

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Nov 12 2021**

**SC Court of Appeals**

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRYAN AUSTIN SEIDLE,

APPELLANT.

APPELLATE CASE NO. 2020-001485

INITIAL BRIEF OF APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Did the trial judge abuse his discretion by excluding evidence the decedent was a registered sex offender where appellant was acutely aware of that status since the evidence was relevant to appellant's state of mind during the confrontation with the decedent, particularly as to whether appellant had a reasonable apprehension of violence from the decedent, an element of his self-defense case, and where excluding this evidence violated appellant's due process right to present a complete defense?

## STATEMENT OF THE CASE

A Florence County Grand Jury indicted appellant on September 27, 2018 for the offense of murder. R. \* (Indictment). A pretrial hearing was held on September 8, 2020 before the Honorable Michael G. Nettles on appellant's motion to dismiss pursuant to the Protection of Persons and Property Act. See S.C. Code Ann. § 16-11-410, et seq. Assistant Solicitor J. Ryan White represented the state. Tr. 1. Christie Wise Henderson and W. Vickery Meetze represented appellant. Tr. 1 Judge Nettles ultimately denied appellant immunity from prosecution.

A second pretrial hearing was held on October 15, 2020 before Judge Nettles to address several motions *in limine*. Tr. 1. Appellant's case came on for trial on October 19, 2020 before Judge Nettles, and a jury. Tr. 1. Assistant Solicitors J. Ryan White and David Richardson represented the state. Tr. 1. Christie Wise Henderson and W. Vickery Meetze represented appellant. Tr. 1 On October 23, 2020, the jury found appellant guilty as indicted. Tr. 374, ll. 5-15. He was sentenced to thirty years imprisonment. Tr. 380, ll. 11-15.

This appeal follows.

## STATEMENT OF FACTS

In May 2018, appellant, then twenty-six years old, lived in Florence with his mother, Donna Toro, and his younger sister Conner Jean (“CJ”) Toro. Tr. 224, ll. 14-19 (October 19-23, 2020). CJ is disabled. She suffers from epilepsy and seizures. She also has a learning disability and difficulty managing her anger. Tr. 221, l. 10 – 222, l. 4 (October 19-23, 2020); Tr. 13, l. 12 – 14, l. 4 (September 8, 2020). Appellant had always helped care for CJ and he was very protective of her. Tr. 13, l. 20 – 14, l. 4 (September 8, 2020); Tr. 221, l. 6 – 222, l. 4 (October 19-23, 2020).

Appellant’s parents separated in 2016 and his father moved to Michigan. Tr. 220, ll. 16-22 (October 19-23, 2020); Tr. 222, ll. 5-11 (October 19-23, 2020). On the day appellant’s father left, appellant’s mother began dating Michael Ingersoll, the decedent. Tr. 222, ll. 12-14 (October 19-23, 2020). Ingersoll was well known to the family as he had worked for appellant’s father, who owned a painting and construction business, while appellant was an adolescent. Tr. 222, ll. 15-23 (October 19-23, 2020). Ingersoll lived “a few homes down the street” from the home appellant shared with his mother and sister. Tr. 7, l. 13 – 8, l. 1 (September 8, 2020); Tr. 87, ll. 7-10 (October 19-23, 2020).

Ingersoll was a registered sex offender. As a child, appellant was told he could not “be alone with him [Ingersoll] without a parent or an adult” present.<sup>1</sup> Tr. 16, l. 9 – 17, l. 12 (September 8, 2020). Appellant also knew Ingersoll carried at least two knives on his person. Tr. 223, ll. 2-4 (October 19-23, 2020).

On May 26, 2018, appellant was home with his mother and sister. His then girlfriend, Deola Sara Foxworth was also there. Tr. 224, ll. 22-25 (October 19-23, 2020). They were “hanging

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<sup>1</sup> As discussed *infra*, the trial judge refused to admit evidence Ingersoll was a registered sex offender. Appellant testified regarding Ingersoll’s sex offender status during the pretrial immunity hearing held on September 8, 2020. Tr. 16, l. 9 – 17, l. 12 (September 8, 2020).

