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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County
The Honorable Brian M. Gibbons, Circuit Court Judge
Appellate Case No. 2021-000444

THE STATE,

Respondent,

vs.

JERMAINE DEMARCUS GRIER,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
No. 14244

WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
No. 4806

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

RANDY E. NEWMAN, JR.
Solicitor, Sixth Judicial Circuit
PO Box 607
Lancaster, SC 29721
(803) 416-9336

ATTORNEYS FOR RESPONDENT

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Whether the trial court improperly denied appellant's request to charge the jury on the verdict of not guilty by reason of insanity?

COUNTERSTATEMENT OF ISSUE ON APPEAL

Did the trial judge properly refuse to submit a verdict of not guilty by reason of insanity to the jury where there was no evidence presented that as a result of mental disease or defect, Appellant lacked the capacity to distinguish moral or legal right from moral or legal wrong, or to recognize the charged offenses as morally or legally wrong at the time he committed them.

STATEMENT OF THE CASE

As the result of crimes committed on May 14, 2014, the Lancaster County Grand Jury indicted Appellant (Jermaine Demarcus Grier) in September 2014, for murder (2014-GS-29-1090), attempted murder (2014-GS-29-1095), burglary in the first degree (014-GS-29-1096, and possessing or displaying a firearm or knife during the commission of a violent crime (2014-GS-29-1094). On April 12-16, 2021, he received a jury trial on these charges before the Honorable Brian M. Gibbons.[1] Sixth Circuit Public Defender William P. Frick and Kay Boulware, Esquire, represented him in the trial court. Chief Deputy Solicitor Lisa Collins and Assistant Solicitor Nichole Bonine, of the Sixth Circuit Solicitor's Office, prosecuted him. ***R. 1***. Judge Gibbons submitted a verdict of Guilty but Mentally Ill on these charges (***R. 657-58; 666***), but he refused to submit a verdict of not guilty by reason of insanity. ***R. 545-46; 617-18***.

The jury convicted Appellant as charged. ***R. 671***. Judge Gibbons sentenced him to forty years for murder and imposed consecutive sentences of five years on the weapons charge, thirty years for attempted murder, and twenty-five years for burglary in the first degree. ***R. 676***.

Appellant timely served and filed a notice of appeal. This appeal follows.

STATEMENT OF FACTS

Viewed in the light most favorable to the State, the evidence presented at trial showed that in June 2014 Angela and James Hood, her husband of fourteen years, lived in a Lancaster, South Carolina apartment.[2] Their daughter, Janike Wood, and their son, LaJameion Hood, also lived

[1] The State elected not to proceed on charges of pointing and presenting a firearm and unlawful carrying of a firearm. ***R. 6, ll. 5-13***.

[2] The apartment is in the Lancaster City limits.

there. Her son Tavarus "Boji" Harris occasionally stayed there.[3] James had a stroke roughly a year earlier. As a result, his speech was slurred, he was confined to a wheelchair, and he slept on a hospital bed. Although "everybody helped," Angela took care of him. ***R. 119, l. 4 – 121, l. 22; 123, l. 19 – 124, l. 4; 130, ll. 11-18***.

Angela is Appellant's sister. He came to her apartment on the night of June 10, 2014. James, Angela and a friend, Rachel Strain, were also present. Appellant and James "had a tight bond."[4] ***R. 121, l. 23 – 122, l. 13; 123, ll. 4-5***. After Angela put a load of clothes in the washing machine, Appellant "looked toward the washing machine and he was like, 'They better leave me alone.' " When she and her friend questioned what was wrong, he replied, " 'They better leave me alone. They think I'm playing with them. ' " However, he had acted normally while at her residence in the previous days and other family members were "in and out" of the apartment. So, she was not concerned and told her friend that he had "always been the clown of the family." ***R. 124, l. 17 – 125, l. 1; 132, ll. 8-11; 135, l. 21 – 136, l. 19***.

So, she and Rachel went to the grocery store after supper and sometime before dark. While at the grocery store, Rachel received a call and learned that there had been a shooting on the street where Angela and James lived. After they left the grocery store, they went to Rachel's home and Angela used the landline to call her home. Appellant acted normally when he answered the phone. Angela asked if anyone had been shot in the apartment complex, but "he told me it ain't nothing going over there unless it's in the second section." Nevertheless, Angela told him that she was coming home, and she and Rachel went to the Hood's apartment. ***R. 122, l. 17 – 123, l. 18; 125, l.***

[3] LaJameion was 14 and Tavarus was 23. ***R. 120, l. 23 – 121, l. 6***. There were no guns in their house and Angela did not allow guns in it. ***R. 126, l. 24 – 127, l. 2***.

[4] They had worked together in the past. ***R. 131, ll. 6-19***.

10 – 127, l. 8.

Police cars were present when Angela arrived and she could not initially go into her home. Also, both of her sons were crying. Tavarus told her that Appellant was in the hallway when he entered the home. *R.* ***127, l. 9 – 128, l. 4***. Tavarus also said that:

> Jermaine told him that James had been using the bathroom, he needed to go clean him up. … [H]e said he didn't smell nothing. So [Tavarus] say he still goes in the room and he seen James on the floor, so [Tavarus] asked Jermaine did James fall out of the seat out of his chair. And … when he turned around after he noticed Jermaine didn't say nothing, he said Jermaine was waiving the gun at him and told him that he had to go, too. So other than that, somehow Tavarus got out of the house, and said as he was running out of the house LaJameion was coming in the house, so he snatched him and told him his daddy was in there laying on the floor dead because Jermaine had … shot him.

R. 128, ll. 4-16.

Twenty-one year old Javy Crosby testified that he played basketball with LaJameion "J-Buck" Hood on the afternoon of June 10th. They went to the Hood apartment afterwards and saw James lying on the bedroom floor. James was not breathing and Javy saw blood. Appellant was also in the room and, although he did not say anything, he had a gun. At some point, Tavarus unsuccessfully tried to wrestle the gun way from Appellant in the hallway. Javy and Tavarus then ran out of the apartment and went to a neighbor's house. They later spoke to police. ***R. 138, l. 4 – 143, l. 24***.

