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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM FLORENCE COUNTY

Court of General Sessions  
The Honorable Michael G. Nettles, Circuit Court Judge

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Appellate Case No. 2020-001485

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THE STATE,

Respondent,

v.

BRYAN AUSTIN SEIDLE,

Appellant.

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**FINAL BRIEF OF RESPONDENT**

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## RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

Evidence of a victim's pertinent character trait may be admissible if relevant to a defendant's self-defense claim. Appellant sought to introduce evidence that the victim was a registered sex offender. The altercation between victim and Appellant was not sexual in nature, and the conviction underlying the victim's registry requirement was 23 years old and there was no evidence it was violent in nature. Did the trial court abuse its discretion by excluding the evidence?

## STATEMENT OF THE CASE

A Florence County grand jury indicted Appellant Bryan Seidle for the murder of Michael Ingersoll. Seidle moved for immunity from prosecution under the Protection of Persons and Property Act, and an evidentiary hearing was held on September 8, 2020, before the honorable Michael G. Nettles. Judge Nettles heard testimony from Seidle and other witnesses and took the matter under advisement. Judge Nettles denied immunity and the case proceeded to trial. An additional pretrial hearing was convened on October 15, 2020, during which Judge Nettles heard legal arguments on several motions, including the State's motion to exclude evidence of Ingersoll's status as a registered sex offender. Seidle proceeded to jury trial on October 19, 2020, again before Judge Nettles. He was convicted of murder and sentenced to 30 years' incarceration. In this direct appeal, Seidle challenges the trial court's ruling excluding evidence that Ingersoll was a registered sex offender.

## STATEMENT OF FACTS

On March 26, 2018, Appellant Bryan Seidle shot his mother's boyfriend, Michael Ingersoll, seven times in the head and torso, killing him. While Seidle argued at trial that he shot Ingersoll in self-defense, the State argued that the circumstantial evidence and Seidle's statements to authorities showed he shot Ingersoll in anger after ordering Ingersoll to leave his mother's house. Ingersoll, a former employee of Seidle's father at his painting business, began dating Seidle's mother after his parents separated. (R.p.241). Ingersoll frequently stayed the night at Seidle's mother's house. (R.p.263).

According to Seidle, Ingersoll had a verbal argument with Seidle's mother at his mother's house. (R.p.245). Seidle was present at the time. Seidle's mother left the house and Ingersoll stayed behind. Seidle demanded that Ingersoll leave the house. (R.p.246). Ingersoll replied that he was waiting for Seidle's mother to return. (R.p.247). Seidle then retrieved a rifle and went to confront Ingersoll, who was in Seidle's mother's bedroom. Seidle's trial testimony about what happened in the bedroom varied greatly from his statements to police on the night of the shooting; and these facts are discussed below. It was undisputed that Seidle shot and killed Ingersoll in the bedroom.

Ingersoll called 911 from the bedroom during the argument with Seidle, telling the operator he was being threatened with a gun. After Ingersoll hung up, Seidle killed Ingersoll with a .22 caliber rifle. After Seidle shot Ingersoll, he called 911 stating he had just "murdered a man." (R.p.122; State's Exhibit #2).

When first responders arrived, Seidle admitted shooting Ingersoll. A responding deputy testified Seidle was "calm, cool, [and] collected" when he arrived at the home. (R.p.136). The deputy coroner who responded to the scene also testified and agreed Seidle was "calm, very collected, very thoughtful" when he arrived on scene. (R.p.169). When asked what had happened, Seidle told the deputy coroner that his mother and Ingersoll "had got into an argument and she had left the residence, and he wanted [Ingersoll] to leave as well and he was refusing; so he retrieved a rifle from the bedroom and shot him." (R.p.169). Seidle stated he fired the gun "until it stopped." (R.p.172).

First responders found Ingersoll's body lying face-up on the bed in the master bedroom, with the gun lying next to him. (R.p.137). There were three gunshot wounds to the left side of his head, "one just in front of the left ear, one kind of up and above the ear, and then one kind of near the hairline in the left side of the forehead." (R.p.196, State's Exhibit #12). These wounds "were traveling straight across the head maybe from left to right, also a little bit downward." (R.p.196). These shots would have been fired "with a gun being essentially pointed straight at this side of the head and again maybe just slightly downward . . . ." (R.p.201). The remaining four wounds were to Ingersoll's torso. There were "three in a cluster . . . on the left flank" and one "closer to the mid-abdomen, just left of midline." (R.p.198). The cluster of three bullets traveled "straight up and then to the back," meaning it came from a "straight path." (R.p.199). The bullet that entered Ingersoll's midline traveled from left to right. (R.p.199). Unlike the wounds to

Ingersoll's head, which angled "downward," all four of the wounds to his torso were travelling "upward." (R.p.200). A forensic pathologist testified all of the gunshots would be considered fatal. (R.p.204). The forensic pathologist further testified there was no stippling around the wounds, meaning the gun was fired from more than three to four feet away, or there was some material, such as clothing, between the gun and skin. (R.p.208-09).

