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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Abbeville County
Honorable Donald B. Hocker, Circuit Court Judge
Appellate Case No. 2020-000091

THE STATE,

Respondent,

vs.

SHI HEME RAQUAN PRICE,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Did the circuit court judge err by denying Appellant's motion for immunity pursuant to the South Carolina Protection of Persons and Property Act when the evidence allegedly showed Appellant was attacked and met all the elements of self-defense, Section 16-11-440(A), and Section 16-11-440(C)?

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did Appellant waive any issue he may have had with the circuit court judge's ruling on his pre-trial immunity claim by subsequently entering an unconditional guilty plea and readily admitting he was criminally responsible for fatally stabbing his unarmed victim, which would preclude him from being able to now raise a valid challenge to the propriety of the circuit court judge's immunity ruling on appeal?

STATEMENT OF THE CASE

In May of 2018, Appellant Shi Heme Raquan Price was arrested following an investigation into a fatal stabbing. In February of 2019, Appellant filed a motion seeking immunity from prosecution pursuant to the South Carolina Protection of Persons and Property Act. In March of 2019, the Abbeville County Grand Jury indicted Appellant for voluntary manslaughter and possession of a weapon during the commission of a violent crime. In June of 2019, a hearing was conducted on Appellant's motion in the Abbeville County Court of General Sessions with the Honorable Donald B. Hocker, circuit court judge, presiding. Subsequent to the hearing, Judge Hocker issued an order denying Appellant's motion seeking immunity, and, a short time later, Appellant filed a motion seeking reconsideration of that ruling. In September of 2019, the Abbeville County Grand Jury indicted Appellant for murder. In January of 2020, the Abbeville County Grand Jury again indicted Appellant for possession of a weapon during the commission of a violent crime. Shortly after that, a pre-trial hearing was held on the reconsideration motion, and, upon considering the matter, Judge Hocker denied it. A jury trial then proceeded forward on the murder charge and the related weapon charge in the Abbeville County Court of General Sessions with Judge Hocker again presiding. However, while the trial was in progress, Appellant decided to enter a guilty plea to the lesser-included offense of voluntary manslaughter, the trial was halted, and a plea hearing was conducted. At the conclusion of the plea hearing, Judge Hocker accepted Appellant's guilty plea and—pursuant to negotiations between the State and the defense—sentenced Appellant to a thirty-year term of imprisonment that was suspended to a two-year term of imprisonment, a two-year term of monitored house arrest, and a five-year term of probation. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

On May 27, 2018, Appellant drove to Abbeville, South Carolina, along with his friend, Terrance Aiken, in an effort to obtain assistance with the installation of some new speakers for his vehicle. (R. p. 39; p. 55; pp. 73-74; p. 83; p. 107). While in the town, the duo randomly encountered Harold Johnson, Jr. and Anthony Patterson, and that chance meeting led the four to gather together in the parking lot of a nearby apartment complex to converse about how to best accomplish Appellant's speaker installation plans. (R. p. 36; pp. 39-40; pp. 50-51; pp. 73-76; pp. 106-107).

A few minutes later, Willie James Bell ("Victim"), who lived at the apartment complex and was familiar with Appellant, approached Appellant's vehicle from the passenger side. (R. p. 60; p. 75; p. 153; pp. 163-166). After doing so, he advised Aiken he was "cool" with him but did not like Appellant. (R. p. 76; p. 86; p. 153). At that point, Appellant and Victim "exchanged words," Victim directed threatening and insulting remarks at Appellant, Appellant loudly told Victim to get away from his vehicle while using offensive language, and Victim eventually began to walk away.[1] (R. p. 40; p. 58; pp. 60-61; p. 67; pp. 76-77; p. 90; pp. 94-95; pp. 122-123; pp. 128-129; pp. 134-136; pp. 153-154). However, not long after that, Victim suddenly stopped, turned around, and began advancing in the direction of the driver side of Appellant's vehicle. (R. pp. 61-62; p. 80; pp. 110-111; p. 128; p. 155).