Members of the Lancaster Police Department began arriving at 9:30 pm. Officer Daniel Ratcliff met LaJameion and Tavarus upon his arrival. "They told me that there was a subject in the house who they believed was dead." They said that Appellant was inside, and "he had a gun and yellow gloves, and told them … they needed to help clean up, and if they called 911 he would shoot them." They also told him about their altercation with him. As a result, the officers waited until the SWAT team arrived before entering the apartment. ***R. 145, l. 20 – 148, l. 22; 149, ll. 14-***

22; 193, l. 4 – 196, l. 2; 218, l. 2 – 222, l. 8.

Once the officers entered the apartment, they realized that only James' lifeless body was there and that the suspect had left. James was only wearing an adult diaper. The residence was searched. However, no shell casing was found. EMS personal then came in and verified that James was dead. Officers also canvassed the immediate area but did not locate Appellant and SLED was contacted to process the scene. ***R. 150, l. 16 – 155, l. 7; 222, ll. 11-19; 228, l. 10 – 234, l. 5; 245, l. 1 – 252, l. 23***. The Deputy Coroner thereafter arrived and ordered an autopsy. R***. 157, l. 1 – 164, l. 8***.

Shareika McIlwain lives in a Lancaster County residence only blocks away from the Hoods' apartment. Her cousins, April Lindsay and Joy Duncan, also lived there and April's boyfriend, Jabari Williams, stayed there "[o]ff and on." She and Appellant are also cousins, but she had not seen him since she was in the sixth grade. As Shareika was unloading groceries on the evening of June 2014, she saw Appellant talking to "Jamarcia," another man who was at her home that evening. Also, she saw a bicycle on the ground that had not been there when she had gone shopping. Even though he had not been invited come into the house, Appellant "forced himself" into the house after Shareika and the others were in the house. ***R. 267, l. 4 – 272, l. 1; 287, l. 22 – 288, l. 10***.

While police were still investigating James' murder, they were alerted to the shooting at Shareika McIlwain's residence several blocks away and it was determined that Appellant was also a suspect in that crime. ***R. 322, l. 5 – 336, l. 16; 347, l. 18 – 349, l. 3***. Shareika and two other eyewitnesses testified about the circumstances surrounding Appellant's attempt to murder her.

After Appellant came inside her home, he sat on the living room couch. Shareika, Jamarcia, and Joy also were sitting on. Because Shareika had seen a gun in Appellant's right, back pocket

when he entered the house, she became concerned and she texted the others present to warn them. Appellant soon began "playing with the gun, and … it seemed like he was like counting the bullets or something." It likewise looked like he was counting the people in the room. As soon as he started putting the bullets in the gun, Shareika told her cousins, "Whoever is riding with me[,] let's go."[5] ***R. 272, l. 6 – 2742, l. 16; 288, 14-20***.

According to Shareika,

> As I got up[,] I remember coming behind me -- I think he tapped my shoulder. … [H]e really didn't say nothing then, and as I was just still trying to get out of the house he was like "What's up Shareika," or something like that, and I was like "What's up?" And then … I just seen a light, so by that time I reached [to] my neck and I realized I seen blood and I just ran out [of] the house.

R. 274, ll. 18-24. The light that she had seen came from Appellant's direction and her neck was not bleeding before this incident. ***R. 275, ll. 8-14; 286, l. 14 – 287, l. 2***.[6]

Shareika testified that she ran out the back door and across the street to the home of Roger Lowery. Appellant ripped off her shirt as she ran down her driveway. He caught her once she reached Mr. Lowery's porch and "he started jumping on me." Shareika fought back and knocked on the front door, pleading for help. Mr. Lowery opened the front door and Mrs. Lowery let her inside to call police and hide in the kitchen. Appellant was trying to get into the house. Shareika "heard a whole lot of commotion," with Mr. Lowery saying, " 'Get back,' or 'Get away.' " However, she did not see anything. She then heard a gunshot. She stayed at the Lowery residence until members of the Sheriff's Office arrived. She told them what had happened and they photographed her. ***R. 275, l. 18 – 279, l. 20; 287, ll. 13-21***. State's Exs. 76-79 (photographs).

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[5] She explained that she had planned to go to her aunt's "just to get out of the home." ***R. 274, ll. 15-16***.

[6] There had not been any prior disputes between them. ***R. 288, ll. 11-13; 290, ll. 13-17***.

Joy Duncan and Jabari Williams substantially corroborated the important details of Shareika's testimony about the shooting at Shareika's residence. Although Joy is Appellant's cousin, she had never seen him. Both witnesses made clear that Jabari and April were in a bedroom because April had showered, but Joy saw Appellant shoot Shareika. Also, Joy testified that she was likewise in the line of fire when Appellant fired the shot. After the shooting, Joy ran outside and called 911. ***R. 293, l. 6 – 301, l. 24; 304, ll. 10-24; 305, l. 12 – 312, l. 20***.

Roger Lowery testified that he, his wife and her two children lived in a Lancaster County home on June 10, 2014. Although Shareika McIlwain lived across the street from him, they had not interacted with each other before the night of June 10th. Mr. Lowery went to bed around 8:00 p.m. on June 10th because he had to get up early for work the next day. However, his wife came in, woke him, and told him that a man and women were fighting on their front porch. Mr. Lowery got up to investigate the disturbance. As soon as he opened his front door, he saw Appellant beating Shareika's head and face. So, Mr. Lowery returned to his bedroom, got a gun, and went out onto the porch. ***R. 317, l. 9 – 320, l. 16***.

Mr. Lowery calmly instructed Appellant several times to stop beating Shareika and leave his property. Rather than leave, Appellant threated to kill Mr. Lowery. Mr. Lowery then pointed his gun at Appellant and again instructed Appellant to leave. Still, Appellant refused. He hit Mr. Lowery in the eye, and tried to get control of Mr. Lowery's gun. Mr. Lowery slipped on loose dirt and fell to the porch during the ensuing struggle. He immediately got back up and retreated into his living room. Appellant followed him inside and Mr. Lowery shot Appellant in the abdomen when Appellant lunged at him. ***R. 320, l.24 – 322, l. 12***.

Appellant fell out onto the porch where he briefly stayed in a fetal position before running away from the scene. At this point, Shareika told Mr. Lowery that Appellant had a gun and Mr.

