

No. S26A1087

In the
Supreme Court of Georgia

Sequoyah Howard,
Appellant,

v.

State of Georgia,
Appellee.

On Appeal from the Fulton County Superior Court
Case No. 21SC180115

**BRIEF OF APPELLEE
BY THE ATTORNEY GENERAL**

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STATEMENT OF THE CASE

A. Relevant Material Facts

On June 24, 2021, Appellant Sequoyah Howard fatally shot decedent Mario Peterson (a.k.a. “Kat”) at the Vanira Village Apartments in Atlanta, Fulton County. V8-243, 254, 261; V9-75; 231; V10-73–77, 129, 132–35; State’s Exhibits 2 and 3. The shooting was witnessed by multiple people at the apartment complex and was captured on surveillance footage. *Id.* Howard admitted that she shot Peterson, but she claimed that she was acting in self-defense. V11-30–33, 36.

On the night of the incident, Howard, Clement Corrigan Page (a.k.a. “Corri”), Destyne Holloway,¹ and Laronda Anthony (a.k.a. “Dank”) were gathered outside Anthony’s apartment. V8-235; V9-68, 225. The gathered individuals wanted to purchase alcohol, but the liquor store was closed for the night, so they discussed finding a “bootlegger” (i.e. someone who sold alcohol after hours). V8-235–36; V9-68–69, 226. As they were trying to figure out what they wanted to do, or if they were going to go anywhere, Peterson arrived on the scene. V8-236–38; V9-69, 227.

Anthony asked Peterson if he knew of a nearby bootlegger, and Peterson advised that he knew of one right around the corner; Peterson asked

¹ Holloway’s first name often appears as “Destiny” in the trial transcript.

Page if he was going to drive there, because Page had a car. V8-238, 251; V9-69, 73, 227.

While Peterson was speaking with Anthony and Page, Holloway and Howard were in a nearby stairwell and were able to observe the interaction between Peterson, Anthony, and Page. V8-238, 241, 259; V9-226. Holloway started to get riled up, stating, “I don’t care who does what as long as my money and my liquor comes back straight” or words to that effect. V8-239.

Based on the interaction, Page assumed that something must have previously transpired between Holloway and Peterson regarding money. V8-239–40. Page was correct in his assumption—Holloway and Peterson were in the midst of ongoing dispute, dating back to the prior December, because Peterson owed Holloway money related to a U-Haul that had she had rented for him in her name. V9-219–221, 236. The pair would frequently argue about the money Peterson owed Holloway, and those arguments would often become heated, loud, and riddled with expletives. V9-221–23, 236–37.

On the night of his murder, Peterson initially attempted to dismiss Holloway’s comments. V8-240. However, when Holloway started “getting louder and a little belligerent,” Peterson began arguing back. V8-240–41; V9-74. Ultimately, Holloway called Peterson a “b*tch n*gg*r”, prompting Peterson to physically approach her. V8-241.

As Peterson approached Holloway, Howard stood up from the stairwell where she had been sitting and told Peterson that he needed to leave, because he was not supposed to be on the property. V8-242–43, 253; V9-82, 240–41; V10-88, 100. Howard pushed Peterson, and he slapped her hand. V8-243, 254–55, 261; V9-46, 75, 231, 242. Howard pushed Peterson again, and he pushed her back. V8-254, 261; V9-231, 242. Howard then shot Peterson. V8-243, 254, 261; V9-47, 75, 231. Howard remained on the scene until first responders arrived. V10-112.

Shortly after the murder, homicide detective David Duncan arrived at the scene. V10-74. The murder weapon and a discharged shell casing were collected at the scene, and Peterson was lying facedown in the courtyard deceased. V10-74–77. The medical examiner who performed the autopsy on Peterson's body determined that Peterson suffered a single gunshot wound. V10-134–35. The bullet entered the left clavicular area of Peterson's chest and traveled backward (from the front of Peterson's body to his back) and downward. V10-124, 132–33. As the bullet traveled through Peterson's body, it lacerated both his pulmonary trunk, which is the major blood vessel which takes blood from the heart to the lungs to receive oxygen, and his aorta, which is the major artery in the body. V10-129.

Although Howard was identified as a suspect, she was not arrested that night, because law enforcement first wanted to review all of the evidence

and speak to additional witnesses. V10-74–75, 78–79. Ultimately, after obtaining and reviewing the relevant surveillance footage and speaking to multiple witnesses, Detective Duncan obtained an arrest warrant for Howard. V10-89–90.

At trial, Howard elected to testify in her own defense. She testified that she was afraid of Peterson, because they had several prior difficulties. V11-11–13, 17–18, 21–22, 74–77, 81–83. On the night of the incident, June 24, 2021, she met up with Anthony and Holloway. V11-25, 68. As the women were gathered outside of one of the apartment buildings, they were approached by Page and later Peterson. V10-26, 70.

According to Howard, an argument began when Anthony, Page, and Peterson were discussing going to find a bootlegger, Peterson represented that he would ride with them to the bootlegger's location, and Holloway stated, "I'm not going with you, and y'all are not going to take my money with him [Peterson]." V11-28, 70. During the argument, Howard told Peterson, "Pipe down, you're not even supposed to be over here." V11-28–29, 71. Peterson responded, "B*tch, what you say?" Howard reiterated, "You're not supposed to be here[.]" prompting Peterson to "charge" at her. V11-29, 71–72.

In response, Howard stood up, reached into her purse to retrieve her gun, and stuck out her arm to block him. V11-30–32, 72. Howard claimed that when Peterson saw her drawn gun, he said, "I don't give a f*ck about

any of that.” V11-31. She then purportedly saw a gun on Peterson’s right hip and “got scared.” V11-32. She claimed that she did not want to shoot Peterson, but she panicked, because she “didn’t know what he was going to do [her], and [she] wasn’t going to give him the opportunity to find out.”² V11-36.

Although at trial Howard claimed that she was acting in self-defense, on multiple occasions prior to killing Peterson, she had told people that she was going to shoot Peterson. According to Page, “[Howard] kept saying she was going to shoot him if he came over. If she caught him out there messing with her again or whatever, she was going to shoot...she had a backup, so if she shot him, she would be -- she would get away with it.” V8-228. According to Anthony, “It was like every other day [Howard] was talking about if [Peterson] just comes around her and just touch her one time or doing anything to her, she was going to shoot him.” V9-85.