When Victim did so, Appellant voluntarily exited his car while armed with a hunting knife and displayed the weapon.[2] (R. p. 47; p. 63; p. 157; p. 177). Moments later, Victim

[1] More specifically, Victim allegedly told Appellant he was going to "wet [him] up," "kick [his] ass," and make him leave his "hood." (R. p. 40; p. 67; p. 111; p. 125; pp. 134-135).

[2] Later on, Appellant candidly explained it would not have been a "good look" to sit in the vehicle and wait for Victim as he advanced towards him. (R. p. 155).

reached Appellant's position and punched Appellant's glasses off, and Appellant quickly responded by repeatedly stabbing Victim with his knife, which resulted in a fatal puncture wound to Victim's colon. (R. p. 157; p. 178; p. 245).

Immediately after that, Appellant, who neither lived at the apartment complex nor in Abbeville, rapidly fled from the area in his vehicle and headed towards his mother's house in Honea Path, South Carolina. (R. p. 71; p. 106; p. 179). Along the way, he disposed of his knife by tossing it from his moving car. (R. pp. 92-93). Then, after stopping at his mother's home, Appellant headed to Greenwood, South Carolina. (R. p. 182). However, by that point, law enforcement officers were actively searching for him, and Appellant prudently decided to surrender himself. (R. p. 158; pp. 181-182). Upon doing so, he was swiftly arrested for Victim's murder. (R. pp. 14-15; p. 158).

Subsequent to his arrest, Appellant sought immunity from prosecution pursuant to the South Carolina Protection of Persons and Property Act, and a hearing was conducted on the matter. (R. pp. 16-17; pp. 32-34). During the course of the hearing, Appellant and several of the people present at the scene offered testimony about the events that led to Appellant's deadly physical encounter with Victim. (R. pp. 36-71; pp. 73-103; pp. 105-136; pp. 138-150; pp. 152-183). Notably, that testimony—including Appellant's—established Appellant voluntarily got out of his vehicle when Victim began advancing in his direction following their heated exchange of words. (R. p. 47; p. 63; p. 81; pp. 96-97; p. 133; p. 176). Additionally, that testimony—including Appellant's—established no one saw Victim in possession of any weapons at the time of the incident. (R. p. 71; p. 91; p. 96; p. 132; p. 176). Furthermore, that testimony established Appellant's vehicle had working locks and windows at that time. (R. p. 103).

After considering the evidence and testimony presented during the hearing along with the arguments of counsel, the circuit court judge denied Appellant's request for immunity. (R. pp. 1-4; p. 195). In doing so, the circuit court judge concluded Section 16-11-440(A) of the South Carolina Code of Laws was not applicable in Appellant's case because "[t]he testimony presented during the immunity hearing was clear that Victim did not enter [Appellant]'s vehicle and that [Appellant] was not occupying his vehicle at the time of the incident." (R. p. 1). Furthermore, the circuit court judge concluded neither self-defense nor Section 16-11-440(C) were applicable to Appellant's case because he did *not* find a reasonably prudent person of ordinary firmness and courage would have entertained a belief of being in imminent danger of losing his life or sustaining great bodily injury under the circumstances involved. (R. p. 4).

Following the circuit court judge's ruling, Appellant unsuccessfully sought reconsideration of the denial of immunity before electing to proceed forward to trial on charges of murder and possession of a weapon during the commission of a violent crime. (R. p. 18; pp. 199-225; p. 236). However, after the trial got underway, Appellant changed his mind and decided to enter a negotiated guilty plea to the lesser-included offense of voluntary manslaughter. (R. pp. 236-237; pp. 240-241). Appellant then proceeded to unconditionally plead guilty to that criminal offense and, in doing so, readily acknowledged he was admitting his guilt for killing Victim and understood he was giving up his right to continue advancing his earlier claim of self-defense. (R. pp. 246-248; p. 250).

