IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2019-KA-00476-COA

QUAVARES PULLIAM **APPELLANT**

v.

STATE OF MISSISSIPPI **APPELLEE**

DATE OF JUDGMENT:	02/26/2019
TRIAL JUDGE:	HON. W. ASHLEY HINES
COURT FROM WHICH APPEALED:	WASHINGTON COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	OFFICE OF STATE PUBLIC DEFENDER BY: JUSTIN TAYLOR COOK
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: SCOTT STUART
DISTRICT ATTORNEY:	WILLIE DEWAYNE RICHARDSON
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 12/08/2020
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

EN BANC.

CARLTON, P.J., FOR THE COURT:

¶1. A Washington County jury convicted Quavares Pulliam of imperfect self-defense manslaughter for the death of Dwight Thedford. The Washington County Circuit Court sentenced Pulliam to serve twenty years in the custody of the Mississippi Department of Corrections (MDOC). On appeal, Pulliam argues the following: (1) the circuit court erroneously excluded evidence that Thedford had schizophrenia; (2) the circuit court erroneously refused to instruct the jury on the castle doctrine; (3) the circuit court gave a self-defense jury instruction that misstated the relevant caselaw; and (4) there was insufficient

evidence to support the jury's verdict. Finding no error, we affirm Pulliam's conviction and sentence.

FACTS

¶2. On October 20, 2016, Pulliam fatally shot Thedford. A grand jury subsequently indicted Pulliam for deliberate-design murder with a firearm enhancement. Pulliam was tried in April 2018, but the circuit court declared a mistrial after the jury failed to reach a unanimous verdict. Pulliam's second trial took place in February 2019.

¶3. At Pulliam's second trial, Arthurly Phillips testified that he knew Pulliam socially and that the two men would sometimes talk about automobiles with each other. Phillips stated that around 2 or 3 a.m. on October 20, 2016, he was getting gas at the Double Quick gas station in Greenville, Mississippi, when Pulliam parked nearby. Phillips testified that the two men began discussing the audio equipment Phillips had installed in his vehicle. Phillips testified that on the night in question, Pulliam wore a yellow Polo-type shirt with jeans. Phillips further testified that Pulliam owned a grayish-colored Tahoe with the personalized license plate "Pull1." After the men finished their conversation about audio equipment, they each got back into their respective vehicles and left the gas station.

¶4. Shortly after Phillips and Pulliam left the gas station, the Greenville Police Department (GPD) received a call about gunshots at a nearby intersection. Officer Jeff Wilson testified that he was parked behind the Double Quick at the time and that he arrived at the intersection about thirty seconds to one minute after learning about the shooting. Upon arriving on the scene, Officer Wilson observed a gray vehicle and two individuals. Officer

Wilson testified that a shirtless Thedford was lying in the street and that an unknown man was standing over Thedford.

¶5. Officer Wilson stated that as he approached the scene, the unknown man told Officer Wilson to stop. Officer Wilson asked the man to show his hands and to walk to the Double Quick parking lot. After the man complied with his instructions, Officer Wilson examined Thedford's body and observed a gunshot wound on the left side of Thedford's head between his eye and ear. After discovering Thedford's pulse, Officer Wilson called emergency personnel. Officer Wilson testified that an ambulance arrived almost immediately and transported Thedford to Delta Regional Medical Center (DRMC), which Officer Wilson stated was only about fifty to seventy-five yards away from the crime scene.

¶6. Officer Wilson testified that the unknown man left the crime scene before he could question him. After other police officers arrived at the crime scene, Officer Wilson taped off the area and located Thedford's shirt, which had been lying near Thedford's body. As he picked up the shirt, Officer Wilson discovered a shell casing tangled inside the clothing item. Officer Wilson testified that the spent shell casing was later identified as a .45-caliber casing.

¶7. Investigator Jeremey Arendale testified that he responded to a call around 3 a.m. about the incident near the Double Quick. When he arrived at the scene almost twenty minutes later, Investigator Arendale observed spent shell casings and a gray t-shirt in the road. After the evidence had been marked for photographs, Investigator Arendale went inside the Double Quick and reviewed the gas station's surveillance video. Police officers identified Phillips as a person of interest from the video footage. About fifteen minutes after they had identified

Phillips, Investigator Arendale and two other officers arrived at Phillips's residence to interview him. Based on their interview with Phillips, the officers identified Pulliam as the man seen speaking to Phillips on the video footage.