Lowery closed the storm door. Yet, Appellant returned two or three minutes later and collapsed on the porch. While he did not say anything, he unsuccessfully attempted to get into the house. Mr. Lowery had two guns in his hands when Deputy Matthew Boyd and Det. Paul Lyons, of the Lancaster Sheriff's Department, arrived moments later. However, he fully cooperated with them and laid both weapons on the porch bench as instructed.[7] Mr. Lowery was taken into investigative custody until the officers could sort court what had occurred because Appellant had a visible gunshot wound, but Mr. Lowery gave a statement and was freed once it became clear that he had defended himself. ***R. 322, l. 13 – 323, l. 18; 324, l. 21 – 329, l. 19; 334, l. 21 – 338, l. 14; 349, l. 19 – 350, l. 22; 354, l. 23 – 355, l. 10; 357, ll. 5-8***.

Dep. Boyd testified that there were obvious signs of a struggle on the Lowery's front porch. Also, he spoke to Shareika while he was at Mr. Lowery's residence and she told him that Appellant had shot her.[8] Dep. Boyd could see "a mark on the side of her face that was showing signs of blood." Further, it was obvious that she had been in an altercation because "her hair had been pulled out, she had the mark on the side of her face, her shirt was ripped off … and she was definitely nervous." ***R. 338, l. 24 – 339, l. 19***.

Det. Lyons testified that he saw Appellant laying on the ground near the porch with an apparent gunshot wound. ***R. 350, l. 23 – 351, l. 6***. He was breathing but was not alert and Dep. Boyd called for EMS. EMS soon arrived to treat Appellant's wound and transport him to the hospital. Det. Lyons called for the crime scene unit. ***R. 341, l. 23 – 342, l. 5; 351, ll. 9-11; 352, ll. 1-12; 355, ll. 11-16; 370, ll. 2-12***. Appellant was charged with the murder of James Hood, with

[7] One was a .38 revolver and the other was a .40 semiautomatic handgun. Neither gun could have fired the bullets for a .380. ***R. 445, l. 22 – 446, l. 12***.

[8] Det. Lyons later took a formal statement from her. ***R. 352, ll. 21-23***.

the attempted murder of Shareika McIlwain, and the burglary of Mr. Lowery's residence. ***R. 357, ll. 19-24***.

Charlie Garcia testified that he was employed as a part-time paramedic with Lancaster County EMS on June 10, 2014, and that he responded to Mr. Lowery's residence around 10:02 p.m. that night. After removing some of Appellant's clothes, which he gave to the officers present on the scene, Mr. Garcia saw that Appellant had a gunshot wound in the abdomen. (See State's Ex. 49, photo of bullet wound). Appellant was conscious, alert, and able to respond to questions. Mr. Garcia described him as "definitely angry" and "clicking his teeth." However, he was showing signs of being in shock. So, he was placed in the ambulance. Although the bleeding was controlled at the scene, Mr. Garcia immediately began two IVs, placed him on oxygen, and dressed the wound. The ambulance transported him to a helicopter, which air-lifted him to a hospital in Columbia. ***R. 376, l. 14 – 388, l. 4***.

After Appellant's gunshot wound had been treated at the hospital, an arrest warrant was obtained on the morning of June 11th. Police served it on him during their interview of him on June 17th. ***R. 241, l. 19 – 242, l. 4; 263, ll. 19-25***. Phillip Hall, of the Lancaster Police Department, returned to Shareika's residence on June 12th and found a bicycle and a pair of yellow gloves similar to those LaJameion and Tavarus said Appellant was wearing after the crime lying in the driveway. He notified Lancaster County officers, and the gloves items were seized. ***R. 253, l. 12 – 256, l. 24; 438, ll. 7-13; 453, l. 22 – 454, l. 22***.

Inv. Jeff Steele, with the Lancaster County Sheriff Office's CSI unit, recovered a Tulammo .380 cartridge (or unfired bullet) from the steps to Mr. Lowery's front porch. He also found a cartridge and cartridge casing in the left pocket of the pants Appellant had worn on the 10th. ***R. 407, l. 21 – 408, l. 3; 413, l. 22 – 414, l. 3***; ***418, l. 12 – 419, l. 10; 429, ll. 1-9***. Captain Eric Brown,

of the Lancaster County Sheriff's Office, discovered a .380 caliber handgun (State's Ex. 121) lying on the ground in Shareika's front yard, which was seized by Inv. Steele. ***R. 367, l. 14 – 368, l. 23; 371, l. 12 – 372 l. 24; 422, l. 18 – 427, l. 25; 430, ll. 2-6***. Craig Bailey was Captain of the Lancaster County Sheriff Office's CSI unit in June 2014. ***R. 358, l. 24 – 359, l. 20***. He and Inv. Steele recovered a projectile from a wall in Shareika's residence (State's Ex. 85), which Inv. Steele seized. This projectile had passed through the edge of the kitchen door and was inside the paneling on the wall. Inv. Steele likewise recovered a cartridge casing (State's Ex. 122) on the floor of Shareika's residence. ***R. 362, l. 22 – 364, l. 22; 422, ll. 1-21; 432, l. 11 – 433, l. 2***.

Forensic pathologist, Dr. Janice Ross, performed the autopsy on James Hood's body. She found that he had a single gunshot wound to his back, which was round and measured .38 inches in its largest dimension. It entered "about midway down his [left] shoulder blade" and it traveled "from the back to the front, from left to right and downward." She opined that the cause of death was exsanguination that was caused by laceration of the heart and lung from the gunshot wound and the manner of death was homicide. She explained that the bullet passed "through the upper lobe of the left lung[,] … through the heart and … lacerated the right side of the diaphragm." She found 250cc's of blood in "the space around the heart," as well as 1000cc's of blood in the left chest cavity and another 250cc's of blood in the abdomen. Dr. Ross recovered the bullet from just under the skin of James' abdomen. She did not find any stippling around the wound or any defensive wounds on his hands. ***R. 169, l. 11 – 179, l. 18; 180, ll. 14-20***.

SLED forensic firearms examiner Michele Eichenmiller testified that she received the Highpoint .380 semiautomatic pistol found in Shareika's front yard (State's Ex. 121); the unfired Tulammo .380 cartridge located on the steps of Mr. Lowery's house; two fired cartridge cases, and an unfired bullet in connection with this case. The pistol required six pounds of trigger pull. Ms.