Authorities did not discover any other guns at the scene. The only potential "weapon" was a painter's knife that was clipped to Ingersoll's belt. (R.p.146; 213-14). It was still "sheathed." (R.p.146; 220).

A sheriff's department investigator mirandized and interviewed Seidle at the police station. This interview was video-recorded and entered as State's Exhibit #20. Seidle stated he confronted Ingersoll with a gun in the bedroom and gave him until the "count of three" to leave the house. (R.p.265; State's Exhibit #20). When Ingersoll did not move, Seidle shot him seven times. He admitted Ingersoll did not try to "fight him" or "rush at" him. (State's Exhibit #20 at 9:45).

Seidle's trial testimony was markedly different. He claimed Ingersoll threatened him with a knife in the bedroom. (R.p.247). Seidle claimed he pointed the gun at Ingersoll and "it ended up going off." (R.p.248). This shot did not hit Ingersoll, and Seidle left the room. Seidle claimed he returned to the bedroom and Ingersoll attacked him with "a big old curved knife" and Seidle "started shooting." (R.p.249). Seidle claimed "it never occurred" to him to tell police Ingersoll attacked him with a knife. (R.p.259).

## STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only, and is bound by the trial court's factual findings unless they are clearly erroneous. State v. Collins, 409 S.C. 524, 529–30, 763 S.E.2d 22, 25 (2014). The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice. Id. An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law. Id. "Whether a specific instance of conduct by the deceased is closely connected in point of time or occasion to the homicide so as to be admissible is in the judge's discretion and will not be disturbed on appeal absent an abuse of discretion resulting in prejudice to the accused." State v. Brown, 321 S.C. 184, 187, 467 S.E.2d 922, 924 (1996).

## ARGUMENT

**The trial court correctly excluded evidence that the victim was a registered sex offender because the evidence was not relevant to Seidle's self-defense claim and unfairly prejudicial to the State.**

The trial court correctly excluded evidence that the victim, Michael Ingersoll, was a registered sex offender because the evidence was not relevant to Seidle's self-defense claim and was unfairly prejudicial to the State. (R.p.101-17). There was no evidence that Ingersoll's registry status reasonably caused Seidle to fear death or serious bodily injury. This Court should affirm.

### **A. Evidence of the victim's sex offender status was inadmissible character evidence.**

"Evidence of a **pertinent** trait of character of the victim of the crime offered by an accused" is admissible in a criminal trial. Rule 404 (a)(2), SCRE (emphasis added). "In the murder prosecution of one pleading self-defense against an attack by the deceased, evidence of other specific instances of violence on the part of the deceased are not admissible unless they were directed against the defendant or, if directed against others, were so closely connected at point of time or occasion with the homicide as reasonably to indicate the state of mind of the deceased at the time of the homicide, or to produce reasonable apprehension of great bodily harm." State v. Day, 341 S.C. 410, 419–20, 535 S.E.2d 431, 436 (2000).

Seidle claims Ingersoll's sex offender status was relevant to his self-defense claim. This argument is meritless. Because sex offender registry follows only from a conviction of a sex crime, such evidence is evidence of a prior conviction and a prior bad act. See Rule 404(b), SCRE. Sex offender registry, in itself, does not

reasonably support an apprehension of violence from the person required to register. While sex offender registry does connote some history of sexual deviancy, it does not connote a history of violence. Perhaps if the conviction underlying Ingersoll's registry requirement was a crime a violence, and connected in some way to the incident underlying this case, it may have been relevant to Seidle's state of mind. But Seidle did not testify that he knew anything about the facts of the underlying conviction. Rather, he testified at the immunity hearing only that his parents "told us [Ingersoll] was a sex offender . . . ." (R.p.13, line 13). Likewise, defense counsel admitted at trial he did not know the underlying facts of the conviction which led to Ingersoll's registry requirement. (R.p.101–02).

