

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

vs.

STEPHEN MICHAEL RIVERS,

DEFENDANT.

FILED

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

2023 JUN - 1 PM 12: 14

LEAH GUERRY DUPREE

CLERK OF COURT

BERKELEY COUNTY

**ORDER DENYING DEFENDANT'S  
REQUEST FOR IMMUNITY**

Indictment #2020-GS-08-01763

Indictment #2020-GS-08-01764

On May 9, 2023, both parties to this matter appeared before this Court for a hearing on Defendant's request for immunity pursuant to the South Carolina Protection of Persons and Property Act.<sup>1</sup> This Court, having now heard testimony on this matter, and having considered the parties' arguments and memorandums, denies Defendant's request for immunity from prosecution because it was not reasonable for the Defendant to be in fear of imminent danger.

**FINDINGS OF FACT**

During the May 9, 2023 immunity hearing, the Court heard recorded statements from witnesses from the day of the incident, March 20, 2020.<sup>2</sup> The Court also watched a video interview of the Defendant with Detective Sergeant Morris on March 20, 2020.<sup>3</sup> The Court heard testimony from the pathologist, Doctor Nicholas Batalis and from Detective Sergeant Morris.

It is undisputed that the Victim, Heath Watkins, was shot in the back by a 0.45 caliber handgun owned and carried by the Defendant on Willowood Avenue, in Hanahan, Berkeley County. The Defendant had possession of the gun throughout the entire incident and used that

<sup>1</sup> S.C. Code §16-11-410, *et seq.*

<sup>2</sup> The Defense presented these statements in their Case in Chief. They are collectively labeled as Defense's Exhibit 1.

<sup>3</sup> The interview of the Defendant was presented in the State's Case in Chief. The interview is labeled as State's Exhibit 25.

gun to shoot the Victim in the back.<sup>4</sup> The Defendant stated that the Victim always carried a pocket knife and that knife was found on the Victim at the scene. The Defendant stated that the Victim did not present this knife that he always carried on him at any time during the incident.<sup>5</sup>

Defendant claimed that he and the Victim were on their way to pick up a boat the Defendant was purchasing from a co-worker. The Defendant gave different variations of the events, the first one being that the Defendant exited the vehicle, ran across the median to a house on Willowood Avenue and banged on their door. The Defendant said the Victim chased him and said "I'm going to finish you." That's when the Defendant pulled his pistol and at the same time the Victim turned is when the Defendant fired his gun.<sup>6</sup> The second version was that the Victim said, "I have something for you." The Defendant was 25 yards from the truck when the Victim took a step toward the Defendant and that's when the Defendant fired the handgun and the Victim turned.<sup>7</sup> The third version was that while the Defendant was on the edge of the yard of 1000 Willowood Avenue, the Victim pointed his finger at the Defendant and said, "I have something for you." The Victim turned around and went back to the truck. When the Victim was about 15 yards away, he turned around and said, "I'm going to finish what I started." The Victim then turned and walked away and he was another 8 to 10 yards away from the Victim when the Defendant fired the fatal shot.<sup>8</sup>

Dr. Batalis testified that due to the speed of the bullet, a person would not have been able to turn around (from front facing to back facing) while a shot was fired and thus sustain a gunshot wound to the center of the back.

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<sup>4</sup> Defendant's Interview with Detective Morris at 22:10.

<sup>5</sup> Defendant's Interview with Detective Morris at 47:29.

<sup>6</sup> Defendant's Interview with Detective Morris at 22:10.

<sup>7</sup> Defendant's Interview with Detective Morris at 37:42.

<sup>8</sup> Defendant's Interview with Detective Morris at 50:50.

After firing the fatal shot at the Victim, the Defendant did not call 911. He approached a resident of 1001 Willowood Avenue, [REDACTED], and told her not to call 911.<sup>9</sup> The first call the Defendant made from his phone after the shooting was to his boat dealer.<sup>10</sup>

## CONCLUSIONS OF LAW

A defendant's entitlement to immunity from prosecution under the Protection of Persons and Property Act must be decided pretrial using a preponderance of the evidence standard.<sup>11</sup>

First, the Defendant must establish all the requirements of self-defense.<sup>12</sup> For immunity claims under this theory, the court stated in *Curry*, “a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity.”<sup>13</sup> Accordingly, a trial court should first consider whether the defendant has proved the elements of self-defense by a preponderance of the evidence. If the trial court finds that a defendant has met their burden, immunity is granted, thereby precluding prosecution. South Carolina follows the common law of self-defense.<sup>14</sup> In order to establish a claim of self-defense, a defendant must show: (1) that he was without fault in bringing on the difficulty; (2) that he 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;<sup>15</sup> (3) that if his defense is based on the actual belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief and if his defense is based on his being in actual and imminent danger, that the circumstances must be “such as would warrant a man of ordinary prudence, firmness, and courage to strike the fatal blow in order to save himself

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<sup>9</sup> Naveah Martin's recorded statement in Defense's Exhibit 1.