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Appellant’s parents separated in 2016 and his father moved to Michigan. Tr. 220, ll. 16-22 (October 19-23, 2020); Tr. 222, ll. 5-11 (October 19-23, 2020). On the day appellant’s father left, appellant’s mother began dating Michael Ingersoll, the decedent. Tr. 222, ll. 12-14 (October 19-23, 2020). Ingersoll was well known to the family as he had worked for appellant’s father, who owned a painting and construction business, while appellant was an adolescent. Tr. 222, ll. 15-23 (October 19-23, 2020). Ingersoll lived “a few homes down the street” from the home appellant shared with his mother and sister. Tr. 7, l. 13 – 8, l. 1 (September 8, 2020); Tr. 87, ll. 7-10 (October 19-23, 2020).

Ingersoll was a registered sex offender. As a child, appellant was told he could not “be alone with him [Ingersoll] without a parent or an adult” present.<sup>1</sup> Tr. 16, l. 9 – 17, l. 12 (September 8, 2020). Appellant also knew Ingersoll carried at least two knives on his person. Tr. 223, ll. 2-4 (October 19-23, 2020).

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out” in the living room and watching television. Tr. 225, ll. 1-4 (October 19-23, 2020). Ingersoll arrived at the home sometime between five and six o’clock that evening. Tr. 225, ll. 5-6 (October 19-23, 2020). He joined the family in the living room. Tr. 225, ll. 9-11 (October 19-23, 2020). As they were “hanging out,” Ingersoll smoked marijuana. Tr. 225, ll. 12-13 (October 19-23, 2020).

About thirty minutes after Ingersoll arrived, a man drove up “almost to the front door” on a moped and “called Mike [Ingersoll] outside.” Tr. 225, l. 21 – 226, l. 1 (October 19-23, 2020). Ingersoll purchased “pills” from this man. Tr. 225, l. 25 – 226, l. 1 (October 19-23, 2020). This upset appellant’s mother and she and Ingersoll began arguing. Tr. 225, l. 15 – 226, l. 4 (October 19-23, 2020). The pair argued in his mother’s bedroom for about twenty minutes. Tr. 226, ll. 5-9 (October 19-23, 2020). Eventually, they came out of the bedroom and returned to the living room. Tr. 226, ll. 5-9 (October 19-23, 2020).

Around nine o’clock, Ingersoll and appellant’s mother began arguing again. Tr. 226, ll. 10-21 (October 19-23, 2020). They went into her bedroom and slammed the door shut. Tr. 227, ll. 4-5 (October 19-23, 2020). Appellant and his girlfriend were in the kitchen. Tr. 227, ll. 1-3 (October 19-23, 2020). All of a sudden, appellant’s mother came rushing out of the bedroom. Tr. 227, ll. 5-6 (October 19-23, 2020). She said she “caught him [Ingersoll] in another lie.” Tr. 227, ll. 5-8 (October 19-23, 2020). She grabbed her purse and keys and began walking out the door. Tr. 227, ll. 8-9 (October 19-23, 2020). Appellant told his mother “not to leave him [Ingersoll] here without her.” Tr. 227, ll. 9-11 (October 19-23, 2020). However, she ignored appellant and left him there with Ingersoll. Tr. 227, l. 12 (October 19-23, 2020).

After his mother left, appellant sat on the arm of the couch in the living room. Tr. 227, ll. 12-14 (October 19-23, 2020). He was contemplating whether to ask Ingersoll to leave now that his mother was gone. Tr. 227, ll. 14-15 (October 19-23, 2020). Ingersoll began pacing back and

forth from the bedroom to the back door. Tr. 227, ll. 15-17 (October 19-23, 2020). As he was pacing, appellant saw Ingersoll place a small black object in his right pocket. Tr. 227, ll. 22-24 (October 19-23, 2020). Appellant suspected Ingersoll had taken something that did not belong to him as he had stolen from the family before. Tr. 224, ll. 3-5 (October 19-23, 2020).

After watching Ingersoll pace back and forth three or four times, appellant got off the couch, approached Ingersoll, and told him, "I need you to leave and anything you have in your pockets that belongs to my mom you need to take out." Tr. 227, ll. 16-22 (October 19-23, 2020). Ingersoll denied having anything in his pocket and he refused to leave. Tr. 227, l. 25 – 228, l. 2 (October 19-23, 2020). Ingersoll "was texting on his phone" and said he was trying to get appellant's mother to come back. Tr. 228, ll. 2-3 (October 19-23, 2020); Tr. 243, ll. 11-15 (October 19-23, 2020). After Ingersoll refused to leave, appellant went to his mother's closet and retrieved her rifle. Tr. 228, ll. 3-6 (October 19-23, 2020). He then returned to the couch in the living room. Tr. 228, ll. 3-6 (October 19-23, 2020). Appellant later explained that he retrieved the rifle to scare Ingersoll because he "really just wanted him to leave." Tr. 238, ll. 7-12 (October 19-23, 2020).