¶8. Investigator Arendale found a Facebook picture of Pulliam that led the officers to an apartment complex in Leland, Mississippi. Upon arriving at the apartment complex, Investigator Arendale observed the gray SUV shown on the Double Quick's surveillance video. When Investigator Arendale knocked on the apartment door, a woman answered and informed the officers that Pulliam was inside. Pulliam voluntarily exited the apartment, and the police officers took him into custody. Investigator Arendale testified that at the time of Pulliam's surrender, he (Pulliam) was no longer wearing the yellow shirt that he had worn on the Double Quick's surveillance footage.

¶9. Officer Xavion Clay with the Leland Police Department testified that he transported Pulliam to the Leland Police Department, where Pulliam remained in custody until he was transported to the GPD. Officer Clay testified that without any prompting, Pulliam initiated a conversation with him. Officer Clay stated that Pulliam asked several times whether Officer Clay's body camera was activated, and each time, Officer Clay responded that his body camera was not activated. Pulliam then told Officer Clay that he knew why he had been arrested. In response, Officer Clay told Pulliam "that whatever [had] happened[,] just make sure you just tell the truth."

¶10. Officer Clay testified that Pulliam then provided the following statement regarding the events surrounding Thedford's death:

> [W]hen he [(Pulliam)] was in Greenville[,] he was at a traffic light[,] and an individual approached his vehicle from the passenger's side and began yelling and cursing at the vehicle towards him. At that time he [(Pulliam)] exited the vehicle to make contact with the subject to see why the subject was so upset[,] which led to a verbal altercation between him and the subject. During the verbal altercation[,] the subject spit on [Pulliam]. At that time he [(Pulliam)] returned to his vehicle and retrieved his firearm and came back and shot towards the subject before jumping in his vehicle and fleeing.

¶11. Officer Clay testified that other than the spitting incident, Pulliam mentioned no other physical action that Thedford had committed against him during the interaction. In addition, Officer Clay stated that Pulliam never indicated that he had felt scared or threatened by Thedford's conduct toward him. Although Officer Clay made no written report about Pulliam's disclosure, he testified that he reported the statements to the GPD officers involved in Pulliam's arrest.

¶12. Deputy Darrel Saxton, who worked for the GPD at the time of the shooting, testified about a statement that Pulliam made to him later that same day. Around 7:43 a.m., Deputy Saxton walked to the GPD's booking area to retrieve some paperwork. As he passed by the holding-cell area, Deputy Saxton heard someone call his name. Deputy Saxton testified that he approached the holding cell and observed Pulliam inside. Deputy Saxton asked whether Pulliam was okay, and Pulliam stated that he was in a lot of trouble. Pulliam then asked Deputy Saxton's opinion on whether he (Pulliam) should first speak with the detectives or an attorney about the events surrounding the shooting. Deputy Saxton responded that the decision was one Pulliam would have to make on his own. Deputy Saxton testified that Pulliam then began to relate the events leading up to the shooting.

¶13. According to Deputy Saxton, Pulliam stated that he was in his vehicle and stopped at

a traffic light when Thedford approached and asked for a ride. Pulliam told Deputy Saxton that after he refused to give Thedford a ride, Thedford "started talking real crazy to him . . . ." When Pulliam told Thedford to back away from his vehicle, Thedford apparently spit on the vehicle. Pulliam stated that he again told Thedford to back away and that Thedford spit on his vehicle a second time and continued to "talk crazy." Pulliam informed Deputy Saxton that Thedford's actions scared him, so he reached for his gun while speaking to Thedford. Pulliam stated that he then exited the vehicle and told Thedford to leave him alone. According to Pulliam, Thedford "came at him," so Pulliam punched Thedford with his fist. Pulliam told Deputy Saxton that Thedford "came at him" a second time and that he (Pulliam) drew his gun because he was scared of Thedford. Pulliam further told Deputy Saxton that as he tried to back away from Thedford, he fired the gun. After shooting Thedford, Pulliam stated that he panicked, left the area, and went to a levee. At the time Pulliam told this to Deputy Saxton, Pulliam was pointing in the direction of Lake Ferguson. Deputy Saxton testified that he reported Pulliam's statements to the officers involved in the case and wrote a report about the conversation.

