorrhage. (App. 204). With every beat of the victim's heart, "blood would just spew" until he was dead. (App. 204).

In May of 2017, Nelson's case was called to trial for the week of June 12, 2017. (App. 7, 538). Trial began June 12, 2017 and at that time Brockington had not been subpoenaed. (App. 346). Defense counsel admitted that he did not subpoena prior to trial because Brockington was going to be present voluntarily. (App. 348). Defense counsel did notify the court on June 12, 2017, the first day of trial, that Brockington was not there, but did not make a motion to continue at that time. (App. 348). Defense counsel alleges in his affidavit later provided to the court that he subpoenaed Brockington at the hospital on June 12, 2017, but in the Doctor's excuse he also provided to the court, Brockington was not admitted into the hospital until June 13, 2017. (App. 488, 500).

After knowing on the second day of trial that his key witness was in the hospital, defense counsel again did not make a continuance motion. On June 14, 2017, the third day of trial, the State rested and defense counsel acknowledged two of his witnesses were not present one of them being Brockington. (App. 342). Defense counsel admits to the trial court he was not in compliance with Rule 7 because he had not provided an affidavit for the court. (App. 342-43). Still at this time, defense counsel did not make a motion to continue but asked for a recess to comply with Rule 7. (App. 343).

On June 15, 2017, the fourth day of trial, defense counsel provided an Affidavit, Brockington's statement (taken January 27, 2014), and a Work/School excuse from Georgetown Memorial Hospital, then asked the court to declare a mistrial. (App. 347-53, 490-500). The Affidavit indicates Brockington was served with the subpoena while already in the hospital, though counsel misplaced the proof of service so he did not attach either the subpoena or the proof of service. The Affidavit indicates Brockington was expected to testify consistent with her statement given to police, which was provided to the trial court. The statement, by the wife of Nelson's cousin, merely indicates the victim approached her door looking for Nelson while holding a shotgun. She then heard shots fired and indicated the victim fired first and Nelson returned fire. She admitted she could not see victim from where she was located in her apartment, but could only hear the shots fired. She indicated she heard four total shots. Finally, the attached Work/School Excuse indicated Brockington was admitted on June 13, 2017- the second day of trial- and would not be released until cleared by a doctor. (App. 488-500).

The trial court noted: "This is the fourth day. Not only do you have notice of this case going, this is essentially the fourth day of trial of this case." (App. 348). The trial court denied the motion for a mistrial and indicated he would not continue the case. He found the subpoena was not issued until after trial started even though counsel had notice of both Brockington's statement and the fact trial was going forward. (App. 352). The court also found the majority of the testimony Brockington would provide was already in the record and so the continuance or mistrial was not necessary to add cumulative testimony. (App. 352).

ARGUMENT

I.

The Court of Appeals erred in holding that the trial court abused its discretion in failing to grant a continuance or mistrial which resulted in prejudice to Nelson.

The Court of Appeals reversed Nelsons' convictions after concluding the trial judge abused his discretion by failing to grant a continuance or mistrial which resulted in prejudice to Nelson. The Court of Appeals concluded that Nelson's trial counsel complied with Rule 7(b), SCRCrimP, including the requirement that he act with due diligence in attempting to procure the testimony of Lillian Brockington. Furthermore, the Court of Appeals found that her testimony was not cumulative to evidence presented. The State respectfully disagrees with the conclusion of the Court of Appeals and asks this Court to grant the State's Petition for a Writ of Certiorari for two reasons: (1) The trial judge did not abuse his wide discretion in denying the motion for continuance, especially when trial counsel was not in compliance with Rule 7(b) when trying to procure the testimony of an absent witness; and (2) the testimony from the absent witness was cumulative to evidence that had already been presented; and (3) Nelson was not entitled to a self-defense charge so the failure to have the testimony could not have been prejudicial

Motion to Continue

The Court of Appeals compared the present case to two main cases: State v. McMillan and State v. Williamson. They first cite to Williamson, holding that a continuance should have been granted based on Appellant's pregnant wife not being able to testify at his trial. State v. Williamson, 115 S.C. 315, 105 S.E. 697 (1921). The Court of Appeals failed to note the important differences between Williamson and the present case. First, in Williamson, the absent witness was Appellant's wife. "Ordinarily a person tried for a capital felony **has a right** to have

his wife present at trial, and the wife has the right to be present." Id. (emphasis added). Second and most importantly, Appellant in Williamson made the motion before trial began and provided the court with notice of wife's absence, reason for that absence, and the necessity of her testimony. Id. The Court of Appeals also compared this case to McMillian, but again failed to recognize the fact that the Appellant in McMillian moved for a continuance at the outset of the trial. State v. McMillian, 349 S.C. 21, 561 S.E.2d 604 (2002).