Appellant checked to see if the rifle was loaded. There was one round in the chamber. He removed this round and "locked . . . the slide back to the rear." Tr. 228, ll. 7-9 (October 19-23, 2020). Appellant then asked where Ingersoll went and was told he was in the mother's bedroom. Tr. 228, ll. 17-19 (October 19-23, 2020). Appellant walked to the bedroom, opened the door, and "stepped past" Ingersoll who was sitting at the end of the bed. Tr. 228, ll. 19-21 (October 19-23, 2020). Appellant "set the rifle down." Tr. 228, l. 21 (October 19-23, 2020). As soon as appellant put the rifle down, Ingersoll stood up and pulled a knife out of his right pocket. Tr. 228, ll. 22-23 (October 19-23, 2020). When appellant saw the knife, he "snatched the gun up and pointed it at him [Ingersoll] and told him to leave." Tr. 228, ll. 23-25 (October 19-23, 2020).

Ingersoll said, “You won’t shoot me.” Tr. 228, l. 25 (October 19-23, 2020). He then started to walk away. Tr. 228, l. 25 – 229, l. 1 (October 19-23, 2020). When Ingersoll reached the corner on the bed, appellant lowered the rifle. Tr. 229, ll. 1-4 (October 19-23, 2020). Appellant was pointing the gun down when it “ended up going off.” Tr. 229, ll. 4-5 (October 19-23, 2020). The projectile hit the floor. Tr. 229, l. 6 (October 19-23, 2020). After the gun discharged, Ingersoll sat back down on the bed and called 911. Tr. 229, ll. 6-8 (October 19-23, 2020). He told the 911 dispatcher that his girlfriend’s son was pointing a rifle at him and threatening to shoot him. State’s Exhibit No. 2 (Disk with 911 Call). Ingersoll eventually hung up the phone. Tr. 229, l. 19 (October 19-23, 2020).

Appellant left the bedroom and briefly talked to his girlfriend. Tr. 229, ll. 19-23 (October 19-23, 2020). When he returned to the bedroom, Ingersoll “was already coming at [appellant].” Tr. 230, ll. 1-2 (October 19-23, 2020). Ingersoll had a knife in his hand and he looked angry. Tr. 230, ll. 2-5 (October 19-23, 2020). Appellant “just started shooting.” Tr. 230, ll. 6-7 (October 19-23, 2020). Appellant “shot until the gun stopped.” Tr. 230, ll. 6-7 (October 19-23, 2020). He then threw the gun down and walked away. Tr. 230, ll. 8-14 (October 19-23, 2020). Appellant went outside. He called 911 and told the dispatcher that he had killed a man. Tr. 231, ll. 2-7 (October 19-23, 2020). He walked to his backyard and laid down in the grass. Tr. 231, ll. 8-16 (October 19-23, 2020). He tried to call his mother. Tr. 231, ll. 16-17 (October 19-23, 2020). Shortly thereafter, police arrived at the home. Appellant walked up to the officers with his hands in the air and said, “Hey, I’m the shooter. I did it. Over here.” Tr. 231, l. 25 – 232, l. 9 (October 19-23, 2020). Appellant was immediately detained and he fully cooperated with the police. Tr. 232, ll. 17-19 (October 19-23, 2020).

Sometime after midnight, a few hours after the shooting, appellant gave a recorded statement to the police. State's Exhibit No. 20 (Statement on Disk). Appellant did not give a "complete" account of what occurred because he was still "having difficulty processing" what happened. Tr. 239, l. 5 – 240, l. 25 (October 19-23, 2020). He did not mention that Ingersoll charged at him with a knife. State's Exhibit No. 20 (Statement on Disk).

The trial judge charged the jury on self-defense and the lesser included offense of voluntary manslaughter. Tr. 355, l. 18 – 359, l. 23 (October 19-23, 2020). The jury convicted appellant of murder. Tr. 374, ll. 4-15 (October 19-23, 2020).

## **STANDARD OF REVIEW**

“The admission or exclusion of evidence is left to the sound discretion of the [circuit court], whose decision will not be reversed on appeal absent an abuse of discretion’ or the commission of a legal error resulting in prejudice to the defendant.” State v. McCray, 413 S.C. 76, 92, 773 S.E.2d 914, 922 (Ct. App. 2015) (quoting State v. Martucci, 380 S.C. 232, 247, 669 S.E.2d 598, 606 (2008)) (alternation in original). “An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support.” Id. (quoting Martucci, 380 S.C. at 247, 669 S.E.2d at 606) (internal quotation marks omitted).