Charica Bailey, another resident of the Vanira Village Apartments, V9-95–96, heard Howard make repeated threats against Peterson, telling her neighbors, “If [Peterson] came on the property or if he came around, she

² Law enforcement did not recover a gun from Peterson’s person. Other than Howard, the only witness who saw a gun on Peterson’s person was Page. Page claimed that he saw a gun in the back of Peterson’s waistband when Peterson fell after being shot by Howard, but Page never witnessed Peterson reach for the gun nor did he even see the weapon on Peterson’s person prior to the shooting. V8-245–46; V10-91. Howard never testified that Peterson reached for the gun—merely that she saw the gun, panicked, and shot Peterson. V11-32, 36.

[Howard] was going to kill him.” V9-101–02, 108. Shirley Ndeti, who lived in the apartment below Howard, V9-124, heard Howard constantly talking about Peterson, who Howard hated, and on one occasion heard Howard tell another neighbor that “she wanted to kill him.” V9-126–27. The Vanira Village Apartment’s property manager, Danielle Calhoun, recalled that, a few months before Peterson was murdered, Howard came into her office with a gun and told her that “she [Howard] was going to shoot [Peterson] if he didn’t leave her alone.” V9-156, 163.

On March 30, 2021, less than three months before Peterson’s murder, Atlanta Police Department (“APD”) officers were dispatched to the Vanira Village Apartments in response Howard allegedly being harassed by Peterson. V9-249–51, 267–68, 270; V10-31. As captured by APD Officer Robert Spencer’s body camera footage, State’s Exhibit 17, Officer Spencer came into contact with Howard at the scene. V9-249–53. During their conversation, Howard claimed that she did not know the suspect (Peterson). V9-258. Being unaware that Howard did in fact know Peterson, Officer Spencer gave Howard the relevant section of the Georgia Code for use of force by a civilian, because he “wanted her to be able to do her research and see how she may be able to protect herself.” V9-258–59, 272. In speaking with Officer Spencer, Howard interpreted the provided code section to allow her to shoot the suspect, but Officer Spencer pushed back on Howard’s overly broad

interpretation of the statute. V9-260, 273–74. During Howard’s and Officer Spencer’s interaction, Howard stated, “I wish I could just shoot him” and made multiple references to shooting him. V9-260, 276–77.

Further facts will be established as needed to address Howard’s enumerations of error.

B. Proceedings Below

On December 17, 2021, a Fulton County grand jury returned a four-count indictment against Sequoyah Howard charging her with malice murder, felony murder, aggravated assault with a deadly weapon, and a possession of a firearm during the commission of a felony. V1-5–9.

On June 13, 2022, Howard filed a motion for immunity from prosecution/plea in bar. V1-53–55. On August 19 and 25, 2022, the trial court held a hearing on Howard’s motion. *See generally* V3–V5. On September 12, 2022, the trial court entered a written order denying the motion. V1-120–25.

On January 19, 2023, the State filed a motion in limine to exclude inadmissible character evidence regarding decedent Peterson. V1-151–56.

Between January 30 and February 6, 2023, Howard was tried before a Fulton County jury. *See generally* V7–V12. At the conclusion of Howard’s trial, the aforementioned jury found Howard guilty on all four counts. V1-169–71. The trial court sentenced Howard to life for malice murder, and five years, suspended, for possession of a firearm during the commission of a

felony. V1-162–63. The remaining counts merged or were vacated by operation of law. *Id.*

On February 14, 2023, Howard, through trial counsel, timely filed a motion for new trial. V1-172–73. On March 27, 2025, Howard, through new counsel, filed an amended motion for new trial. V1-192–93.

On August 21, 2025, the trial court held a hearing on Howard’s motion for new trial. *See generally* V14. Neither Howard nor the State called any witnesses to testify at the hearing; instead both parties exclusively presented legal argument. *Id.*

On December 16, 2025, the trial court entered a written order denying Howard’s motion for new trial as amended. V1-195–201. On December 22, 2025, Howard timely filed a notice of appeal, which was subsequently amended later the same day. V1-1–4. The present appeal follows.

ARGUMENT

I. The evidence was sufficient to support the jury’s verdict.

In her first enumeration of error, Howard alleges that evidence was insufficient. Br. 4, 6. In support thereof, Howard exclusively argues:

The evidence was insufficient to enable the trier of fact to find proof of guilt beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 318, 99 S.Ct. 2781 (1979). The evidence was not sufficient “to exclude every other reasonable hypothesis save that of guilt.” Accord *Neely v. State*, 302 Ga. 121 (2017).

Id. This claim should be deemed abandoned; in the alternative, the claim lacks merit, because the State proved beyond a reasonable doubt that Howard committed the criminal acts for which she stands convicted.

As a threshold matter, because Howard “fails to offer any argument at all as to why the evidence was not sufficient to authorize [her] convictions for malice murder or possession of a firearm during the commission of a felony... those claims [should be] deemed abandoned.” *See Profet v. State*, 322 Ga. 731, 737 (2025) (citing Ga. Sup. Ct. R. 22 (“Any enumerated error or subpart of an enumerated error not supported by argument, citations to authority, and citations to the record shall be deemed abandoned”) and *Byrd v. State*, 321 Ga. 222, 225 (2025) (“[L]itigants must do more than just make an argument or cite authority, but must now ensure that argument, citation to authority, and citation to the record are all present to avoid having an enumeration deemed abandoned”)).

Assuming *arguendo* that that this claim has not been abandoned, it is nonetheless without merit. “When viewed in the light most favorable to the verdicts, ‘the evidence presented at trial...was easily sufficient to authorize a rational jury to reject [Howard]’s assertion that [s]he killed [Peterson] in self-defense and to instead find [her] guilty beyond a reasonable doubt’ of the charged crimes.” *Willerson v. State*, 312 Ga. 369, 373 (2021) (quoting *Velasco v. State*, 306 Ga. 888, 890-891 (2019)).