Eichenmiller opined that the fired cartridge case seized from the floor of Shareika's home (State's Ex. 122) was fired by State's Ex. 121, as was the .380 cartridge casing found in Appellant's left pants pocket, and the bullet retrieved from James Hood's body at autopsy. The unfired .380 cartridge found in his pants was of the correct caliber for use in that weapon. Unfortunately, the fired bullet seized from the wall in Shareika's home (State's Ex. 85) "was damaged and didn't have enough marks" on it for her to determine whether it had been fired by State's Ex. 121. Also, Highpoint is the only manufacturer who makes bullets with the characteristics of the bullet retrieved from James Hood's body at autopsy. ***R. 458, l. 18 – 460, l. 24; 4642, l. 23 – 490, l. 12***.

Forensic testing of the yellow gloves found in Shareika's driveway (State's Ex. 126) did not reveal any suspected blood from presumptive testing. ***R. 495, l. 11 – 496, l. 19; 499, ll. 2-6***. However, DNA STRmix testing of swabs of the gloves was performed. The DNA profile developed from swabs of the interior of the gloves revealed a mixture of four individuals. Because of the "parental relatedness," no conclusions could be made with respect to James Hood, Angela Hood, Appellant, and LaJameion Hood. ***R. 504, l. 12 – 511, l. 11***.

Finally, the victim's body was tested for gunshot residue. ***R. 238, ll. 23-25***. Testing by SLED revealed the presence of particles consistent with gunshot residue. Lt. Jennifer Nates, of SLED's trace evidence department testified that she expects to "find it on the majority of victims who are shot because they've received a gunshot wound and all of the residue was propelled toward them." ***R. 515, l. 5 – 517, l. 16***.

STANDARD OF REVIEW

The law to be charged is determined by the evidence presented at trial. *State v. Gaines*, 380 S.C. 23, 667 S.E.2d 728 (2008); *State v. Holland*, 385 S.C. 159, 165, 682 S.E.2d 898, 901 (Ct. App. 2009). To warrant reversal, a trial court's refusal to give a requested jury charge must be both

erroneous and prejudicial to the defendant. *State v. Burkhart*, 350 S.C. 252, 565 S.E.2d 298 (2002). A trial court must charge the jury on not guilty by reason of insanity when there is any evidence in the record to support the charge. *See State v. Hartfield*, 300 S.C. 469, 473, 388 S.E.2d 802, 804 (1990) However, "[a] requested charge on insanity is properly refused where there is no evidence tending to show the defendant was insane at the time of the crime charged." *State v. Lewis,* 328 S.C. 273, 278, 494 S.E.2d 115, 117 (1997).

ARGUMENT

I. The trial judge properly refused to submit a verdict of not guilty by reason of insanity (NGRI) to the jury because there was no evidence presented that, as a result of mental disease or defect, Appellant lacked the capacity to distinguish moral or legal right from moral or legal wrong, or to recognize the charged offenses as morally or legally wrong at the time he committed them.

Notwithstanding Appellant's argument to the contrary, Respondent submits that the trial judge did not abuse his discretion by refusing to submit a verdict of NGRI to the jury because no evidence supported the requested instruction: *i.e*., there was no evidence presented that as a result of mental disease or defect, Appellant lacked the capacity to distinguish moral or legal right from moral or legal wrong, or to recognize the charged offenses as morally or legally wrong at the time he committed them.

A. How issue arose in the trial court.

1. Pretrial proceedings.

The trial judge held a pretrial *Blair*[9] hearing to determine if Appellant was competent to stand trial pursuant to S.C. Code Ann. § 44-23-430 (Supp. 2021). Immediately prior to the hearing, the State introduced without objection the Order requiring evaluation for competency by the South Carolina Department of Mental Health (DMH) (Court's Ex. 1, ***R. 678--86***); an Order directing an

[9] *See State v. Blair*, 275 S.C. 529, 534, 273 S.E.2d 536 538 (1981).

evaluation for intellectual disability by the South Carolina Department of Disabilities and Special Needs (DDSN) (Court's Ex. 2, **R. 687-94**); the DMH report finding him competent to stand trial (Court's Ex. 3, ***R.695-702***) and (Court's Ex. 4, ***R. 703-04***) a letter from DDSN stating that Appellant did not qualify for an evaluation by their department." ***R. 8, ll. 3-21***.

Dr. Matthew Gaskins, a forensic psychiatrist whose duties include performing forensic evaluations for competency to stand trial and criminal responsibility for the South Carolina Department of Mental Health, was the only witness called at the *Blair* hearing. Dr. Gaskins performed a court-ordered evaluation of Appellant to determine his competency to stand trial. Dr. Gaskins met with Appellant for roughly an hour on August 3, 2018. Dr. Gaskins found that Appellant was competent to stand trial and that he was diagnosed as having an anti-social personality disorder (ASPD). Dr. Gaskins subsequently met with Appellant on the day he testified and his opinion of Appellant's competency remained the same. ***R. 9, l. 22 – 14, l. 15***. *See also* Court's Ex. 3, ***R. 695-702***.

Cross-examination established that Dr. Gaskins' report found that Appellant was malingering and Dr. Gaskins explained that some of Appellant's "answering styles … didn't really seem like they followed the questions that were being asked, and then also the report of memory deficits." The latter was important because an earlier evaluation found that his "memory deficits were likely being exaggerated" and Dr. Gaskins found the same pattern in 2018. **R. 14, l. 22 – 15, l. 24**. The defense conceded Appellant's competency (***R. 16, lines 22-23***) and the trial found that he was competent to stand trial. ***R. 16, l. 24 – 17, l. 3***.

The Deputy Solicitor also informed the trial judge pretrial that the State had served Appellant's counsel with a request for notice of mental health defense. Before counsel received the final report of defense expert Dr. Donna Schwartz-Maddox, counsel indicated that they could

present defense of NGRI. Dr. Maddox, however, concluded that Appellant was competent and that he was criminally responsible but that "he lacked the capacity to conform." Although it was not a matter that the trial judge needed to rule on immediately, it was the State's understanding that her report did not support an insanity defense, only a verdict of guilty but mentally ill (GBMI). So, the State anticipated requesting that the judge not charge jurors on NGRI unless Appellant presented other evidence supporting the instruction. ***R. 18, ll. 1-17***.

The Deputy Solicitor also informed the trial judge that that an April 2015 report from the South Carolina Department of Mental Health found that Appellant "knew the difference between right and wrong and that he did not suffer from any problem with conforming his behavior to the requirements of the law dealing with mental disability." Thus, he was not GBMI but was malingering. ***R. 18, ll. 17-25***.