## ARGUMENT

The trial judge abused his discretion by excluding evidence the decedent was a registered sex offender where appellant was acutely aware of that status since the evidence was relevant to appellant's state of mind during the confrontation with the decedent, particularly as to whether appellant had a reasonable apprehension of violence from the decedent, an element of his self-defense case, and where excluding this evidence violated appellant's due process right to present a complete defense.

### **Relevant Facts**

The state moved pretrial to preclude appellant from eliciting evidence that the decedent, Michael Ingersoll, was a registered sex offender pursuant to Rule 401, SCRE and Rule 403, SCRE. R. \* (Motion in Limine). The state argued the evidence was not relevant, prejudicial, and “designed to inflame the prejudices of the jury.” R. \* (Motion in Limine). During a pretrial hearing, defense counsel argued the evidence was relevant as to appellant’s “frame of mind the night that this shooting occurred” and pertinent to his defense of self-defense. Tr. 4, l. 24 – 5, l. 12 (October 15, 2020); Tr. 47, ll. 6-21 (October 19-23, 2020). Counsel also asserted appellant had a constitutional right to present a complete defense and evidence the decedent was a registered sex offender was relevant to his defense. Tr. 7, ll. 13-19 (October 15, 2020); Tr. 55, ll. 10-13 (October 19-23, 2020).

Defense counsel later asserted, “I mean as long as he’s [appellant has] known Mr. Ingersoll [the decedent], he’s known about the sex offender registry. He’s known that he had a sister that was a special needs child, and he would’ve had it drilled in his head that Mr. Ingersoll was never to be alone with the sister as sort of a protection thing, and that’s what the state of mind is that we’re talking about. When the mother left . . . that’s when Mr. Seidle [appellant] began his

protection of his sister and wanted Mr. Ingersoll out of the house. That's when the whole confrontation started by asking him to leave." Tr. 58, ll. 2-14 (October 19-23, 2020); Tr. 58, l. 20 – 59, l. 3 (October 19-23, 2020).

The decedent's conviction, which required him to register as a sex offender, occurred in Florida in 1997 when the decedent was seventeen or eighteen years old. Tr. 7, ll. 6-12 (September 8, 2020). The assistant solicitor believed the offense was attempted criminal sexual conduct with a minor. Neither party was aware of the underlying facts but defense counsel correctly argued the "exact sex crime" the decedent had been convicted of and the underlying allegations of that offense were not relevant to the analysis Tr. 55, l. 21 – 56, l. 7 – 56, l. 5 (October 19-23, 2020); Tr. 59, ll. 4-6 (October 19-23, 2020). Tr. 59, ll. 4-11 (October 19-23, 2020). Counsel said that he did not know if appellant was aware of the exact nature of the offense or allegations against the decedent. However, the salient fact was appellant knew the decedent was a registered sex offender, that he was not allowed to be alone with the decedent as a child due to the decedent's registry status, and that he needed to protect his sister from the decedent. Tr. 59, ll. 4-16 (October 19-23, 2020). Counsel again emphasized that the evidence was relevant to Appellant's state of mind at the time of the shooting. Tr. 59, ll. 12-16 (October 19-23, 2020).

When the assistant solicitor discussed Rule 405, SCRE, concerning specific instances of conduct, defense counsel made clear the defense was not seeking to admit evidence regarding the underlying allegations of the conviction which required the decedent to register as a sex offender. Tr. 60, ll. 1-23 (October 19-23, 2020). The defense sought to admit the decedent's sex offender status as the basis for appellant's need to protect his sister that evening and his reasonable apprehension of great bodily injury as it related to his defense of self-defense. Tr. 60, ll. 18-23 (October 19-23, 2020).

The trial judge ruled the evidence was not admissible because it was not relevant. Tr. 71, ll. 18-20 (October 19-23, 2020). He asserted the offense which led to the decedent being required to register as a sex offender occurred twenty-seven years ago. Tr. 71, ll. 21-22 (October 19-23, 2020). The judge also offered that the allegations in this case that were not “sexual in nature.” Tr. 71, ll. 22-24 (October 19-23, 2020). Lastly, the judge concluded “the prejudicial value would outweigh the probative value” and the evidence would confuse the jury because “in fairness the circumstances of the sex offense would have to be addressed to some extent.” Tr. 71, l. 25 – 72, l. 8 (October 19-23, 2020).