In fact, Ingersoll's sex offender registry requirement was based on a sex crime he committed as a seventeen-year-old against a fifteen year old victim. (R.p.101). The incident had nothing to do with Seidle. There was no indication the prior conviction was committed through the use of physical violence. (R.p.117). It is possible the conviction was based solely on the victim's age. Ingersoll's registry status, which was based on this single underlying conviction, was not relevant to show "that the deceased was of a violent and turbulent disposition . . . ." State v. Amburgey, 206 S.C. 426, 429, 34 S.E.2d 779, 780 (1945). The mere fact that Seidle was allegedly aware Ingersoll was required to register as a sex offender was not relevant to his self-defense claim.

**B. Even if the victim's sex offender status was relevant, its probative value was substantially outweighed by the danger of unfair prejudice.**

In addition to being improper character evidence, Ingersoll's sex offender status was inadmissible under 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." Rule 403, SCRE.

As discussed above, Ingersoll's sex offender status was not probative of his character for violence. But on top of that, the conviction was too remote to be of probative value. As explained in State v. Day, prior instances of violence must be "so closely connected at point of time or occasion with the homicide as reasonably to indicate the state of mind of the deceased at the time of the homicide, or to produce reasonable apprehension of great bodily harm." Day, 341 S.C. at 419–20, 535 S.E.2d at 436. Ingersoll's sex crime conviction occurred 25 years prior to this incident. (R.p.108).

By contrast, the danger of unfair prejudice was extremely high. Evidence of Ingersoll's sex offender status would have served only to tarnish his character in the eyes of the jury. State v. Cross, 427 S.C. 465, 478, 832 S.E.2d 281, 288 (2019) (noting "the inherently prejudicial stigma a prior sex-related offense undoubtedly carries"). Given the extreme stigma associated with sex offender registry and the irrelevance of Ingersoll's registry status to Seidle's self-defense claim, the trial court correctly found the risk of unfair prejudice substantially outweighed the probative value of this evidence. (R.p.113). The trial court correctly excluded the evidence,

and its ruling is entitled to "great deference" from this Court. State v. Collins, 409 S.C. 524, 534, 763 S.E.2d 22, 28 (2014) (explaining a "trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances").

**C. Seidle was not prejudiced.**

Even if the trial court abused its discretion by excluding evidence that Ingersoll was a sex offender, Seidle was not prejudiced because this evidence did not reasonably affect the outcome of trial. Appellate courts will not set aside convictions due to insubstantial errors not affecting the result. State v. Byers, 392 S.C. 438, 447, 710 S.E.2d 55, 60 (2011). Error is harmless when it could not reasonably have affected the result of the trial. Id.

Seidle's trial testimony was inconsistent with the physical evidence produced at trial. Seidle shot Ingersoll seven times, included three times in the head. While he claimed Ingersoll attacked him with a "big old curved knife," no knife was recovered. (R.p.249). The forensic pathologist testified to the trajectory of the bullets Seidle fired at Ingersoll. (R.p.201-02). His testimony showed Ingersoll was likely lying down on the bed when Seidle shot him in the torso. This scientific evidence made Seidle's testimony that Ingersoll "[came] at" him extremely unlikely. (R.p.249).

Perhaps more damning were Seidle's own statements to authorities. Directly after the shooting, Seidle told a 911 operator he had just "murdered a man." (R.p.122; State's Exhibit #2). In Seidle's statement to police, he completely omitted the claim that Ingersoll attacked him with a knife. Rather, he explained simply

that he wanted Ingersoll to leave his mother's house, and when Ingersoll did not leave by the "count of three" he shot him seven times. (State's Exhibit #20). He told officers Ingersoll "didn't move" during those three seconds. (State's Exhibit #20 at 9:00). He admitted Ingersoll did not try to "fight him back" or "rush at" him. (State's Exhibit #20 at 9:45).

Seidle's trial testimony that Ingersoll attacked him with a knife was inconsistent with these prior statements to police and the physical evidence produced at trial. The jury reasonably concluded his testimony was not credible. Ingersoll's sex offender status was not probative of these crucial facts and its exclusion did not reasonably affect the result of trial. This Court should affirm.

## CONCLUSION

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

Respectfully submitted,

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**CERTIFICATE OF COUNSEL**

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The undersigned certifies that 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."

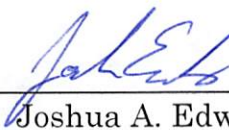
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