Further, the Deputy Solicitor stated that there had never been any expert finding that "he was not able to discern the difference between … both legal right and legal wrong or moral right from moral wrong." As a result, the State intended to oppose an NGRI jury instruction. ***R. 19, lines 7-19***. Trial counsel Boulware asked the trial judge to reserve ruling on this issue until after Dr. Maddox had testified and the trial judge agreed to defer his ruling. He also observed that the parties had agreed to take Dr. Maddox's testimony out of order so as to accommodate her schedule. ***R. 19, l. 25 – 20, l. 25***.

B. Appellant's evidence at trial.

1. Expert testimony.

Dr. Donna Schwartz-Maddox, a forensic psychiatrist, was Appellant's only expert. ***R. 40, l. 2 – 44, l. 15***. Dr. Maddox testified that she was retained by counsel to evaluate Appellant. ***R.* 59, *ll. 4-7***. Her first evaluation of him was by computer because of Covid-19 restrictions but the second

evaluation was in person on March 18, 2021, at Kirkland Correctional Institution, and lasted for roughly an hour. As part of her evaluation, she reviewed records from the Lancaster County Mental Health Center, DMH, the Department of Juvenile Justice, as well as "some EMS records."[10] Based on her interviews with Appellant and a review of these records, she diagnosed him as having an Intermittent Explosive Disorder ("IED"), which is a mental illness. ***R. 44, l. 18 – 45, l. 25; 61, ll. 13-15; 63, ll. 9-10; 108, l. 22 – 109, l. 6***.

She explained that:

> … [T]his diagnosis means … he has a history of aggressive explosive behavior that is sometimes unprovoked or out of proportion to any kind of provocation he would have. These diagnoses were made when he was in the Department of Corrections by the doctors who were treating him there. He was under psychiatric care and those have been their work diagnoses for him. When he got out of prison and went to mental health after his release from the Department of Corrections they also -- the history he had given them, that was also their diagnosis as well. And looking at him, evaluating him, and mainly looking back, he's got a lot of records, and looking back at them I do believe that that diagnosis is correct. He also has other diagnoses. He has a personality disorder, and that personality disorder has caused him to be in a lot of legal trouble over the years. It's caused him some problems while he was confined to the Department of Corrections in terms of adapting. He's had a pattern of doing things that are against the law, some things that are reckless and sometimes things that are aggressive to other people. So he's kind of got two sources that may cause him to be aggressive and unprovoked at times. He also has a history of cannabis issues, which is [] marijuana use, and … he's had that issue for a period of time as well.

R. 46, l. 4 – 47, l. 2.

Dr. Maddox noted that he also had a previous diagnosis of malingering, or intentionally feigning symptoms.[11] However, she opined that he had not shown evidence of malingering when

[10] The toxicology report reflected that the cannabis was the only drug in his system following the crimes. ***R. 53, l. 20 – 54, l. 1***.

[11] For example, when counsel asked whether the SCDC records contained evidence of psychosis, she testified that the records did. Yet, she did not "codify those symptoms, because there has been history that they've been malingered as well." She had "some concern about them," but he was not psychotic when she examined him and she based her "diagnosis on the time that I evaluated him

she saw him in March of 2018 and she testified that other experts had concluded he was not malingering his symptoms. ***R. 47, l. 4 - 48, l. 5***. Memory loss is not associated with either IED or ASPD, Dr. Maddox did not have a history that would support memory loss, and there was no record of brain injury in the SCDC records. ***R. 48, l. 10 – 49. l. 17; 53, ll. 9-16; 77, lines 7-17***.

Dr. Maddox testified that Appellant had been treated with an anticonvulsant, Tegretol, and an antidepressant, Desipramine, for the IED while in the South Carolina Department of Corrections (SCDC) and she explained that symptoms could reappear if the person stopped taking the medications. Following his discharge from SCDC, he was seen at the Catawba Mental Health Center in Lancaster on June 5, 2014. He was not on his medications at that time and was not seen by a psychiatrist that day, but the mental health specialist that saw him was going to schedule a follow-up appointment. ***R. 51, l. 19 – 53, l. 8***.

Of particular importance to the current issue, the Deputy Solicitor's cross-examination established that even though Dr. Maddox opined that Appellant was mentally ill. She also opined to a reasonable degree of medical certainty that he had the capacity to distinguish legal or moral right from legal or moral wrong at the time of the crimes on June 10, 2014. However, he was guilty but mentally ill (GBMI because he could not conform his conduct to the requirements of the law because of his mental illness. ***R. 57, l. 17 – 58, l. 2; 60, ll. 6-13; 87, l. 19 – 88, l. 3; 93, l. 17 – 94, l. 2***.

She explained why she found that he was sane at the time of the offenses as follows:

> What we look at -- sometimes in forensic psychiatry we're asked to go backwards in time and look at someone's behavior to try to figure out what they were thinking, what they were feeling or why they were acting a certain way. And so based on just my evaluation with him and review of the discovery and all of the records, it's my opinion that he knew right from wrong. And I give that opinion based on a number of reasons, and you'll hear later in the trial. … [A]fter … his brother-in-law was

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and looking at the history" ***R. 55, l. 5 – 56, l. 1***. *See also* ***R. 109, ll. 10-24***.

found deceased, the nephews that were there on the scene reported that he came out and he had gloves on, dish washing gloves. So … based on that there was, in my opinion, evidence that he may have been trying to clean up or cover up. And then he fled the home after Mr. Hood was killed. So based on that in my opinion he clearly, at least for the offense with Mr. Hood, knew right from wrong. After he left Mr. Hood's house he rode on a bicycle down the road. And after Ms. McIlwain was shot and he was shot by Mr. Lowery, he left the scene again. So the fact that he left the scene would give someone -- again, … he doesn't give memory of these events so I would have to base my opinions on the evidence that he had at the time of his symptoms.