On appeal, this Court reviews the evidence in the light most favorable to the verdict, resolves conflicts in the evidence in favor of the prosecution, and defers to the jury's assessment of the weight and credibility of the evidence. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). The jury's verdict should not be disturbed unless it is found that, based on the evidence presented at trial, no rational trier of fact could have found the defendant guilty of the crimes charged beyond a reasonable doubt. *Id.*

“Although the State is required to prove its case with competent evidence, there is no requirement that it prove its case with any particular sort of evidence.” *Jackson v. State*, 307 Ga. 770, 772 (2020) (quoting *Plez v. State*, 300 Ga. 505, 506 (2017)). “As long as there is some competent evidence, even though contradicted, to support each fact necessary to make out the State's case, the jury's verdict will be upheld.” *Clark v. State*, 309 Ga. 473, 477 (2020) (citation omitted).

“When a defendant presents evidence that [she] was justified in using deadly force, the State bears the burden of disproving the defense beyond a reasonable doubt.” *Williams v. State*, 316 Ga. 147, 150 (2023) (quoting *Birdow v. State*, 305 Ga. 48, 50 (2019)). “But where, as here, conflicting evidence was presented regarding whether a defendant acted in self-defense in shooting the victim, the jury is free to reject the evidence in support of self-

defense and to accept the evidence that the defendant did not act in self-defense.” *McCray v. State*, 301 Ga. 241, 243 (2017) (citations omitted).

“It was a question for the jury whether the circumstances justified [Howard’s] use of a deadly weapon against the victim.” *Blair v. State*, 273 Ga. 668, 668 (2001) (citation omitted). “As [this Court has] explained many times before, conflicts in the evidence, questions about the credibility of witnesses, and questions about the existence of justification are for the jury to resolve.” *Anthony v. State*, 298 Ga. 827, 829 (2016) (quoting *Grimes v. State*, 293 Ga. 559, 560 (2013)). “[V]iewing the evidence in a light most favorable to the verdict and deferring to the jury’s assessment of the weight and credibility of the evidence...the evidence was sufficient to authorize a rational trier of fact to find [Howard] guilty beyond a reasonable doubt of the crimes of malice murder [and] possession of a firearm during the commission of a felony[.]” *Mathis v. State*, 309 Ga. 110, 113 (2020) (citing *Jackson*, 443 U.S. at 319).

Here, as detailed more fully in the “Relevant Material Facts” portion of this brief, the evidence was sufficient to support the jury’s verdict. The shooting was captured on surveillance footage that was played for the jury,

and multiple witnesses who saw Howard shoot Peterson testified against her at trial.³ Howard herself admitted that she fatally shot Peterson.

While Howard asserted that she was acting in self-defense, she also testified that she shot Peterson, because she “didn’t know what he was going to do [her], and [she] wasn’t going to give him the opportunity to find out.” Moreover, while there was conflicting evidence as to whether Peterson had a gun on his person when he was shot by Howard, there was no evidence that he ever reached for the weapon. The State also presented ample evidence that Howard had made numerous statements prior to killing Peterson that she wanted to shoot and/or kill Peterson.

Given the evidence in this case, the jury was authorized to find that the State proved beyond a reasonable doubt that Howard’s killing of Peterson constituted malice murder and she was not acting in self-defense. Accordingly, Howard’s first enumeration of error is without merit.

³ In her first enumeration of error, Howard alleges the evidence was not sufficient “to exclude every other reasonable hypothesis save that of guilt.” However, any suggestion by Howard in her brief that O.C.G.A. § 24-14-6 is applicable to the case at bar is without merit. O.C.G.A. § 24-14-6 provides: “*To warrant a conviction on circumstantial evidence, the proved facts shall not only be consistent with the hypothesis of guilt, but shall exclude every other reasonable hypothesis save that of the guilt of the accused.*” (emphasis added). However, Howard’s convictions were **not** based entirely on circumstantial evidence but rather based on direct evidence of her guilt. Accordingly, “the circumstantial evidence statute does not apply.” *Dillard v. State*, 321 Ga. 171, 175 (2025) (citation omitted).

II. The trial court properly excluded evidence involving the decedent's character.

In her second enumeration of error, Howard alleges that the trial court erred when it “preclude[ed] the Defense from presenting evidence that would have supported the defense of self-defense.” Br. 4–7. Specifically, she alleges that the trial court erred when it excluded evidence that: A) the decedent was a convicted felon and therefore precluded from carrying a weapon; B) the decedent was “the neighborhood drug dealer”; C) the decedent had a conviction of armed robbery and six other felonies; and D) she had a prior interaction with the decedent and told him to stop dealing drugs around her house. *Id.*

On June 13, 2022, Howard filed a motion for immunity from prosecution/plea in bar. V1-53–55. On August 19 and August 25, 2022, the trial court held an evidentiary hearing on the motion. *See generally* V3 and V5. At the immunity hearing, APD Detective Duncan, Page, and Howard testified. *Id.* At the hearing, Howard asked Detective Duncan if Peterson was a convicted felon, and Detective Duncan testified that he was. V3-28–29. Later, Howard testified about her prior difficulties with Peterson; she testified that, on one occasion, they had a dispute over him selling drugs outside her house:

[H]e was on my stairwell one morning and he had a bunch of drugs, and my child was getting ready to take the trash out and I

was like, hey, excuse me; can you get that up? And he was like, oh, it's all right. And I was like, no, that's not anything I want my child to see. And that was -- that was it.

V3-71–72; *see also* V3-87–88; V5-8.

The immunity motion was denied by written order filed on September 12, 2022. V1-120–25. On January 19, 2023, the State filed a motion in limine to exclude inadmissible character evidence regarding decedent Peterson. V1-151–56. In the motion in limine, the State sought to preclude Howard from introducing evidence regarding Peterson selling drugs in the neighborhood and/or the results of the GBI toxicology report that was prepared after his death.⁴ *Id.* After the jury was selected, but before the presentation of evidence began, the trial court took up the State's motion. V8-85–127.