Williamson and McMillian are significantly different because Nelson not only did not make a motion before trial, or at the earliest opportunity, but waited until after the State rested its case to make the motion on the fourth day of trial. The Court of Appeals cited State v. Grueling early in its opinion: "Generally, a motion for continuance should be made at the time the underlying reason for such becomes known." State v. Grueling, 257 S.C. 515, 520, 186 S.E.2d 706, 708 (1972). Later in its opinion, however the Court of Appeals incorrectly states: "Additionally, defense counsel could not have sought a continuance prior to the commencement of trial because no grounds existed for such at that time." State v. Nelson, Op. No. 5768 (filed August 19, 2020) (Shearouse Adv. Sh. No. 32 at 19). The Court of Appeals notes that defense counsel approached the trial court on the first day when counsel found out that Brockington wasn't in court, but failed to recognize that the motion to continue could have been made at that time. Id. at 18. They further note that defense counsel subpoenaed Brockington at the hospital on the second day of trial, but again failed to address the fact that the motion to continue could have been made at any point that day when counsel became aware Brockington was hospitalized. Id. The State rested on the third day of trial and the defense counsel then informed the court Brockington was hospitalized. Yet again the court failed to address the fact the motion to continue could have been made at that time. Id. In three separate instances "grounds existed" and

"the underlying reason" for a continuance was clearly known, yet the Court of Appeals came to the puzzling conclusion that "[o]nce defense counsel became aware that Brockington was not going to be available to testify at the appropriate time, he made the proper motion and complied with Rule 7(b)." Id. at 19. Accordingly, the motion was not timely and therefore the issue was unpreserved. State v. Grueling, 257 S.C. 515, 186 S.E.2d 706, (1972).

Compliance with Rule 7(b), SCRCrimP

Next, the Court of Appeals clearly overlooked the components of Rule 7(b), SCRCrimP which states:

> **No motion for continuance of trial shall be granted** on account of the absence of a witness without the oath of the party, his counsel, or agent to the following effect: the testimony of the witness is material to the support of the action or defense of the party moving; the motion is not intended for delay, but is made solely because he cannot go safely to trial without such testimony; and **has made use of due diligence to procure the testimony of the witness** or of such other circumstances as will satisfy the court that his motion is not intended for delay.
>
> (1) When a subpoena has been issued, the original shall be produced with proof of service or the reason why not served endorsed thereon or attached thereto; or if lost the same proof shall be offered with additional proof of the loss of the original subpoena.
> (2) A party applying for such postponement on account of the absence of a witness shall set forth under oath in addition to the foregoing matter what fact or facts he believes the witness if present would testify to and the grounds for such belief.

Rule 7(b), SCRCrimP (emphasis added). The Court of Appeals incorrectly concluded Nelson complied with Rule 7(b).

Initially, there is no evidence in the record Nelson's counsel acted with due diligence to procure the testimony of Brockington. The Court of Appeals and Nelson both agree that this absent witness is extremely important to Nelson's defense, yet Nelson did not subpoena the witness prior to trial. The Court of Appeals noted that defense counsel "did not feel the need to

subpoena Brockington prior to trial because she was going to appear voluntarily." State v. Nelson, Op. No. 5768 (filed August 19, 2020) (Shearouse Adv. Sh. No. 32 at 19). The Court of Appeals recognized that after realizing the witness was not there, defense counsel did not subpoena her until the next day. Id. Black's Law Dictionary defines due diligence as "the diligence reasonably expected from, and ordinarily exercised by a person who seeks to satisfy a legal requirement or to discharge an obligation." BLACKS LAW DICTIONARY 523 (9TH Edition 2009). Not only did defense counsel not subpoena their most important witness before trial but waited another day after he found out she was missing.

When defense counsel eventually did subpoena Brockington on the second day of trial, he was still not compliant with Rule 7(b) requiring that if a subpoena had been issued, the original subpoena and proof of service be provided to the court and if proof cannot be provided, the reason why it cannot be, none of which were provided by defense counsel. Further, the requirement that an affidavit be provided to the court in regard to what the testimony of the witness would be was not satisfied until the fourth day of trial.

