



The Supreme Court of South Carolina

October 2023 Roster

Furman University

Tuesday, October 24, 2023

10:00 AM

2022-000211

**The State, Respondent, v. Gregg Pickrell,
Petitioner.**

Chief Appellate Defender Robert Michael Dudek, of Columbia, for Petitioner. Attorney General Alan McCrory Wilson, Senior Assistant Attorney General Mark Reynolds Farthing, and Solicitor Byron E. Gipson, all of Columbia, for Respondent.

Petitioner Gregg Pickrell was indicted for the murder of Robert Demary (Victim), her former employee and romantic partner. It was undisputed that Pickrell shot Victim in her home, but Pickrell maintained she was immune from prosecution pursuant to the Protection of Persons and Property Act, S.C. Code Ann. §§ 16-11-410 to 450 (2015). Following an immunity hearing, Pickrell was denied immunity from prosecution.

At trial, Investigator Rick Bailey testified he interviewed Pickrell after the murder in the presence of Pickrell's attorney. Investigator Bailey also testified he observed Victim at the crime scene in a seated position facing the door. Investigator Bailey expressed concern with Pickrell's answers during the interview because Pickrell claimed that Victim "came at" her, but the bullet entry wound was on Victim's back.

SLED Agent Dawn Claycomb, who responded to the crime scene, also testified at trial. Claycomb provided testimony concerning the layout of Pickrell's home and the items found at the scene. According to Agent Claycomb, the location of a casing found at the scene could give an idea of where the shooter was located within the home. Claycomb responded that "[i]f you would find the cartridge case in the bedroom . . . [the shooting could not have] occur[ed] in the living room."

Pickrell was ultimately convicted of murder and sentenced to thirty-five years' imprisonment. Pickrell appealed, and the South Carolina Court of Appeals affirmed the conviction. The Supreme Court of South Carolina has now granted Pickrell's petition for a writ of certiorari to review the decision of the Court of Appeals. Pickrell

argues the Court of Appeals erred in affirming the trial court's rulings allowing law enforcement officials to testify that they did not believe Pickrell's statements regarding how the shooting occurred because the testimony was improper lay opinion (nonexpert) testimony.

11:30 AM

2022-000740

Tony Young, Petitioner, v. Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants, Of Which The Greenwood County Sheriff's Office is Respondent.

Joshua Thomas Hawkins and Helena LeeAnn Jedziniak, of Hawkins & Jedziniak, LLC, of Greenville; and Kyle Jason White, of White, Davis, and White Law Firm, of Anderson, all for Petitioner. Andrew F. Lindemann, of Lindemann Law Firm, P.A., of Columbia, and Russell W. Harter, Jr., of Chapman Harter, P.A., of Greenville, for Respondent.

Tony Young was hospitalized for medical care following an automobile accident in Greenwood County. As part of his treatment, Young received a neck brace and prescription medication. Young was charged with felony driving under the influence and, upon his release from the hospital, was transported to the Greenwood County Detention Center.

Young subsequently brought this action against the Greenwood County Detention Center and the Greenwood County Sheriff's Office, alleging various policies and procedures of the sheriff's office were violated during his booking at the detention center. Specifically, Young alleged he should have been cleared by a physician for admission to the detention center, his neck brace was removed, and he was not given his medication, all in violation of their duty to provide appropriate medical care to an inmate and causing him excessive pain and suffering.

A jury returned a verdict for the defendants, finding they were not grossly negligent in their treatment of Young. Young appealed, and the South Carolina Court of Appeals affirmed in an unpublished opinion. *See Young v. Greenwood Cnty. Detention Ctr.*, Op. No. 2022-UP-170 (S.C. Ct. App. filed Apr. 6, 2022). The Supreme Court of South Carolina has now granted Young's petition for a writ of certiorari to review the decision of the Court of Appeals. Young contends the Court of Appeals erred in failing to find he was denied his constitutional right to a fair trial due to the trial judge's commentary and rulings on evidentiary issues.

Wednesday, October 25, 2023

10:00 AM

2022-001228

**The State, Respondent, v. Mutekis Jamar
Williams, Petitioner.**

Clarence Rauch Wise, of Greenwood, for Petitioner.
Attorney General Alan McCrory Wilson, and
Assistant Deputy Attorney General Mark Reynolds
Farthing, of Columbia; and Solicitor Scarlett Ann
Wilson, of Charleston, all for Respondent.

On July 21, 2015, a deputy from the Charleston County Sheriff's office pulled Mutekis J. Williams over for speeding while driving his sister's rental car. The deputy ran a license check, which revealed Williams had an active arrest warrant, and arrested Williams. The arresting deputy and two other deputies who had arrived on scene asked Williams if he had any money or contraband in the car, and Williams stated he had \$8,000 in a box in the trunk of the car. The deputies later performed an inventory search of the car, and in a box in the trunk of the car, they found the money and a bag containing approximately 120 grams of cocaine.