¶14. Investigator Eric Sutton with the GPD testified that he was one of the two officers who interviewed Pulliam. The State offered into evidence the interview recording. During the interview, Pulliam stated that prior to the shooting he had been at the Double Quick for about an hour speaking to a friend about vehicle sound systems. Just after leaving the Double Quick, Pulliam stopped at a red light. Pulliam stated that a man, who was later identified as Thedford, approached his vehicle. Pulliam told the officers that he reached for

the .45-caliber gun inside his truck as Thedford approached because he was concerned about his safety. Pulliam stated that Thedford began speaking in a crazy manner through the open driver's window of Pulliam's vehicle and that Thedford looked like he might be on drugs.

¶15. According to Pulliam, Thedford spit into his vehicle through the open window. Pulliam stated that he was angered by Thedford's actions as he exited his vehicle but that he wanted to see if he could get Thedford some help. Pulliam told the officers that he was still concerned about his safety so he kept hold of his gun as he exited his vehicle. Pulliam stated that when he asked whether he could either help Thedford or call someone else to help him, Thedford spit on Pulliam's shirt. Pulliam stated that he hit Thedford with the hand holding his gun and that he and Thedford stood looking at each other for a minute before Thedford said, "You think that [is going] to hurt me? . . . I'm fixing to kill you." Pulliam told the officers that as he began to step backward, Thedford charged him, grabbed his clothing, and ripped his shirt. Pulliam stated that he then aimed his weapon and shot Thedford in the head in self-defense. Pulliam further stated that Thedford was not wearing a shirt during their exchange and that he could see no visible weapon on Thedford.

¶16. Pulliam called 911 and reported the shooting, but he stated that he left the scene due to panic. Pulliam told the officers that he later circled back by the scene and saw police cars. Because he was still panicking, however, Pulliam stated that he continued driving until he reached the levee, where he disposed of his gun. Although he had been wearing a yellow Polo-type shirt at the time of the shooting, Pulliam told the officers that he had thrown the shirt into a garbage can outside his mother's home after he left the crime scene.

¶17. After concluding the interview with Pulliam, Investigator Sutton went to Pulliam's mother's home and recovered the yellow shirt. Investigator Sutton also attempted to recover Pulliam's gun from Lake Ferguson. Investigator Sutton testified, however, that all attempts to retrieve the weapon proved unsuccessful.

¶18. After being transported to DRMC, Thedford died from his injuries. The jury heard testimony from Dr. John Brently Davis about the manner and cause of Thedford's death. The circuit court accepted Dr. Davis, who worked as the deputy chief medical examiner at the State Medical Examiner's Office, as an expert in forensic pathology. Based on the autopsy he performed on Thedford, Dr. Davis concluded that Thedford was killed by a gunshot wound to his head. Dr. Davis testified that Thedford was at least three feet away from the end of the gun barrel when he was shot. According to Dr. Davis, the bullet entered the left temple region of Thedford's head between his eye and his ear and then exited in a downward path through the back left of Thedford's head. Dr. Davis testified that he recovered a bullet fragment as well as multiple jacket fragments from Thedford's head.

¶19. The circuit court accepted Starks Hathcock from the Mississippi Forensics Laboratory as an expert in the field of firearm and toolmark identification. Hathcock analyzed the shell casing found at the crime scene and the projectile fragments recovered from Thedford's head wound. Hathcock testified that the shell casing was a .45 auto-caliber casing that was designed to be fired from a .45 auto-caliber gun. After examining the projectile fragments, Hathcock concluded that they bore "similarities in class characteristics with .45 caliber" projectiles.

¶20. Following the conclusion of the evidence presented during Pulliam's second trial, the jury found Pulliam guilty of the lesser-included offense of manslaughter but not guilty of the firearm enhancement. The circuit court then sentenced Pulliam to serve twenty years in MDOC's custody. Pulliam filed an unsuccessful motion for judgment notwithstanding the verdict or, alternatively, a new trial. Aggrieved, Pulliam appeals.