As it related to the evidence involving Peterson's prior convictions, Howard represented that she had six certified convictions for Peterson.⁵ V8-91. Based on Howard's verbal representation to the trial court, the certified convictions appear to have included two convictions for burglary, two convictions for possession of cocaine with intent to distribute, one conviction for possession of a firearm by a first offender probationer, and one conviction

⁴ Prior to the presentation of evidence at trial, Howard "concede[d] on the use of the toxicology report[.]" V8-89, and its exclusion is not at issue in the present appeal. *See generally* Brief of Appellant.

⁵ These certified convictions were never admitted into evidence and are not presently a part of the record before this Court.

for possession of a firearm by a convicted felon. V8-91–94. The State initially represented that Peterson also had a conviction for armed robbery, but Howard did not have a certified copy of that conviction, and upon closer inspection, the State determined that Peterson may not actually have been convicted of armed robbery. V8-91, 94.

After the State requested that the evidence be excluded, Howard made clear that she “would not be trying to necessarily, per se, introduce the certified convictions of his felony convictions” and was “not asking the Court to admit the certifieds.” V8-98–99. Instead, Howard wanted “to be able to allude to the fact and let the jury know that [Peterson] is a convicted felon,” i.e. “make the jury aware of his felony status.” V8-98. Specifically, she wanted the jury to know that she was aware that Peterson had been in prison, *although she did not know why he had been incarcerated and/or the specific crimes for which Peterson had been convicted.* V8-98–99 (emphasis added). She represented that she was willing to “compromise” on Peterson’s felon status and merely argue that he was “legally barred” from having a weapon, V8-103, although there was no evidence presented that Howard was aware that Peterson was legally barred from possessing a firearm.⁶

⁶ As detailed above, at the immunity hearing, this fact was elicited from Detective Duncan, not Howard. V3-28–29.

As it related to the evidence of Peterson selling drugs, Howard represented that the evidence should come in, because it was part of the prior difficulties between her and Peterson. V8-108–09. However, once the State represented that it was not intending to put in any evidence regarding Peterson selling drugs, and the trial court began pushing back on Howard’s claims that the evidence was admissible, she conceded, “I don’t need to harp on him selling drugs. That’s not the crux of my case, but it is relevant...” V8-117.

If allowed, Howard represented, all “ she would be wanting to testify [is] that we got into it, I asked him to move the drugs and stuff from the front of my door one day, and he told me no; I saw him selling drugs.” V8-118–19. The State argued that Howard could testify to the prior difficulty without mentioning drugs. V9-119. Specifically, Howard could testify, “he was in front of my door, I told him to get away from my door, and he wouldn’t. You could stop right there. That is still a prior difficulty without mentioning that one extra step.” *Id.* When Howard asked if she would be “barred from [] asking any other witness whether or not he had a reputation for selling drugs[,]” the trial court represented that it did not see how that was relevant. V8-120–21.

Ultimately, the trial court granted the State’s motion in limine on all grounds. V8-121. It ruled that Howard was “not going to be able to reference that [Peterson] sells drugs unless the door is opened on that, and if it does,

you will let me know before you do it.” *Id.* The trial court further held that Howard could not mention Peterson’s criminal history. *Id.*

After objecting to the trial court’s ruling, Howard asked for additional clarification about whether she could present evidence that Peterson was not legally allowed to possess a weapon. V8-122. After the State alleged that it would not be relevant, the trial court asked the parties to present caselaw concerning whether it was proper to “allow testimony or not that the victim was a convicted felon and shouldn’t have had a gun.” V8-123–26. The trial court held that witnesses would be allowed to testify as to whether or not they saw Peterson with a gun, but, at that juncture, it was not going to allow evidence whether Peterson was a convicted felon who was not allowed to possess a gun, unless Howard could present the trial court showing that ruling was legally incorrect. V8-126–27.

During the State’s direct examination of Page, he testified that, after Peterson fell after being shot, the back of Peterson’s shirt lifted up, and Page saw a gun tucked into the back of Peterson’s pants. V8-244. The State followed up by asking, “When you saw that firearm, was it -- did you see it prior to that happening?” V8-244–45. Page testified, “No. I would have never thought he even had a gun on him.” V8-245.

After this testimony from Page, Howard argued that the door had been opened to her being allowed to ask about Page about Peterson’s carrying a

firearm and his character. V9-20–21. Specifically, given the testimony, Howard was exclusively seeking to ask Page: 1) whether Peterson had a reputation for carrying a firearm; and 2) whether Page knew that Peterson was convicted for carrying a firearm. V9-21–23. Howard represented “[t]hat’s without introducing the actual certified convictions. We don’t have to go that far.” V9-21–22. Howard also represented that she wanted to ask the witness about Peterson’s reputation for selling drugs in the neighborhood. V9-24.

The trial court represented that it was standing by its prior ruling “regarding the whole selling of drugs testimony that’s sought to be elicited until an appropriate time later...but [was] willing to revisit that at such time as it becomes relevant again.” V9-28. However, initially, the trial court represented that Howard could ask, “Do you know whether he has a reputation for carrying a firearm or gun?” but could not ask, “Do you know whether he was convicted for carrying a firearm?” V9-30–31. Howard objected, and asked if she could instead ask, “Do you know that he, in fact, does have a conviction for possession of a firearm? We don’t have to say by a convicted felon.” V9-31. The trial court held that it was going to allow that question. V9-31–32. Over the State’s objection, the trial court represented that it was going to allow the question, because although the question did clearly reference Peterson being a convicted felon, Howard was “going to couch it in a way that does not implicate it as much.” V9-32. The trial court

represented that it was only going to allow the questions to be posed to Page, not any other witnesses; Howard represented that she had not been planning on asking any other witnesses the two identified questions. V9-34.

Howard was directed to put the specific questions she intended to ask in writing and share them with the State and the trial court, and Howard complied with the instruction.⁷ V9-40–41. Based on the trial court’s ruling, the following exchange occurred with Page:

Q Do you know whether or not he [Peterson] has a reputation for carrying a firearm?

A Yes.

Q So he does, in fact, have a reputation for carrying a firearm?

A Yes.

V9-53–54. Howard ***did not*** ask Page any further questions, including whether Peterson had a prior conviction for carrying a gun.⁸ V9-54.

Later, Howard testified to her prior difficulties involving Peterson. V11-11–24. Among the prior difficulties she testified to was the interaction with

⁷ The questions in written form have not been made a part of the record before this Court.