STANDARD OF REVIEW

In an appeal from a circuit court judge's pre-trial determination regarding a claim of statutory immunity, an appellate court reviews the circuit court judge's ruling for an abuse of discretion. State v. Douglas, 411 S.C. 307, 316, 768 S.E.2d 232, 237 (Ct. App. 2014); see State v. Curry, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013) ("[T]his court reviews [a claim of immunity pursuant to the Protection of Persons and Property Act] under an abuse of discretion standard of review."). Pursuant to the abuse of discretion standard, the appellate court must affirm the circuit court judge's immunity determination if it is supported by any evidence and not controlled by an error of law. Curry, 406 S.C. at 372, 752 S.E.2d at 267; see State v. Glenn, 429 S.C. 108, 116, 838 S.E.2d 491, 495 (2019) ("A trial court abuses its discretion when its ruling is based on an error of law, or when grounded in factual conclusions, is without evidentiary support."); State v. Jones, 416 S.C. 283, 301, 786 S.E.2d 132, 142 (2016) (explaining the standard of review for immunity rulings is a "deferential" one); Douglas, 411 S.C. at 316, 768 S.E.2d at 237 ("[T]he abuse of discretion standard of review does not allow this court to reweigh the evidence or second-guess the trial court's assessment of witness credibility."); see also Reed v. Becka, 333 S.C. 676, 684, 511 S.E.2d 396, 400 (Ct. App. 1999) ("In appeals of pretrial rulings, this Court is 'bound by fact findings in response to motions preliminary to trial when the findings are supported by the evidence and not clearly wrong or controlled by error of law.' " (citation omitted)).

ARGUMENT

Appellant waived any issue he may have had with the circuit court judge's ruling on his pre-trial immunity claim by subsequently entering an unconditional guilty plea and readily admitting he was criminally responsible for fatally stabbing his unarmed victim and, therefore, cannot now properly raise a challenge to the propriety of the circuit court judge's immunity ruling on appeal.

Appellant contends the circuit court judge erred by finding he was not entitled to immunity from prosecution pursuant to the South Carolina Protection of Persons and Property Act ("the Act"). In support of that contention, Appellant maintains he did actually establish all the required elements of self-defense by a preponderance of the evidence despite the circuit court judge's factual determination to the contrary. Additionally, Appellant maintains Section 16-11-440(C) of the Act was applicable because he was attacked in a place where he had a right to be and purportedly reasonably believed he needed to use deadly force in order to prevent death or great bodily injury. Furthermore, Appellant maintains the presumption of reasonable fear established by Section 16-11-440(A) of the Act was applicable because the victim was purportedly in the process of unlawfully or forcibly entering his vehicle at the time of the incident. However, in making those particular arguments, Appellant entirely ignores the fact he waived any issue he may have had concerning the propriety of the circuit court judge's ruling on his immunity claim by subsequently entering an unconditional guilty plea and admitting he was criminally responsible for fatally stabbing his unarmed victim. Accordingly, Appellant cannot now appropriately challenge the propriety of the circuit court judge's immunity ruling on appeal in light of his entry of a valid—and unchallenged—guilty plea to the criminal offense of voluntary manslaughter.[3] Appellant's conviction should be affirmed.

[3] Notably, through his notice of appeal, Appellant has expressly affirmed he "is not appealing the guilty plea." (R. pp. 261-262).