R. 58, l. 6 – 59, l. 3.

Later, she further explained that:

Because he doesn't admit, or cannot remember it, [or] will not discuss this incident, the best we can do is you have to go back and just look at the evidence. And a lot of my opinion is based on his behavior … at his cousin's home. He went there and she did nothing to him after he allegedly killed his … brother-in-law …. After Mr. Hood was killed he rode on a bike and went into their home and she did nothing to provoke him. If I recall, the statements were that he was invited into the house and she felt uncomfortable and noticed that he had, I believe, a bulge, or she saw the gun and made an excuse to leave and that he shot at her. And not only did he shoot at her, there was no provocation, that he continued to chase her across the street and into a neighbor's home where he was ultimately shot and still didn't shop. And so I base that on that -- and I have no reason to expect, and I could be wrong, but there is no indication that he had a longstanding problem with his brother-in-law. And so both of those behaviors to me seemed unprovoked. I am not aware of anything, there's been no evidence of anyone who did anything to him that would have provoked this. And so in my opinion just based on -- that's what intermittent explosive disorder, that's exactly the kind of behaviors you see in that diagnosis. We may not even know what their provocation is. But whatever these people did, there's just no evidence that it was anything that was provoked, and so that's why I made that opinion, just based mainly -- the things that helped me the most arrive at that conclusion were Ms. McIlwaine's statements and the people -- and his nephews that saw him at the time shortly after Mr. Hood was killed.

R. 88, l. 13 – 89, l. 18.

Dr. Maddox had reviewed the reports of Dr. Richard Frierson, from 2015, and Dr. Gaskins. So, she was aware that Dr. Frierson had concluded that Appellant was sane on June 10, 2014, and that Appellant was malingering. ***R. 59, l. 11 - 60, l. 21; 63, ll. 19-25.*** She was also aware that the EMS report from June 10, 2014 stated that Appellant was alert and oriented, and that he said that

he was taking medication for hypertension. ***R. 75, ll. 11-18***. She was likewise aware that Dr. Frierson's report stated that Appellant's mother denied in 2015 that he had ever been diagnosed with mental illness or that he had been in a mental hospital. ***R. 78, ll. 18-25***. Further, when seen at the Catawba Mental Health Center, he denied suicidal ideations or a history of violence, his affect was appropriate, as was his speech and thought process. While he stated that he was anxious, he also stated that he was happy. ***R. 77, l. 18 – 78, l. 4; 79, l. 19 – 81, l. 25***.

With respect to Appellant's supposed memory problems, the State established that while he told both then-Capt. Grant in 2014 and Dr. Frierson in 2015, he could not remember what occurred during the offenses, his memory was intact when interviewed at the Catawba Mental Health Center five days before the crimes. While Dr. Maddox testified that people who experience a traumatic event may have problems with memory, she conceded that she could not find a psychiatric reason for Appellant's memory loss, she stated that the memory loss could be malingered, and admitted Dr. Frierson found he was malingering in 2015. Moreover, he denied committing the offenses during her interview of him. ***R. 82, l. 13 – 84, l. 10***.[12]

2. Comments by Angela Hood regarding Appellant's conduct on June 10, 2014.

Angela Hood testified that "that ain't my brother right there, man." ***R. 123, ll. 5-7***. As discussed, after she put a load of clothes in the washing machine, Appellant "looked toward the washing machine and he was like, 'They better leave me alone.' " When she and her friend

[12] During a subsequent break in the prosecution's case, the trial judge had a discussion with Juror #20, a retired pharmacist who expressed some concern about the effects of the medications that Dr. Maddox testified Appellant was on while in SCDC and that those medications could cause psychosis. The trial judge reminded the juror that he had been instructed to base his decision on the evidence that was presented and the juror was allowed to leave the courtroom. The following day, the trial judge rejected the State's request for the juror to be removed because he found that it was not improper for a juror to use his or her own experiences in deciding a case. Trial counsel stated that she agreed with his ruling. ***R. 201, l. 20 – 208, l. 19***.

questioned what was wrong, he replied, " 'They better leave me alone. They think I'm playing with them. ' " She told her friend that he had "always been the clown of the family." ***R. 124, l. 17 – 125, l. 1***.

She then repeated her earlier remark, stating, "And come to find out all of this time my brother is sick because that's not my brother over there **now**. He laughing and going on. I wonder do he know it's me. And, I mean, my mama died over a broken heart because we thought my brother was -- man, we ain't know my brother was sick." (Sic). ***R. 125, ll. 4-9*** (emphasis added).

3. Appellant's initial request for an NGRI jury charge.

After the trial judge had denied trial counsel's motion for a directed verdict, counsel asked the trial judge to add NGRI to the verdict form. She cited *State v. Senter*, 396 S.C. 547, 722 S.E.2d 233 (Ct. App. 2011), for the proposition that "when the defendant offers evidence of insanity, the State can present evidence to the jury that he's sane," and that evidence can be through lay testimony. Yet, the weight of that evidence was "to be decided by the jury." ***R. 535, l. 25 – 536, l. 10***. The trial judge noted that the only evidence on his mental state was Angela Hood's statement saying "that's not my brother," and Dr. Maddox's testimony that he understood legal and moral right from legal and moral wrong. As a result, he did not think there was evidence Appellant was NGRI. R***. 535, l. 5-24***.

Relying on *Lewis*, *supra*, and *State v. Gardner*, 219 S.C. 97, 64 S.E.2d 130 (1951), the State opposed counsel's request. The State noted that the Court in *Gardner* rejected the appellant's argument the lay testimony presented supported the requested NGRI instruction. It emphasized the presumption of sanity and found that the defendant's low intellectual functioning and inability to recall the murder did not support a requested NGRI charge. The State further noted that Appellant's actions did not support the requested charge and that Angela Hood's comments were directed to

Appellant's in-court behavior, as opposed to his behavior at the time of the offenses. ***R. 536, l. 14 – 542, l. 14***.

After listening to further arguments by the parties (***R. 542, l. 16 – 545, l. 16***), the trial judge found that he was not inclined to submit an NGRI instruction to the jury because there was no evidence to support the request. Still, he agreed to defer a final ruling until counsel had cross-examined Dr. Frierson. ***R. 545, l. 17 – 546, l. 9***.

4. Appellant's testimony.

Contrary to counsel's advice, Appellant exercised his right to testify. *See* ***R. 549, l. 6 – 556, l. 4***. He insisted that the State's proof was flawed because witnesses placed him in two different locations at the same time and this was physically impossible. Further, he claimed that he was not at either crime scene, he denied Angela Hood was his sister or that he knew attempted murder victim Shareika McIlwain, he maintained that he was not related to anyone in the case and testified that the prosecution witnesses had never seen him. ***R. 558, l. 3 – 563, l. 25; 568, l. 19 – 571, l. 14***.