⁸ Despite Howard’s failure to ask Page about the issue, as addressed further below in response to Howard’s fifth enumeration of error, Howard mistakenly represented during her closing argument that Page “was aware [Peterson] had a prior conviction for carrying a gun,” V11-155, prompting the trial court to give a curative instruction, V11-164.

Peterson outside her door when her son was going to take out the trash; she testified about the incident by referring to the drugs as “stuff.” V11-12–13.

Specifically, she testified:

Well, he [Peterson] was sitting on my steps. It was early morning and my youngest son was getting ready to take the trash out. And he had some stuff on the stairs. And I was like, you know, “Can you get your stuff up so my son can get by?” And he was like, “Oh, he’s good.” And I was like, you know, “I would appreciate if you get that up,” and, you know, he was upset about that...He was like, “Man, he’s good. Man, come on.” And I was just like, “You know what? Never mind.” I’ll just -- I was like, “We’ll wait.”

Id.; compare V3-71–72 (immunity hearing).

The “[a]dmissibility of evidence of a victim’s character is now governed by O.C.G.A. §§ 24-4-404 (a) (2) and 24-4-405 (a), which generally limit evidence of a victim’s character to reputation or opinion and not specific bad acts.” *White v. State*, 307 Ga. 882, 885 (2020); *see also Ryals v. State*, 321 Ga. 151, 160 (2025) (citation and punctuation omitted) (“to the extent that Appellant is contending that [the victim’s] conviction shows that [the victim] had a violent character that was relevant to Appellant’s self-defense claim, Appellant could only prove this character trait by reputation and opinion testimony, and not by use of [the victim’s] prior conviction”). “That said, the accused may offer proof of ‘specific instances’ of the victim’s conduct if the trait is ‘an essential element of a charge, claim, or defense.’” *Wood v. State*, 320 Ga. 466, 470 (2024) (citing O.C.G.A. § 24-4-405 (b)).

However, this Court has held “[a] victim’s violent character is *pertinent* to’ a defendant’s claim of self-defense, but it is ‘not an *essential element* of that defense.” *Id.* (quoting *Beck v. State*, 310 Ga. 491, 498 (2020) (emphasis in original)). As such, “evidence of a victim’s character for violence generally may be admitted only in the form of reputation or opinion testimony under Rule 405 (a), and not by proof of ‘specific instances’ of the victim’s conduct under Rule 405 (b).” *Id.* (citing O.C.G.A. §§ 24-4-404 (a) and 24-4-405 (a)-(b)).

Furthermore, this Court has recognized:

[A]lthough “we have held that specific instances of a victim’s past conduct may also be admitted, not to show the victim’s action in conformity therewith, but rather to establish the defendant’s state of mind and the reasonableness of the defendant’s use of force,” we have also held that “because such evidence is offered as proof of the defendant’s state of mind at the time of the charged crime, it is only admissible if there is proof that the defendant actually knew about the victim’s prior acts at that time.”

Ryals, 321 Ga. at 160-161 (quoting *Ward v. State*, 318 Ga. 884, 902 (2024) (cleaned up); accord *Copeland v. State*, 316 Ga. 452, 459 (2023) (explaining that evidence of a victim’s prior conviction “would only have been admissible—and even then, only potentially—to show [the defendant’s] state of mind at the time of the shooting and the reasonableness of his use of force. And it could have been admissible for that purpose only upon a showing that [the defendant] actually knew about the past crimes at the time of the shooting”)).

As it relates to decedent Peterson being a convicted felon, there is no competent evidence before this Court that decedent Peterson was convicted of “armed robbery and six other felonies” as alleged in subsection (C). As discussed above, while the State initially represented that Peterson may have a conviction for armed robbery, Howard did not have a certified copy of that conviction, and upon closer inspection, the State determined that Peterson may not actually have been convicted of armed robbery. V8-91, 94. Howard has presented no evidence, in the form of a certified conviction or otherwise, showing that Peterson was convicted of armed robbery. As it relates to six other alleged felony convictions, she has likewise failed to make the certified convictions a part of the record or present other competent evidence to establish that Peterson was convicted of six felonies. Regardless, as it relates to the present claim, it is irrelevant whether Peterson has six (or seven) felony convictions, because Howard was unaware of the specific convictions at the time that she killed Peterson. V8-98–99.

The only evidence in the record that Peterson was a convicted felon barred from possessing a firearm was the sworn testimony offered by Detective Duncan at the pre-trial immunity hearing, although Detective Duncan did not testify as to the specific felony for which Peterson had previously been convicted. V3-28–29. While Howard’s trial counsel

represented that Howard was aware Peterson had been in prison,⁹ trial counsel further represented that Howard did not know why Peterson had been incarcerated and/or the specific crimes for which Peterson had been convicted. V8-98–99. Critically, as it relates to subsection (A), even assuming *arguendo* that Howard was aware that Peterson had previously been in prison, there is no evidence that, at the time she fatally shot Peterson, she was aware that Peterson was barred from carrying a firearm by virtue of being a convicted felon. As such, it would have had no bearing on her state of mind at the time of the shooting and/or the reasonableness of her use of force. Therefore, the trial court properly excluded the evidence.

As it relates to Peterson purportedly selling drugs, Howard has failed to show why this evidence is admissible under O.C.G.A. §§ 24-4-404 and 24-4-405, because she has failed identify what character or trait of character this activity shows and how it is pertinent to her claim of self-defense. *See Wilson v. State*, 302 Ga. 106, 109-110 (2017) (holding that the trial court did not abuse its discretion in excluding evidence of the victim’s prior drug convictions). As it relates to the claim in subsection (B), that Peterson was purportedly “the neighborhood drug dealer,” Howard has failed to present

⁹ Howard offered no testimony about this matter at the immunity hearing, at trial (in the former of a sworn proffer or otherwise), or at the motion for new trial hearing.

any evidence to support this allegation. As detailed above, Peterson’s certified convictions are not a part of this case’s record, and there is no evidence that his prior convictions involved dealing drugs in Howard’s neighborhood. Moreover, no competent evidence was presented, at the immunity motion hearing, at trial (within or outside the presence of the jury), or at the motion for new trial hearing, that Peterson had a reputation for dealing drugs in the neighborhood.