When charged with a crime, a criminal defendant may choose to—and has a right to—enter a guilty plea to the offense.[4] See State v. Armstrong, 263 S.C. 594, 597, 211 S.E.2d 889, 890 (1975) ("Of course it is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced."). By entering a guilty plea in South Carolina, a criminal defendant admits all elements of the charged offense, waives all other non-jurisdictional defects and defenses, and leaves open for review *only* the sufficiency of the indictment. State v. Thomason, 341 S.C. 524, 526, 534 S.E.2d 708, 710 (Ct. App. 2000). As a result, "[a] defendant who pleads guilty usually may not later raise independent claims of constitutional violations." Gibson v. State, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999). In fact, once a guilty plea has been entered, nothing remains but for a circuit court judge to enter judgment against the defendant and determine the appropriate punishment for the admitted crime. See Boykin v. Alabama, 395 U.S. 238, 242 (1969) ("A plea of guilty is more than a confession which admits that the accused did various acts; it is itself a conviction; nothing remains but to give judgment and determine punishment."). Thus, a defendant who pleads guilty following an unsuccessful attempt to obtain immunity cannot validly appeal a ruling denying immunity once such a plea has been entered. State v. Sims, 423 S.C. 397, 402, 814 S.E.2d 632, 634 (Ct. App. 2018).

In the case sub judice, Appellant sought immunity from prosecution prior to trial, and the circuit court judge rejected Appellant's claim of immunity. Thereafter, following the circuit court judge's immunity ruling, Appellant knowingly and voluntarily elected to enter a guilty plea to the lesser-included offense of voluntary manslaughter. In entering that guilty plea, Appellant did *not* improperly condition his admission of guilt on an ability to appeal the circuit court

[4] Although a defendant has a right to plead guilty, a trial judge is under no absolute obligation to accept such a plea. Reed, 333 S.C. at 685, 511 S.E.2d at 401.

judge's denial of his immunity claim or on any other ground. See Easter v. State, 355 S.C. 79, 81, 584 S.E.2d 117, 119 (2003) ("To be valid, a guilty plea must be unconditional."); cf. State v. Downs, 361 S.C. 141, 146, 604 S.E.2d 377, 379-380 (2004) (finding Downs's guilty plea was unconditional because Downs "never attempted to reserve the right to later deny his guilt"). Instead, Appellant solemnly admitted he was criminally responsible for fatally stabbing Victim, which was an admission substantively inconsistent with his earlier claim of having legal justification for the same stabbing, and further specifically acknowledged he was relinquishing his ability to continue pursuing his self-defense claim. Cf. Sims, 423 S.C. at 400, 814 S.E.2d at 633 ("[Sims] does not—and could not—deny that his guilty plea operated as an admission of the conduct alleged in the indictment."). Therefore, by unconditionally admitting he was guilty of the crime of voluntary manslaughter, Appellant waived any defects with his case and any defenses he may have had to his offense, including his claim of entitlement to immunity from prosecution. See Vogel v. City of Myrtle Beach, 291 S.C. 229, 231, 353 S.E.2d 137, 138 (1987) ("A plea of guilty constitutes a waiver of nonjurisdictional defects and defenses, including claims of violations of constitutional rights prior to the plea. *It conclusively disposes of all prior issues* including independent claims of deprivations of constitutional rights." (emphasis added and citations omitted)). Accordingly, consistent with what this Court expressly recognized nearly two years before Appellant entered his guilty plea, Appellant's challenge to the circuit court judge's pre-trial denial of immunity was waived and, thus, cannot now appropriately be considered on appeal.[5] See Sims, 423 S.C. at 402, 814 S.E.2d at 634 (instructing the viability of

[5] Notwithstanding the fact Appellant cannot properly challenge the immunity ruling in light of his entry of a guilty plea, the circuit court judge—who was solely responsible for weighing the evidence and making the relevant factual findings from it when ruling on the immunity issue—did not abuse his discretion by finding Appellant failed to establish entitlement to immunity by a preponderance of the evidence. See State v. Cervantes-Pavon, 426 S.C. 442, 451, 827 S.E.2d

an immunity claim ends with the entry of a guilty plea); cf. Rice v. State, 585 S.W.2d 488, 494 (Mo. 1979) ("[Rice] waived his right to litigate the issue of self-defense when he entered his guilty plea."). Appellant's conviction should be affirmed.