<sup>10</sup> Defendant's Call Log labeled as State's Exhibit 16.

<sup>11</sup> *State v. Glenn*, 429 S.C. 108, 118, 838 S.E.2d 491, 496 (2019).

<sup>12</sup> S.C. Code §16-11-410, *et seq.*

<sup>13</sup> *State v. Curry*, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013).

<sup>14</sup> *See, e.g., State v. Jones*, 416, S.C. 293, 300, 786 S.E.2d 132, 141 (2016).

<sup>15</sup> S.C. Code §16-11-440(A & C) may, under appropriate facts, provide a presumption of reasonable fear.

from serious bodily harm, or losing his own life;" and (4) there must have been no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury, unless the defendant was on his own premises, in which case no duty to retreat is imposed.<sup>16</sup> This exception to the fourth element, known as the "Castle Doctrine", which allows for a person who is "attacked, without fault on his part, on his own premises, the right, in establishing his claim of self-defense, to claim immunity from the law of retreat."<sup>17</sup> In this case, the Castle Doctrine is not applicable as it is undisputed that the Defendant was not in his own premises and that both he and the Victim had a lawful right to be on the residential road where the murder occurred.

Secondly, if the Court finds that self-defense was not established, and specifically the elements of reasonable fear or the duty to retreat, the court should then determine whether §16-11-440(A) and/or (C) of the Act are applicable. The Court must determine if there is a presumption under §16-11-440 (A) that would replace reasonable fear and/or if the requirements §16-11-440 (C) are met to replace the duty to retreat.

This Court finds that the Defendant has failed to meet his burden of proof in that the Defendant has failed to prove, by a preponderance of the evidence, that he was justified in the use of deadly force against the Victim. The evidence provided confirms that the Defendant had a right to be on Willowood Avenue, as did the Victim. However, the Court finds the Defendant failed to establish a presumption of reasonable fear pursuant to S.C. Code §16-11-440(B).

Moreover, the Court does not find the Defendant's claim that he was in fear for his life to be credible on the elements of self-defense, save the duty to retreat, as required by law to prevail on a claim for immunity under the Protection of Persons and Property Act. For these reasons the Court must find that the Defendant's request for immunity fails.

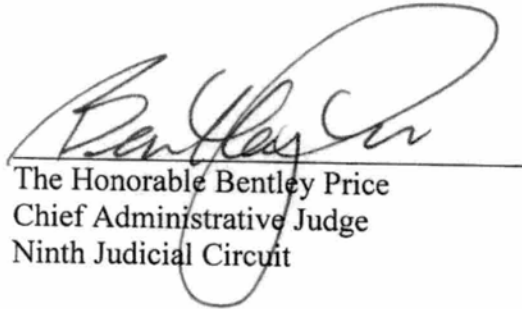
Accordingly, the Defendant's Motion is heard and respectfully **DENIED**.

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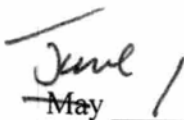
<sup>16</sup> See, e.g., *State v. Hendrix*, 270 S.C. 653, 657-58, 244 S.E.2d 503, 505-06 (1978).

<sup>17</sup> *State v. Gordon*, 128 S.C. 422, 425, 122 S.E. 501, 502 (1924).

**THEREFORE, IT IS ORDERED** that the Defendant is not entitled to immunity pursuant to the South Carolina Protection of Persons and Property Act as enumerated in S.C. Code §16-11-410, et al. The State is legally entitled to proceed with the prosecution of the Defendant for murder and possession of a weapon during the commission of a violent crime.



The Honorable Bentley Price  
Chief Administrative Judge  
Ninth Judicial Circuit

  
~~May~~ June 1, 2023  
Moncks Corner, South Carolina