The only evidence that Peterson sold drugs in the neighborhood involved the claims raised by Howard in subsection (D), that Howard previously told Peterson to stop dealing drugs around her house after encountering him one morning on her apartment’s stairwell. At the immunity hearing, Howard testified that one morning Peterson had drugs on the stairwell by her house, and she asked him to get them up, because she did not want her child to see them. V3-71–72, 87–88; V5-8. Howard was allowed to testify about the incident at trial but merely referred to the drugs as “stuff.” V11-12–13; *compare* V3-71–72 (immunity hearing). As such, the jury heard about this prior difficulty that was purportedly relevant to her self-defense claim and nonetheless found her guilty.

Finally, to the extent that the trial court erred in excluding any or all of the evidence identified in Howard’s second enumeration of error, any such error was harmless. *See Tarver v. State*, 319 Ga. 165, 169 (2024) (“if the trial

court abuses its discretion in excluding evidence, we will reverse a conviction for a trial court's evidentiary error only if it was harmful"). Here, the evidentiary value of the excluded evidence was de minimis, the evidence of Howard's guilt, including testimony from multiple eyewitnesses and surveillance footage, was strong, and the evidence supporting Howard's claim of self-defense was weak. Accordingly, it is highly probable that any assumed error in excluding the evidence did not contribute to the verdict.

Ultimately, the evidence identified in Howard's second enumeration of error constituted impermissible character evidence involving the decedent, and it was properly excluded by the trial court. Assuming *arguendo* that the trial court erroneously excluded any or all of the identified evidence, any error in its exclusion was harmless. Accordingly, Howard's second enumeration of error is without merit.

III. The trial court gave Howard's requested pattern charge on the lesser included offense of voluntary manslaughter (Pattern Charge No. 2.10.40).

In her third enumeration of error, Howard alleges that "[t]he trial court committed plain error in failing to charge the jury on the lesser included of voluntary manslaughter in accordance with *Edge v. State*, 261 Ga. 865 (1992) and Pattern Charge No. 2.10.40." Br. 5, 7–8. She claims that this error was "compounded" by the verdict form which provided: "You may cho[o]se only ONE of the following THREE Options...Those three choices were in order:

Option 1: Murder; Option 2: Voluntary Manslaughter; Option 3: Not Guilty.”

Br. 8. Howard asserts this was problematic, because the verdict form did not include any reference to self-defense. *Id.*

On January 19, 2023, Howard filed a supplemental request to charge that included 2 Ga. Jury Instructions - Criminal § 2.10.40 (Lesser Offense of Murder: Voluntary Manslaughter). V1-142–43. The pattern charge provides:

In considering the (malice) (felony) murder charge, you must decide whether the Defendant was sufficiently provoked and acted out of passion. If you find this, you may not return a verdict of guilty of (malice) (felony) murder, but you would be authorized to return a verdict of guilty of voluntary manslaughter.

The State must prove beyond a reasonable doubt that the offense should not be reduced from murder to voluntary manslaughter.

2 Ga. Jury Instructions - Criminal § 2.10.40. At that charge conference, the Court represented that it was inclined to give the requested instruction on § 2.10.40 (as well as the requested instructions on § 2.10.41 (Voluntary Manslaughter) and § 2.10.42 (Provocation by Words Alone)), and the State agreed that the instructions should be given. V11-101–03. When the trial court instructed the jury prior to the commencement of its deliberations, the trial court gave the pattern charges, including § 2.10.40, *verbatim*. V11-206–07.

“Not only did the trial court instruct the jury on voluntary manslaughter at [Howard’s] request, it gave the charge requested by

[Howard]—which was the suggested pattern jury instruction and which referred to “the defendant,” rather than [“Howard”]—verbatim. *Huber v. State*, 319 Ga. 78, 88 (2024). “[W]hen an appellant has invited an alleged error, it constitutes an affirmative waiver under plain-error review, thus providing no basis for reversal...[and] fails at the first prong of the plain error test.” *Id.* Here, any error in the trial court giving the pattern charges on voluntary manslaughter provides no basis for reversal, because the pattern charges were given at Howard’s request.

Even assuming *arguendo* that there was some improper sequential charge in the pattern instructions that were given to the jury, which Howard has failed to identify in her brief, she cannot establish an *Edge* violation, because the jury found her guilty of malice murder: “Where, as here, ‘the defendant is convicted of malice murder, the problem which *Edge* seeks to address is not present.’” *Speziali v. State*, 301 Ga. 290, 294 (2017) (quoting *Terry v. State*, 263 Ga. 294, 295 (1993); see also *White v. State*, 287 Ga. 713, 719 (2010) (citations omitted) (“the giving of an erroneous jury instruction must be harmful to warrant reversal of a judgment of conviction...and there can be no harmful *Edge* violation when, as in the case before us, the jury finds the defendant guilty of malice murder”).

To the extent that Howard takes issue with the verdict form in her third enumeration of error, such claims likewise lack merit. The verdict form

was prepared in consultation with both the State and Howard, and Howard raised no objection to the form that was used. V11-108–19. “In deciding whether a verdict form accurately presented the law and properly guided the jury, [this Court] review[s] the form’s language in conjunction with the rest of the trial court’s jury instructions.” *Rowland v. State*, 306 Ga. 59, 67-68 (2019). Given the instructions that were provided to the jury, the verdict form was proper.

The jury was charged on the presumption of innocence, reasonable doubt, and the burden of proof. V11-199–201. Moreover, in addition to being charged on voluntary manslaughter, V11-206–07, the jury was also charged on justification, including the State’s burden of proof. V11-209–11. Among the instructions provided on justification, the trial court charged the jury, “If you decide the defendant’s actions were justified, then it would be your duty to find the defendant not guilty.” V11-210.

