



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 03, 2021

Ms. Susan Barber Hackett, Esquire
Division Of Appellate Defense
PO Box 11589
Columbia SC 29211-1589

Mr. William Joseph Maye, Esquire
1000 Assembly St.
Capital And Collateral Litigation Div.
Columbia SC 29201

Re: The State v. Roger D. Grate
Appellate Case No. 2019-000472

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen

CLERK

cc: Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
W. Jeffrey Young, Esquire

Donald J. Zelenka, Esquire
Jimmy A. Richardson, II, Esquire
The Honorable Steven H. John

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Roger D. Grate, Appellant.

Appellate Case No. 2019-000472

Appeal From Horry County
Steven H. John, Circuit Court Judge

Unpublished Opinion No. 2021-UP-384
Submitted October 1, 2021 – Filed November 3, 2021

AFFIRMED

Appellate Defender Susan B. Hackett, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General W. Jeffrey Young, Deputy Attorney
General Donald J. Zelenka, Senior Assistant Deputy
Attorney General Melody Jane Brown, Assistant
Attorney General William Joseph Maye, all of Columbia,
and Solicitor Jimmy A. Richardson, II, of Conway, for
Respondent.

PER CURIAM: Roger D. Grate appeals his convictions and concurrent sentences of thirty-five years' imprisonment for murder and five years' imprisonment for possession of a weapon during the commission of a violent crime. On appeal, he argues the trial court erred in admitting prior bad act evidence to show habit and the absence of mistake or accident under Rules 404(b) and 406, SCRE. We affirm pursuant to Rule 220(b), SCACR.

Any error in admitting the testimony of the prior bad act was harmless based on other competent evidence conclusively proving guilt, such that no other rational conclusion could have been reached. *See State v. Byers*, 392 S.C. 438, 444, 710 S.E.2d 55, 58 (2011) ("To warrant reversal based on the wrongful admission of evidence, the complaining party must prove resulting prejudice."); *State v. Brown*, 344 S.C. 70, 75, 543 S.E.2d 552, 554-55 (2001) ("Whether an error in the admission of evidence is harmless generally depends upon its materiality in relation to the case as a whole."); *State v. Pagan*, 369 S.C. 201, 212, 631 S.E.2d 262, 267 (2006) ("[A]n insubstantial error not affecting the result of the trial is harmless where 'guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached.'" (quoting *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989))). At trial, eyewitness testimony showed the victim did not aggressively approach Grate. Additionally, Grate did not allege the victim was acting in a manner to suggest Grate actually believed he was in imminent danger of harm. *See State v. Slater*, 373 S.C. 66, 69-70, 644 S.E.2d 50, 52 (2007) (stating that to establish self-defense, "the defendant . . . must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury[,] and "if his defense is based upon his belief of imminent danger, [the] defendant must show that a reasonably prudent person of ordinary firmness and courage would have entertained the belief that he was actually in imminent danger and that the circumstances were such as would warrant a person of ordinary prudence, firmness, and courage to strike the fatal blow in order to save himself from serious bodily harm or the loss of his life"). Though Grate claims he acted in self-defense and accidentally shot the victim, the evidence does not support this contention. Specifically, evidence regarding his concealed weapons permit, ownership of the gun used to shoot the victim, and use of it months prior to the shooting shows Grate was familiar with the gun used in the shooting and had training in using firearms. Based on the competent evidence the State presented at trial, we find any error in admitting the testimony of the prior bad act could not reasonably have affected the result of the trial.

AFFIRMED.¹

KONDUROS, HILL, and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.