In Seay v. Cannon, the Fourth Circuit Court of Appeals came to the exact opposite conclusion of our Court of Appeals did in this present case. In Seay, the Fourth Circuit reversed a mistrial that was previously granted based on a critical witness for the State failing to appear during the course of the trial. Seay v. Cannon, 927 F.3d 776 (4th Cir. 2019). In that case, the State had actually subpoenaed the witness prior to trial and the subpoena directed her to appear on the morning of "each day" of the term of court. Id. The State was in communication with the witness prior to trial and was under the impression that she would appear. Id. When the witness did not appear at trial the State made a motion for a mistrial on the basis of surprise in her nonattendance, which was granted at that time. Id. In reversing, the Fourth Circuit made a

particularly significant finding that seems to be the exact opposite conclusion reached by our Court of Appeals in Nelson. Specifically, the Fourth Circuit stated: "[T]he government relies on the state trial court's finding that the government was 'caught by surprise' when Grant failed to appear in response to the subpoena. According to the government, this factual finding and the lack of any fault on the government's part support the state trial court's determination that a mistrial was warranted for reasons of manifest necessity. We disagree with the government's position." Seay, 927 F.3d at 781. The Fourth Circuit explained the solicitor took a chance by allowing the jury to be empaneled without first ascertaining the witnesses were present and available. Then, the Fourth Circuit faulted the State because "the record shows that the government allowed jeopardy to attach with the awareness that Grant, a critical government witness, might not appear to testify." Id. at 782. The Fourth Circuit determined a "foreseeable possibility that Grant would not appear in time to testify" existed based on the fact she had not appeared for two days despite being served with a subpoena, but the State chose to go forward anyway. Id. Ultimately, the Fourth Circuit concluded "the government's allegation of surprise fails to support the state trial court's finding of manifest necessity" and, thus, held the mistrial was improperly granted, which warranted dismissal of the murder charge based on a double jeopardy violation. Id. at 783.

Here, Defense counsel believed Brockington would voluntarily appear. Instead of exercising due diligence and having Brockington served with a subpoena prior to trial, defense counsel took a chance. Not only did defense counsel take a chance by not serving a subpoena on his key witness to ensure this material testimony before trial, but he waited another day after he realized that Brockington did not voluntarily appear as he thought she would. Rule 7 requires due diligence in procuring testimony not reasonable chance that a witness will "voluntarily show."

Further, the Court of Appeals previously held that "all components of Rule 7(b), SCRCrimP, including that of the attestation under oath, are **strictly required**, and a party asking for a continuance must show due diligence in trying to procure the testimony of the witness, as well as what the party believes the absent witness would testify to and the basis for that belief." State v. Colden, 372 S.C. 428, 438, 641 S.E.2d 912, 918 (Ct. App. 2007). The Court of Appeals now seems to suggest whether or not to comply with the South Carolina Rules of Criminal Procedure is discretionary to counsel.

In criminal cases, the appellate court sits to review errors of law. State v. Cutter, 261 S.C. 140, 199 S.E.2d 61 (1973). The Court of Appeals is limited to whether the trial judge abused his discretion. State v. Walker, 366 S.C. 643,653, 623 S.E.2d 122, 128 (Ct. App. 2005). "An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support." State v. Meggett, 398 S.C. 516, 523, 728 S.E.2d 492, 496 (Ct. App. 2012

The Court of Appeals seems to come to its own factual conclusion that it would not have mattered whether defense counsel subpoenaed Brockington prior to trial because she would have been unavailable due to her hospitalization. The Court of Appeals is simply supposed to determine whether the trial judge's ruling is supported by any evidence or in this case lack of evidence. It is entirely speculation by the Court of Appeals whether Brockington would have been available or not, but that is a fact finding it does not get to make.

In State v. Kirton, the Court of Appeals held that "[t]he appellate court does not reevaluate the facts based on its own view of the evidence, but simply determines whether the trial judge's ruling is supported by any evidence." State v. Kirton, 381 S.C. 7, 23, 671 S.E.2d 107, 114 (Ct. App. 2008). The only information with which the trial court was provided was that Brockington was hospitalized and that it may have been for a blood transfusion for sickle cell