Howard is correct that the phrase “self-defense” did not appear on the verdict form. V1-169–71. However, the trial court’s instructions made clear that if the jury found that Howard’s actions were justified, because she was acting in self-defense when she killed Peterson, then the jury should return a not guilty verdict, which was an option on the verdict form. *Id.* Finally, to the extent that Howard takes issue with the order the options appeared on the verdict form (murder, voluntary, manslaughter, not guilty), this Court has

repeatedly held that where the jury is properly instructed on the law, this ordering of the possible verdicts does not constitute reversible error. *See Van v. State*, 294 Ga. 464, 467 (2014) (“[m]erely listing the offenses on the verdict form in the order of malice murder, felony murder, and voluntary manslaughter did not constitute reversible error”); *see also Rowland*, 306 Ga. at 67-68 (listing “guilty” before “not guilty” on the verdict form did not mislead the jury).

Ultimately, contrary to Howard’s assertion, the trial court did in fact give the identified pattern instruction, and the verdict form was proper given the trial court’s jury charges. Accordingly, Howard’s third enumeration of error is without merit.

IV. Howard’s counsel requested the pattern charge on the lesser included offense of voluntary manslaughter (Pattern Charge No. 2.10.40), and the trial court gave the requested instruction.

In her fourth enumeration of error, Howard alleges that she was “denied effective assistance of counsel when trial counsel failed to request Pattern Charge [No] 2.10.40 and failed t[o] object to the trial court’s failure to give that charge.” Br. 5, 8–11. Howard then argues that prejudice is presumed under *United States v. Cronin*, 466 U.S. 648 (1984), because: 1) “trial counsel failed to present an effective defense with no opening statement and failed to present the affirmative defenses of mutual combat and justification”; 2) “trial counsel failed to function in any meaningful sense as

the government’s adversary”; and 3) “ineffectiveness [was] so pervasive here that a particularized inquiry into prejudice would be unguided speculation[,]” because trial counsel failed to put forth a substantial, effective defense supported by the evidence.¹⁰ Br. 8–11. Howard’s claims in her fourth enumeration of error are belied by the record.

As it relates to Howard’s specific claim about the jury instruction on the lesser included offense of voluntary manslaughter, as detailed above, trial counsel requested 2 Ga. Jury Instructions - Criminal § 2.10.40 (as well § 2.10.41 (Voluntary Manslaughter) and § 2.10.42 (Provocation by Words Alone)), and the trial court gave the charges. *See supra*. As such, Howard’s claim that she was “denied effective assistance of counsel when trial counsel failed to request Pattern Charge [No] 2.10.40 and failed t[o] object to the trial court’s failure to give that charge[,]” Br. 5, 8, is clearly refuted by the record.

To the extent that Howard alleges in her fourth enumeration of error that her counsel entirely failed to subject the prosecution’s case to meaningful adversarial testing, such that *Cronic*’s presumption of prejudice is applicable to the case at bar, Br. 8–11, this claim is likewise unsupported by the record. *See Vendrel v. State*, 318 Ga. 233, 238 (2024) (citations and punctuation

¹⁰ Howard’s multi-faceted *Cronic* argument was not raised by Howard in her motion for new trial, V1-172–73, amended motion for new trial, V1-192–93, or at the hearing on her motion for new trial, V14.

omitted) (*Cronic's* exception to the general *Strickland* standard for a constructive denial of the assistance of counsel altogether, which is legally presumed to result in prejudice...is a narrow one that applies only when there was a breakdown in the adversarial process, such that counsel entirely fails to subject the prosecution's case to meaningful adversarial testing").

Howard's counsel engaged in discovery and filed multiple pre-trial motions, including an immunity motion that was litigated over a two-day span. *See generally* V1, V3, and V5. At trial, contrary to Howard's assertion, her trial counsel *did* give an opening statement (and a closing argument). V8-169–75; V11-144–89. During the course of Howard's trial, her counsel cross-examined the State's witnesses, called witnesses on behalf of Howard, and presented a theory of the case, justification (self-defense), that was consistent with Howard's testimony at trial. "Under these circumstances, it cannot be said that counsel completely failed to test the State's case throughout the proceeding." *Vendrel*, 318 Ga. at 239.

For the first time on appeal, in the context of arguing for *Cronic's* presumption of prejudice, Howard claims that her counsel failed to present the affirmative defenses of mutual combat and justification. Br. 9. Because this claim was not raised below, it is waived. *See Robinson v. State*, 306 Ga. 614, 616 (2019) (citation and punctuation omitted) ("In order to avoid a waiver of a claim of ineffective assistance against trial counsel, the claim

must be raised at the earliest practicable moment, and that moment is before appeal if the opportunity to do so is available... because [the appellant] was represented at the motion for new trial by different counsel than at trial, he had the opportunity to raise the ineffective assistance of trial counsel claims at that point, and by failing to do so he has waived those claims”). Moreover, the claim lacks merit.

As it relates to Howard’s claim regarding her counsel’s purported failure to present the affirmative defense of justification (self-defense), the record reflects that trial counsel *did* advance this defense at trial, including but not limited to through counsel’s opening statement, closing argument, jury instructions that were requested and given, cross-examination of State’s witness, and questioning of defense witnesses, including Howard herself. As it relates to Howard’s novel claim regarding the affirmative defense of mutual combat, Howard has presented no argument as to why mutual combat was supported by the facts of this case. *See Whittaker v. State*, 317 Ga. 127, 136 (2023) (citation omitted) (“Evidence that the victim attacked the defendant, such that would give rise to justification based on self-defense, is not a basis for an instruction on mutual combat.”) Moreover, even assuming *arguendo* that trial counsel could have argued mutual combat based on the facts of this case, trial counsel was not called as a witness at the motion for new trial hearing and questioned about the decisions she made at trial with

respect to her theory of defense. “In the absence of such testimony and evidence to the contrary, counsel’s decisions are presumed to be strategic and thus insufficient to support an ineffective assistance of counsel claim.” *Cooper v. State*, 296 Ga. 728, 730 (2015).

Ultimately, trial counsel requested the pattern charge identified by Howard and the trial court gave the charge; therefore, trial counsel was not ineffective in the manner alleged by Howard in her fourth enumeration of error. More generally, trial counsel did not entirely fail to subject the prosecution’s case to meaningful adversarial testing and *Cronic’s* presumption of prejudice is inapplicable to the case at bar. Accordingly, Howard’s fourth enumeration of error is without merit.