### **Discussion**

The trial judge abused his discretion by excluding evidence the decedent was a registered sex offender because the evidence was relevant to appellant’s state of mind during the confrontation with the decedent. The evidence was also relevant as to whether appellant reasonably armed himself in an effort to expel the decedent from the residence and to whether appellant’s fear of imminent death or serious bodily injury was reasonable, both elements of his self-defense claim. Moreover, excluding this evidence violated appellant’s due process right to present a complete defense.

Evidence is relevant if it “ha[s] any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 401, SCRE. All relevant evidence is admissible, unless constitutionally, statutorily, or otherwise provided. Rule 402, SCRE.

Appellant testified during the pretrial immunity hearing that he had known the decedent since he was in the eighth or ninth grade. Tr. 15, ll. 24-25 (September 8, 2020). As a minor, appellant was not allowed to be alone with the decedent. Appellant testified that he could not be

around the decedent “without a parent or [another] adult” present because the decedent was a registered sex offender. Tr. 16, l. 9 – 17, l. 12 (September 8, 2020). Appellant’s younger sister, who was disabled, was also not permitted to be alone with the decedent. Tr. 17, ll. 1-3 (September 8, 2020). Appellant explained that he had always been protective of his sister. Tr. 17, ll. 13-17 (September 8, 2020); Tr. 222, ll. 3-4 (October 19-23, 2020).

This evidence was relevant as to appellant’s state of mind during the confrontation with the decedent. It was also relevant as to whether appellant reasonably believed it was necessary to arm himself that night and whether his fear of great bodily injury or death was reasonable, both elements of his defense. See State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984)(“There are four elements required by law to establish self-defense . . . *First, the defendant must be without fault in bringing on the difficulty.* Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. *Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life.* Fourth, 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. If, however, the defendant was on his own premises he had no duty to retreat before acting in self-defense.”) (emphasis added).

Appellant testified that he armed himself that night after his mother left the residence leaving Appellant, his sister, and his girlfriend alone with the decedent. See Tr. 227, l. 4 – 228, l. 6 (October 19-23, 2020). Evidence appellant knew the decedent was a registered sex offender and

was not permitted to be alone with the decedent as a minor was relevant to whether appellant acted reasonably in arming himself, particularly where the state argued appellant was at fault in bringing on the difficulty. See Tr. 321, l. 24 – 322, l. 20 (October 19-23, 2020). The improperly excluded evidence established why appellant reasonably believed it was necessary to arm himself in an effort to expel the decedent from the home. He had been instructed since he was an adolescent that he neither he nor his sister, who was also present in the home that night, should be alone with the decedent. This logically created some apprehension of the decedent by appellant, and the judge abused his discretion by acceding to the solicitor’s demand to sanitize appellant’s self-defense case by excluding this relevant evidence which was probative of that defense. Our Supreme Court has been protective of a defendant’s right to present a complete self-defense case when he was charged with murder, and to have a fully charged jury if the charge went to the jury. See State v. Dickey, 394 S.C. 491, 716 S.E.2d 97 (2011); State v. Fuller, 297 S.C. 440, 377 S.E.2d 328 (1989); State v. Hendrix, 270 S.C. 653, 244 S.E.2d 503 (1978).

Appellant testified that he only shot the decedent after the decedent charged at him with a knife in his hand. Evidence appellant knew the decedent was a registered sex offender and was not permitted to be alone with the decedent as a minor was relevant as to whether appellant reasonably believed he was in imminent danger of losing his life or sustaining serious bodily injury during the confrontation with the decedent.

Moreover, the probative value of this evidence was not substantially outweighed by the danger of unfair prejudice *to the state* or confusion of the issues. See Rule 403, SCRE (“Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”). For the same reasons the

evidence was relevant, as argued above, the evidence was probative. Unlike the judge found, it would not have been necessary to admit evidence of the circumstances of the underlying sex offense which led to the decedent being required to register as a sex offender. See Tr. 71, l. 25 – 72, l. 8 (October 19-23, 2020). There was no evidence appellant even knew the underlying allegations of the offense and defense counsel specifically stated he did not seek to admit such evidence. Consequently, there was little, if any, prejudice to the state, let alone *unfair* prejudice, by admitting evidence of the decedent’s registry status and the impact such knowledge had on appellant that night. There was also little likelihood the evidence would have confused the jury, and appellant had a right to present a complete defense in this murder case.