anemia. It is unclear whether this procedure was emergent or scheduled. It may have been a routine procedure that could have been rescheduled had Brockington been served with a subpoena and known she was required to be in court. Even if the procedure had been emergent, had Brockington been timely served with a subpoena, she would have known to immediately notify counsel and the court that she was hospitalized and a motion for continuance could have been made prior to trial rather than at the end after the State had presented its case. The Court of Appeal's conclusion that she positively would have been unavailable is not supported by evidence. Further, the Court of Appeals does not get to interject its own factual findings. Its job is to determine whether the trial judge's ruling is supported by any evidence. In this case, the trial judge made his decision on lack of evidence provided to the court that the procedure was emergent. Further, Nelson failed to provide even an estimate as to when the witness would be available to testify. Accordingly, the court should grant the State's Petition for Writ of Certiorari and find counsel failed to comply with the requirements of Rule 7(b) and therefore, the trial court did not abuse its wide discretion in denying motions for continuance and mistrial.

Cumulative Testimony

The Court of Appeals held that Brockington's testimony supported Nelson's claim of self-defense. However, Brockington's testimony is cumulative to the evidence presented at trial. The only new information that the jury would have received by hearing Brockington's testimony is who fired first. It is uncontested that both men were armed and looking for each other as established by evidence presented and Brockington's testimony. At best, this is a mutual combat case and who fired first is irrelevant. "South Carolina law has long recognized that criminal liability may be imposed on all combatants for the death of one of the participating parties because all are presumed to know and intend the consequences that naturally flow from their unlawful acts. State v. Young 429 S.C. 155, 150, 838 S.E.2d 516, 518 (2020). Brockington's

statement clearly indicates that Nelson armed himself and there was a mutual willingness to fight.

Further, Nelson was not entitled to a self-defense charge, and allowing testimony solely related to supporting a self-defense claim would be well within the trial court's wide discretion.

A person is justified in using deadly force when:

> (1) the defendant was without fault in bringing on the difficulty;
> (2) the defendant actually believed he was in imminent danger of losing his life or sustaining serious bodily injury or he actually was in such imminent danger;
> (3) if the defense is based upon the defendant's actual belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief; and
> (4) The defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Sims, 426 S.C. 115, 131, 825 S.E.2d 731, 739 (Ct. App. 2019).

Nelson had multiple opportunities to leave the scene. The State produced evidence that Nelson had fled from victim's apartment and instead of going to his car to leave the scene, he remained in the apartment grounds. The State also produced evidence that showed Nelson went to his car, opened his trunk, armed himself with a rifle then shut the trunk. Brockington's testimony also supports the fact that Nelson went to his car and armed himself. During the time it took for Nelson to get his gun out of the trunk, he could have gotten into his car and left. Nelson cannot claim self-defense if he had other probable means of avoiding the danger. Further, Nelson cannot claim self-defense if he was not without fault in bringing on the difficulty.

This Court has recently ruled that someone who brings a gun to a drug deal is not without fault in bringing on difficulty. State v. Williams 427 S.C. 246, 830 S.E.2d 904 (2019). In State v. Slater, 373 S.C. 66, 69–70, 644 S.E.2d 50, 52 (2007), this Court found a defendant was not without fault in bringing on the difficulty of a shooting and thus was not entitled to a self-defense

charge because defendant's decision to approach an altercation underway with a loaded weapon by his side was the proximate cause of the ensuing gunfight which led to his "accidentally" shooting the victim. Although Slater testified that his purpose for approaching the altercation was to stop what he believed to be a robbery-in-progress, this Court specifically noted the defendant's actions "could be reasonably calculated to bring the difficulty that arose in [that] case." Id.

It is uncontested that Nelson was at Victim's apartment for a drug deal. In fact, Nelson's actions represent an extreme behavior which eclipses that seen in both Williams and Slater. Nelson arrived at a drug deal with a gun, but left it in the vehicle. After that situation escalated, Nelson went to his car, retrieved his weapon, and returned to the confrontation. Unlike the defendants in both Williams and Slater, Nelson was confronted with the potential of a violent confrontation, left, and elected to return. Accordingly, the undisputed evidence shows that Nelson's actions could not, under any scenario and even with the testimony of the missing witness, could not have been considered self-defense. Thus, the Court of Appeals ignored that Brockington's testimony would not have assisted Nelson in this regard and was cumulative to other testimony. This Court should grant the petition for Writ of Certiorari and hold Nelson was not entitled to a charge of self-defense, so he could not have been prejudiced by the failure to present Brockington's testimony since it was only sought to support a claim of self-defense.

CONCLUSION

For all the foregoing reasons, the State respectfully requests this Court to grant this Petition for a Writ of Certiorari.

Respectfully submitted,

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