On cross-examination, he admitted that when he was being sworn in and was asked if he would tell "the truth, the whole truth and nothing but the truth," he had replied, "Basically." However, he eventually agreed that he would be truthful. ***R. 564, l. 15 – 565, l. 5***. He then testified that his name was not really Jermaine, and that he did not know his actual name because his mother used to call him various names and because "I never had no verification because I can't remember when I have been born if I can remember when I was born." (Sic). ***R. 565, ll. 6-25***. *See also* ***R. 557, ll. 12-20***.[13] He testified that photographs showing a person on Harold Lowery's front porch did not depict him and, even though the person in the picture was wearing the same clothes he was

[13] He conceded that he was given an ID card with the name "Jermaine" on it when incarcerated and answered to that name when called it, but he insisted he did not know if that was his name. ***R. 566, ll. 8-17***.

wearing when taken to the hospital, insisted that the State could not prove it was him, absent DNA evidence. ***R. 567, l. 14 – 568, l. 18***.

He likewise denied having a gun with him on June 10, 2014, and claimed "I don't know what a gun is. I don't know how a gun look[s]." ***R. 571, l. 24 – 572, l. 1***. Yet, he admitted that he had a bullet in his pocket that was consistent with the gun found in Ms. McIlwain's front yard. Further, even though he had a scar on his abdomen, he denied being shot by Mr. Lowery on June 10th and maintained that the State could not prove that he was shot because it did not introduce the bullet. ***R. 572, l. 25 – 574, l. 12***.

C. **Dr. Richard Frierson's reply testimony.**

The State presented Dr. Richard Frierson, a professor of psychiatry and a forensic psychiatrist at the Medical University of South Carolina, in reply. Dr. Frierson testified that he has conducted "thousands of" court ordered evaluations in South Carolina pursuant to a contract with DMH and he treats SCDC inmates one day a week. ***R. 580, l. 12 – 581, l. 25***. Dr. Frierson conducted a court ordered evaluation of Appellant for his criminal responsibility and his capacity to conform his conduct to the requirements of the law in January and March of 2015. He first saw Appellant on January 15th. Before meeting with him, Dr. Frierson had reviewed "all of the police reports [and] witness statements," as well as medical records from SCDC and the Lancaster County Detention Center from Appellant's previous incarceration. ***R. 5820, l. 18 – 584, l. 8***.

Dr. Frierson testified that when they met on January 15th, "it became very clear to me that he was not giving good effort" and he was not being cooperative. So, Dr. Frierson suspended the evaluation and spoke with counsel in an effort to gain Appellant's cooperation, and he ordered psychological testing that is specifically designed to detect whether an individual is malingering. This testing reflected that Appellant was malingering or "making up symptoms that aren't

genuine." ***R. 584, l. 9 – 585, 8; 589, l. 14 – 591, l. 13***.[14]

Dr. Frierson thereafter met with Appellant again, in counsel's presence, on March 16, 2015. Appellant "was somewhat better in his effort, but still, there were times where what he was saying did not appear to be genuine." When asked about the crimes he committed on June 10, 2014, Appellant "said he didn't remember anything about the crime, didn't know where he was, had no memory of ever being there whatsoever."[15] So, Dr. Frierson based his opinion on evidence of things Appellant said and did on that date. In Dr. Frierson's opinion, evidence Appellant actions in (1) fleeing the murder scene after others discovered what happened, so as to avoid being present when police arrived; (2) disposing of evidence; (3) trying to clean the scene; and (4) denying he had done anything wrong, were all consistent with knowledge of wrongfulness. Also, Appellant did not report a delusion about Mr. Hood. Based upon his evaluation of Appellant, Dr. Frierson opined that Appellant "had the ability to distinguish moral and legal right from moral and legal wrong, and could recognize the acts that were charged as morally and legally wrong. And that it

[14] Although the trial judge had previously warned Appellant that he would be removed from the courtroom if he continued to disrupt the trial, he disrupted Dr. Frierson's testimony on direct with another outburst. Outside of the jury's presence, the trial judge had him removed from the courtroom. However, when court resumed, the judge instructed jurors that a defendant "can be tried even if he's not attending the trial, and the fact that he's not here and is not present may not be considered against him in any way whatsoever." He also reminded jurors of the presumption of innocence and the State's burden of proof. ***R. 585, l. 9 –589, l. 11***.

[15] There was no medical basis for Appellant's inability to recall the events, even though the toxicology report showed he tested positive for cannabis and his mother reported that he used cocaine. ***R. 593, ll. 13-21***. He had never been committed to a mental institution and he had never been diagnosed with a major mental illness. His initial diagnosis in SCDC was attention deficit hyperactivity disorder (ADHD) and ASPD. At one point while incarcerated he received a diagnosis of possible IED but treatment with appropriate medication "didn't seem to work very well." Dr. Frierson disagreed with the IED diagnosis because the criteria listed for that diagnosis in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) states the diagnosis should not be given if the aggressive outbursts are not better explained by another disorder, such as ASPD. ***R. 593, l. 22 – 596, l. 4***.

was also my opinion that he was not suffering from a mental illness which would have impaired his ability to conform his conduct to the requirements of the law." He explained that a person diagnosed with ASPD chooses to engage in physically aggressive behavior, "[i]ts not something they cannot control." ***R. 591, l. 14 – 593, l. 9; 598, l. 7 – 599, l. 13; 601, ll. 6-8; 602, ll. 5-9***.

D. **The trial judge's denial of an NGRI jury instruction.**

The trial judge revisited the question of whether he should give an NGRI jury instruction after Dr. Frierson's testimony. Counsel argued that Dr. had testified a hallucination was an example of psychosis and that Angela Hood's testimony revealed a hallucination by Appellant. She also noted he had testified "NGRI is a question for the jury." ***R. 616, ll. 12-20***. The State incorporated its previous arguments. ***R. 616, l. 23 – 617, l. 3***.

The trial stated that after reading the applicable case law, he believed that insanity could be established by lay witness testimony, but he found that both experts had opined that Appellant "did not meet the definition of insane as … not knowing legal right from legal wrong or moral right from moral wrong." As in *Gardner*, he also found that the other evidence presented did not support the requested instruction. He therefore denied Appellant's requested instruction. ***R. 617, ll. 4-24***.