V. The trial court gave a proper curative instruction after Howard referenced facts not in evidence during her closing argument.

In her fifth enumeration of error, Howard alleges “the trial court erred when it gave a general and vague rather than a specific corrective instruction to the jury when defense counsel misstated the evidence that [Peterson] was a convicted felon.” Br. 5, 11–12. Howard argues that “[a] specific and explanatory instruction is often more effective than a general, conclusory one[,]” and, in support thereof, exclusively cites to decisions from the New Jersey Supreme Court. Br. 11–12.

During her closing argument, Howard argued:

[Howard's] in the stairwell, in a narrow stairwell in a shoving match with someone [Peterson] who has a gun on his hip, *who according to Corri [Page] has a reputation for carrying a gun, and [Page] was aware that [Peterson] had a prior conviction for carrying a gun.* And the State would have you to believe it's not a one-assault, two-push minimum before you can use self-defense. Again, [Peterson] could have knocked [Howard] out.

V11-155 (emphasis added). The State objected and the jury was removed from the courtroom. *Id.* The trial court immediately noted, "There was no testimony from Corri [Page] about possession of a firearm by a convicted felon." V11-156.

Howard initially represented that she had not made that argument, but she also alleged that she had in fact asked Page if he was aware that Peterson had a firearms conviction. V11-156–57. The court reporter read back the relevant portions of the proceeding, confirming that Howard did make the argument at issue and had not asked Page about Peterson's alleged prior conviction for possession of a firearm. V11-158–60.

In response, the State requested that trial court give a curative instruction. V11-160. The trial court represented that it was inclined to give a generalized curative as to not further emphasize the improper argument. V11-160–61. Howard offered that she was willing to represent to the jury that she misspoke when she stated that Peterson was convicted of carrying a firearm, but the trial court remained concerned that Howard's proposed remedy would only further draw attention to the matter. V11-161–62.

That State prepared a proposed curative instruction that the trial court agreed to give. V11-163. When Howard was asked if she objected to the proposed curative, Howard represented, “I don't like the word ‘inappropriate’ because it was not necessarily intentional. *But that would be my only objection.*” *Id.* (emphasis added). Over Howard’s objection, the trial court represented that it would be giving the proposed instruction. *Id.*

When the jury was brought back into the courtroom, it was instructed, “Ladies and gentlemen, during the defense’s closing argument, an argument was made that is not based on any evidence presented in this case. The argument, that portion of it was inappropriate and inadmissible. It is not for your consideration. You, the jury, should disregard it.” V11-164. Howard raised no additional objection, instead continuing with her closing argument. *Id.*

Because Howard failed to make a contemporaneous objection to the trial court’s curative instruction, on the basis that it was “general and vague rather than a specific”, her present claim is subject only to plain error review. *See Kerns v. State*, 323 Ga. 510, 522 (holding that, because defendant did not request a curative instruction about his absence, his claim that the trial court erred by failing to give a curative instruction was subject only to plain error review). However, Howard has failed to satisfy the relevant four-pronged test:

First, there must be an error or defect — some sort of deviation from a legal rule — that has not been intentionally relinquished or abandoned, i.e., affirmatively waived, by the appellant. Second, the legal error must be clear or obvious, rather than subject to reasonable dispute. Third, the error must have affected the appellant’s substantial rights, which in the ordinary case means he must demonstrate that it affected the outcome of the trial court proceedings. Fourth and finally, if the above three prongs are satisfied, the appellate court has the discretion to remedy the error — discretion which ought to be exercised only if the error seriously affects the fairness, integrity or public reputation of judicial proceedings.

State v. Kelly, 290 Ga. 29, 33 (2011) (citations and punctuation omitted).

Here, any error in giving the generalized curative instruction, rather than a more specific one, was not “clear or obvious.” As recognized by the trial court in denying this claim below, Howard “is not entitled to benefit from [her] improper (even if unintentionally improper) argument by having the Court specifically repeat it—emphasizing it to the minds of the jurors—and then instructing the jury to disregard it.” V1-200. The trial court was “aware of no authority requiring such a procedure, and Howard has cited none.” *Id.* On appeal, the only authority cited by Howard is caselaw from the New Jersey Supreme Court that is inapposite to the case at bar. Br. 11–12. “Clear and obvious...generally means there must be on-point controlling authority or the unequivocally clear words of a statute or rule that plainly establish that the trial court erred.” *Dees v. State*, 322 Ga. 498, 500 (2025) (citation and punctuation omitted). Howard has failed to meet that burden.

Moreover, any error in the trial court's curative instruction was harmless and did not affect the outcome of the proceeding. Here, the curative instruction was given in response to Howard's closing argument, and closing arguments are not evidence. *See Gates v. State*, 298 Ga. 324, 328 (2016).

When the jury was charged, it was specifically informed:

Ladies and gentlemen, your oath requires that you will decide this case based on the evidence. Evidence is the means by which any fact that is put in issue is established or disproved. Evidence includes all of the testimony of the witnesses and any exhibits admitted during the trial. Evidence does not include the indictment, the plea of not guilty, opening or closing remarks of the lawyers, or questions asked by the lawyers.

V11-202. Given this charge that the jury must decide the case based on evidence, and that closing remarks are not evidence, any error by the trial court in not giving a more specific curative instruction regarding Howard's improper closing argument was harmless and cannot be said to have affected the outcome of the proceeding.

Ultimately, when the curative instruction was given, Howard did not object on the basis that the instruction was not sufficiently specific, and therefore, the claim is subject only to plain error review. Because the trial court did not commit clear or obvious error, and the curative instruction did not affect the outcome of the proceeding, Howard has failed to show plain error in the trial court's curative instruction. Accordingly, Howard's fifth enumeration of error is without merit.

CONCLUSION

For the reasons set out above, this Court should affirm Howard's convictions and sentences.

This submission does not exceed the word count imposed by Rule 20.

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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2026, I served a copy of this Brief of Appellee, via electronic mail, properly addressed upon the below-listed parties.

I certify that there is a prior agreement with the Fulton County District Attorney's Office and Counsel for Appellant to allow documents in a PDF format sent via e-mail to suffice for service under Supreme Court Rule 14.

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