564, 569 (2019) (explaining "the court must sit as the fact-finding in [an immunity] hearing, weigh the evidence presented, and reach a conclusion under the Act"). That is true because the circuit court judge reached a factually-supported conclusion Appellant—who repeatedly stabbed his unarmed victim with a hunting knife after simply being punched—failed to establish he was in reasonable fear of death or great bodily injury at the time he used deadly force against Victim, which Appellant necessarily had to do in order to be able to validly assert a self-defense claim. See S.C. Code Ann. § 16-11-440(C) (permitting a person who is attacked in another place he has a right to be to stand his ground and meet force with force so long as he *reasonably* believed the use of deadly force was necessary to prevent death or great bodily injury or to prevent the commission of a violent crime); State v. Harvey, 110 S.C. 274, 277, 96 S.E. 399, 400 (1918) (instructing a person may not employ deadly force in self-defense unless there is a reasonable necessity to kill even if the other elements of self-defense are present); cf. State v. Mincey, 14 So. 3d 613, 616 (La. Ct. App. 2009) (holding a rational factfinder could have concluded Mincey did not kill his victim in self-defense because "responding to an oncoming punch by shooting the other person in the chest is an excessive response"); Lambert v. State, 519 A.2d 1340, 1346 (Md. Ct. Spec. App. 1987) (recognizing "the question whether the force used in a given case was unreasonable is usually one for the trier of fact" and concluding Lambert was *not* entitled to have the issue of self-defense submitted to the jury because he used a knife against an unarmed victim and the victim's initial unarmed attack upon him "may have afforded a reasonable basis for a conclusion that the victim intended to inflict *some* harm" but "did not provide a reasonable basis for the belief he intended to inflict serious bodily harm or death or that deadly force was needed to prevent such harm"). Likewise, since Appellant voluntarily exited his vehicle prior to the stabbing, the circuit court judge correctly concluded the presumption established by Section 16-11-440(A) of the Act was not applicable since nothing established Victim was in the process of unlawfully and forcefully entering an occupied vehicle, had already done so, or removed or was attempting to remove another person against his will from an occupied vehicle at the time deadly force was employed. See S.C. Code Ann. § 16-11-440(A) (establishing a presumption of reasonableness *when* the person against whom deadly force is used is in the process of unlawfully and forcefully entering or has unlawfully or forcibly entered an occupied vehicle or is attempting to remove another person against his will from an occupied vehicle); cf. Glenn, 429 S.C. at 122, 838 S.E.2d at 498 ("Subsection 16-11-440(A) . . . does not apply to Glenn for the same reason as in Scott—that the assailant was not in the process of unlawfully or forcefully entering a dwelling or residence." (internal quotations omitted)). Accordingly, even if the immunity issue had not been waived, there nonetheless would have been no proper basis upon which to reverse that ruling on appeal. See State v. Scott, 424 S.C. 463, 471, 819 S.E.2d 116, 119 (2018) ("Because those findings are supported by the evidence, our standard of review requires that we uphold them.").

CONCLUSION

For all the foregoing reasons, it is respectfully submitted the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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Appellant.

CERTIFICATE OF COUNSEL

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

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THE STATE,

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PROOF OF SERVICE

I, Shana Montgomery, certify I have served the within Final Brief of Respondent on Appellant by sending an electronic copy via email to the addresses listed in AIS for the following individuals:

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I further certify all parties required by Rule to be served have been served.
This 22nd day of March, 2021.

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Subject: State V. Shi Price ; Appellate Case No. 2020-000091 ; FBOR and Motion to File Out of Time
Attachments: Price.Motion to File Out of Time (FBOR) (02520228xD2C78).pdf; Price.FBOR (02520157xD2C78).pdf

Good Morning,

Attached please find a copy of the Final Brief of Respondent and Motion to File Out of Time along with the proof of service for State v. Shi Price (2020-000091). Please confirm receipt. This Final Brief and Motion will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System. In addition to the email, a hard copy will be placed in today's mail. Please don't hesitate to contact our office should you have any questions or concerns.

Thank You.

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