Williams was indicted and later convicted by a jury of trafficking in cocaine in an amount of one-hundred grams or more and sentenced to the mandatory minimum sentence of twenty-five years' imprisonment. Williams appealed his conviction to the South Carolina Court of Appeals, arguing the trial court erred in failing to strike the arresting officer's testimony that Williams was in "constructive possession" of the cocaine found in the trunk of the car. The Court of Appeals affirmed Williams' conviction in an unpublished decision, finding while the trial court erred in not striking this lay witness opinion testimony as it was unresponsive and a legal conclusion, the error was harmless because the testimony did not affect the outcome of Williams' trial. *State v. Williams*, Op. No. 2022-UP-114 (S.C. Ct. App. filed June 8, 2022). The Supreme Court of South Carolina granted Williams' petition for a writ of certiorari to consider whether (1) the trial court erred in failing to strike the arresting deputy's testimony that Williams was in constructive possession of the cocaine and (2) the Court of Appeals erred in holding the admission of the arresting deputy's testimony was not reversible error.

11:30 AM
2022-001378

**United States of America, Plaintiff, v. Patrick
Fitzgerald Clemons, Defendant.**

United States Attorney Adair Ford Boroughs, Assistant United States Attorney Kathleen Michelle Stoughton and Assistant United States Attorney Justin William Holloway, all of Columbia, for Plaintiff. Elizabeth Anne Franklin-Best, of Elizabeth Franklin-Best, P.C., of Columbia, for Defendant. Attorney General Alan McCrory Wilson, Chief Deputy Attorney General W. Jeffrey Young, Deputy Attorney General Donald J. Zelenka, and Assistant Deputy Attorney General Mark Reynolds Farthing, all of Columbia, for State of South Carolina, Amicus Curiae.

Under the United States Armed Career Criminal Act (the Act), a defendant found guilty of being a felon in possession of a firearm under § 922(g) is subject to a minimum sentence of fifteen years' imprisonment if he or she has three previous convictions for a "violent felony," which is defined by 18 U.S.C. § 924(e)(B)(i) of the Act as "any crime punishable by imprisonment for a term exceeding one year . . . that . . . has as an element the use, attempted use, or threatened use of physical force against the person of another." In *Borden v. United States*, 141 S. Ct. 1817 (2021), the Supreme Court of the United States found felonies that have mental state requirement (also known as a *mens rea*) of recklessness or negligence may not serve as predicate offenses under § 924(e).

Two months after the release of *Borden*, Patrick F. Clemons pled guilty to being a felon in possession of a firearm under § 922(g). *United States v. Clemons*, 4th Cir. Order dated October 3, 2022. Clemons has two prior South Carolina convictions for S.C. Code Ann. § 16-25-65, Criminal Domestic Violence of a High and Aggravated Nature, and one prior South Carolina conviction for S.C. Code Ann. § 16-3-600(D), Assault and Battery Second Degree. *Id.* At his sentencing, Clemons objected to the imposition of a mandatory minimum sentence of fifteen years imprisonment under the Act, arguing a perpetrator may be convicted of both Criminal Domestic Violence of a High and Aggravated Nature and Assault and Battery Second Degree in South Carolina by committing reckless or negligent conduct, and therefore, under the categorical approach used by the federal courts to determine Armed Career Criminal Act enhancement, neither of these offenses qualify as predicate offenses. *Id.* The district court overruled Clemons' objection, determining the guideline range for Clemons' sentence was fifteen to seventeen-and-a-half years of imprisonment. *Id.* Clemons appealed and, in his arguments before the United States Court of Appeals

for the Fourth Circuit, asserted Criminal Domestic Violence of a High and Aggravated Nature and Assault and Battery Second Degree convictions cannot be used as predicates for Armed Career Criminal Act enhancement under *Borden*.

Finding determination of the required mental state for commission of these South Carolina offenses was necessary for disposition of Clemons' appeal, the Fourth Circuit certified the following two questions to the Supreme Court of South Carolina:

1. What mental state is required to commit South Carolina Assault and Battery Second Degree, in violation of S.C. Code [Ann.] § 16-3-600; and
2. What mental state is required to commit South Carolina Criminal Domestic Violence of a High and Aggravated Nature, in violation of S.C. Code [Ann.] § 16-25-65?

Id. The Supreme Court accepted the two certified questions on October 26, 2022. *United States v. Clemons*, S.C. Sup. Ct. Order dated October 26, 2022.