The trial judge’s exclusion of evidence the decedent was a registered sex offender violated appellant’s due process right to present a complete defense. “The United States Constitution guarantees a criminal defendant the right ‘to present a complete defense.’” State v. Burgess, 391 S.C. 15, 21, 703 S.E.2d 512, 515 (Ct. App. 2010) (quoting Crane v. Kentucky, 476 U.S. 683, 690 (1986)). “This right is also guaranteed by our State constitution: ‘Any person charged with an offense shall enjoy the right ... to be fully heard in his defense....’” Burgess, 391 S.C. at 21-22, 703 S.E.2d 512, 515-516 (quoting S.C. Const. art. I, § 14 (2009)); See S.C. Code Ann. § 17-2-60 (2003) (“Every person accused shall, at his trial, be allowed ... to produce witnesses and proofs in his favor....”); State v. Lyles, 379 S.C. 328, 341, 665 S.E.2d 201, 208 (Ct. App. 2008). Furthermore, in Chambers v. Mississippi, 410 U.S. 284, 302 (1973), the United States Supreme Court emphasized that “[f]ew rights are more fundamental than that of an accused to present witnesses in his own defense.” See Burgess, 391 S.C. at 22, 703 S.E.2d at 516.

Appellant’s defense at trial was self-defense. Evidence the decedent was a registered sex offender, and that appellant was not permitted to be alone with the decedent as a minor without a

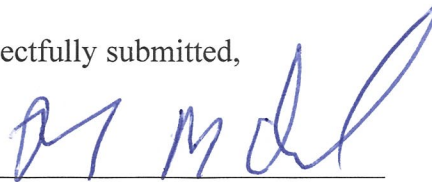
parent or another adult present, was vital evidence in support of appellant's defense. Again, as argued above, such evidence was highly probative as to why appellant reasonably believed it was necessary to arm himself that night in his effort to expel the decedent from his home after his mother left. Such evidence would have countered the state's argument that appellant was at fault in bringing on the difficulty. Additionally, the evidence was probative as to appellant's state of mind during the confrontation and whether he reasonably believed he was in imminent danger of losing his life or sustaining serious bodily injury when the decedent charged him while wielding a knife.

The trial judge abused his discretion by refusing to admit relevant admissible evidence the decedent was a registered sex offender, and this Court should reverse appellant's conviction, and remand for a new trial.

**CONCLUSION**

Based on the foregoing argument, appellant's conviction should be reversed and this case remanded to the Florence County Court of General Sessions for a new trial.

Respectfully submitted,



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ATTORNEYS FOR APPELLANT

This 12<sup>th</sup> day of November, 2021.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Nov 12 2021**

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Honorable Michael G. Nettles, Circuit Court Judge

**SC Court of Appeals**

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BRYAN AUSTIN SEIDLE,

APPELLANT.

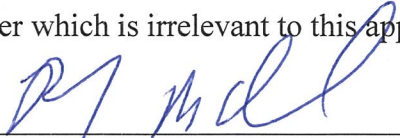
APPELLATE CASE NO. 2020-001485

**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) From the September 8, 2020 Transcript: Tr. 1; Tr. 5-61; Tr. 63-83;
- (2) From the October 15, 2020 Transcript: Tr. 1; 4-13;
- (3) From the October 19-23, 2020 Transcript: Tr. 1; Tr. 46-74; 87-132; Tr. 135-142;  
Tr. 144-180; Tr. 185-199; Tr. 208-255; Tr. 265-362; Tr. 367-374; 380;
- (4) Motion in Limine filed October 13, 2020;
- (5) State's Exhibit No. 2 (Disk with 911 Call);
- (6) State's Exhibit No. 20 (Statement on Disk);
- (7) Indictment;
- (8) Sentence Sheet.

I certify that this designation contains no matter which is irrelevant to this appeal.

  
Robert M. Dudek  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

This 12th day of November, 2021.

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

**RECEIVED**

**Nov 12 2021**

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

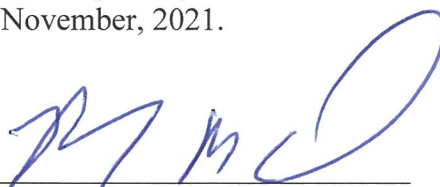
BRYAN AUSTIN SEIDLE,

APPELLANT.

APPELLATE CASE NO. 2020-001485

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies true copies of the initial brief of appellant and designation of matter in the above referenced case have been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 12th day of November, 2021.



Robert M. Dudek  
Chief Appellate Defender

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