E. **Discussion: There was no abuse of discretion.**

"South Carolina has adopted the M'Naughten test[16] to determine insanity. A defendant is insane if, at the time of the commission of the act constituting the offense, as a result of mental disease or defect, he lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong. S.C. Code Ann. § 17-24-10(A) (Supp.1996)." *Lewis*, 328 S.C. at 277-78, 494 S.E.2d at 117. "[T]he key to insanity

[16] *See M'Naughten's Cas*e, 8 Eng.Rep. 718 (1843).

is 'the power of the defendant to distinguish right from wrong in the act itself-to recognize the act complained of is either morally or legally wrong.' " *State v. Wilson* 306 S.C. 498, 506, 413 S.E.2d 19, 23 (1992), *cert. denied,* 506 U.S. 846 (1992) (quoting *State v. Grimes*, 292 S.C. 204, 205 n. 1, 355 S.E.2d 538, 539 n. 1 (1987) (quoting *State v. McIntosh,* 39 S.C. 97, 17 S.E. 446 (1893)).

NGRI is an affirmative defense. § 17-24-10(A). To be found NGRI, a defendant must "show by a preponderance of the evidence that he had a mental disease or defect that made him unable to distinguish right from wrong." *State v. Stanko*, 376 S.C. 571, 574, 658 S.E.2d 94, 95-96 (2008) (citing § 17-24-10). "A requested charge on insanity is properly refused where there is no evidence tending to show the defendant was insane at the time of the crime charged." *Lewis,* 328 S.C. at 278, 494 S.E.2d at 117.

Contrary to Appellant's contention, the trial judge did not "improperly weigh[] the evidence when he refused to charge NGRI." Rather, there was no "conflicting evidence" on the issue, as Appellant suggests because he simply did not offer any proof that he was NGRI at the time of the offense. Both the defense expert, Dr. Maddox,[17] and the prosecution's expert, Dr. Frierson,[18] opined that he was not NGRI. And, both experts relied on the facts surrounding the

[17] As discussed, Dr. Maddox diagnosed Appellant with IEC and she testified that he was GBMI at the time of the offenses. GBMI is defined in S.C. Code Ann. § 17-24-20(A) (2003) as follows: "[a] defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17- 24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law." *See also Wilson*, *supra*. "The guilty but mentally ill statute ensures the jury applies the legal definition of insanity properly by emphasizing that a person may be mentally ill, yet not legally insane." *State v. Curry*, 410 S.C. 46, 53, 762 S.E.2d 721, 725 (Ct. App. 2014) (citing *State v. Hornsby,* 326 S.C. 121, 130, 484 S.E.2d 869, 874 (1997)).

[18] Dr. Frierson testified that that Appellant was diagnosed with an ASPD. Dr. Frierson opined that Appellant was malingering his psychiatric symptoms. Dr. Frierson further opined that he "had the ability to distinguish moral and legal right from moral and legal wrong, and could recognize the acts that were charged as morally and legally wrong. And that it was also my opinion that he was

offenses to explain their opinions. While a jury may disregard expert testimony, *Lewis*, 328 S.C. at 278, 494 S.E.2d at 117, both experts opined that he was not NGRI with a full understanding of his voluntary intoxication and his odd behavior surrounding the crimes, and each expert's diagnosis offered an explanation for the behavior Appellant exhibited on June 10, 2014.

Separate and apart from these expert opinions, Appellant did not present any evidence that he was insane when he committed the offenses. The facts of the crimes outlined by Drs. Maddox and Frierson demonstrate that there was no evidence he was insane at the time of the offenses. His odd behavior was clearly not evidence of insanity. For instance, he was not experiencing either a visual or auditory hallucination when talking as he stared at the washing machine, as he suggests. He was merely expressing his intent to have retribution on unknown persons for a perceived but ultimately unexplained wrong against him.

Likewise, Appellant's contention that the absence of a motive for the charged offenses provides evidence that he was NGRI at the time of the offenses is not meritorious. "[I]t is well settled that motive is not an element of murder and, therefore, the State need not prove motive." *State v. Smith*, 307 S.C. 376, 385, 415 S.E.2d 409, 414 (Ct. App. 1992). *See also State v. Damon*, 285 S.C. 125, 129, 328 S.E.2d 628, 631 (1985) ("In South Carolina, there is no requirement that the state prove motive"), *overruled on other grds*, *State v. Torrence*, 305 S.C. 45, 406 S.E.2d 315 (1991). So, the absence of evidence explaining Appellant's reason(s) for committing the offenses cannot legally or logically constitute evidence supporting an NGRI instruction.

Similarly, his voluntary intoxication from marijuana and/or cocaine, which did not

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not suffering from a mental illness which would have impaired his ability to conform his conduct to the requirements of the law." Dr. Frierson explained that a person diagnosed with ASPD chooses to engage in physically aggressive behavior, "[i]ts not something they cannot control."

"produce[] permanent insanity, is never an excuse for or a defense to crime, regardless of whether the intent involved be general or specific." *State v. Vaughn*, 268 S.C. 119, 125, 232 S.E.2d 328, 330 (1977). Moreover, while Appellant claimed to have no memory of the offenses, *see Gardner*, 219 S.C. at 106-07, 64 S.E.2d at 135 (defendant's testimony that he did not remember killing his wife, "standing alone," was insufficient to establish insanity), made false claims throughout his testimony, and was evasive on cross-examination, his testimony does not demonstrate insanity, as he would have the court believe.

Therefore, there was no abuse of discretion in failing to give the requested charge because no evidence supported it. *See Lewis,* 328 S.C. at 278, 494 S.E.2d at 117.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and sentence of the circuit court should be affirmed.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
No. 07979

WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
No. 3710

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

RANDY E. NEWMAN, JR.
Solicitor, Sixth Judicial Circuit

PO Box 607
Lancaster, SC 29721
(803) 416-9336

By: s/William Edgar Salter, III
WILLIAM EDGAR SALTER, III
ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Lancaster County
The Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

Respondent,

v.

JERMAINE DEMARCUS GRIER,

Appellant.

Appellate Case No. 2021-000444

CERTIFICATE OF COMPLIANCE

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

This 28th day of April 2022.

s/William Edgar Salter, III
William Edgar Salter, III
Senior Assistant Attorney General

ATTORNEY FOR RESPONDENT