DISCUSSION

I. Thedford's Schizophrenia Diagnosis

¶21. Prior to trial, the State moved to exclude evidence of Thedford's medical history, specifically his past diagnosis of schizophrenia. After concluding that the information lacked any relevance, the circuit court granted the State's motion to exclude the evidence. On appeal, Pulliam argues the circuit court abused its discretion.

¶22. We review the exclusion of evidence for abuse of discretion and "will not reverse the trial court's evidentiary ruling unless the error adversely affects a substantial right of a party." *Manyfield v. State*, 296 So. 3d 240, 246 (¶16) (Miss. Ct. App. 2020) (quoting *Chism v. State*, 253 So. 3d 343, 345 (¶9) (Miss. Ct. App. 2018)). As we have previously explained:

> In general, relevant evidence is admissible. Evidence is relevant if it has any tendency to make a material fact more or less probable. A trial judge may exclude relevant evidence to avoid unfair prejudice but only if the probative value of the evidence is substantially outweighed by the danger of unfair prejudice. Rule 403's scope is narrow, and it is an extraordinary measure that should be used very sparingly. Moreover, exclusion of evidence under Rule 403 is permissive, not mandatory. That decision is committed to the broad discretion of the trial judge, and our standard of review is highly deferential.

Bell v. State, 287 So. 3d 944, 960 (¶47) (Miss. Ct. App. 2019) (citations and internal quotation marks omitted), *cert. denied*, 287 So. 3d 217 (Miss. 2020).

¶23. In his appellate brief, Pulliam relies on *Newell v. State*, 49 So. 3d 66 (Miss. 2010), and *Byrd v. State*, 154 Miss. 742, 123 So. 867 (1929), to support his contention "that evidence of a victim's [state of] mind . . . is relevant when assessing the reasonableness of a defendant's claim of self-defense." In both *Newell* and *Byrd*, the defendant claimed self-defense and sought to introduce evidence of the victim's intoxication at the time of death. *Newell*, 49 So. 3d at 72-73 (¶¶14-18); *Byrd*, 123 So. at 869. The holdings from these two cases establish "that intoxication evidence offered for the purpose of giving rise to the victim's motive or intention, or the defendant's belief in the imminence of his danger, is admissible **as long as its relevance has been established** . . . ." *Anderson v. State*, 185 So. 3d 1015, 1026 (¶45) (Miss. Ct. App. 2014) (emphasis added) (citing *Newell*, 49 So. 3d at 73 (¶16); *Byrd*, 123 So. at 869).

¶24. From a review of the pretrial-hearing transcript, it appears that the defense planned to call a records custodian as a witness and to enter Thedford's medical records into evidence during that witness's testimony. The defense stated that Thedford's medical records would show that Thedford had a "medical history of schizophrenia." Pulliam appears to have offered no evidence, however, to show how Thedford's prior medical diagnosis affected his state of mind or propensity for aggressive behavior at the time the shooting occurred. According to the defense's argument, regardless of whether Pulliam actually knew about Thedford's schizophrenia diagnosis at the time of the shooting, the medical information corroborated Pulliam's pretrial statement to police that Thedford had been "acting crazy." As the circuit court noted, though, Pulliam was free to testify at trial about Thedford's

appearance and conduct during their altercation.

¶25. Without any further indication as to how Thedford's prior medical diagnosis related to the events surrounding the shooting, we cannot say that the circuit court erred by excluding the evidence. Because the record reflects that Pulliam failed to establish the threshold requirement of the evidence's relevance, we find no abuse of discretion in the circuit court's exclusion of Thedford's medical history. As a result, this assignment of error lacks merit.

II. Pulliam's Castle-Doctrine Jury Instruction

¶26. Pulliam argues that the circuit court erroneously refused to give proposed jury instruction D2-3, which would have instructed the jury on the castle doctrine. Pulliam's theory of defense was that he shot Thedford in self-defense and that the circumstances of the case entitled him to the castle doctrine's "presumption of reasonableness in defending himself." Pulliam contends that the circuit court's refusal to give jury instruction D2-3 prevented him from presenting his theory of defense to the jury.

¶27. We review the decision to give or refuse a jury instruction for abuse of discretion. *Newell*, 49 So. 3d at 73 (¶20). "The jury instructions are to be read as a whole, with no one instruction to be read alone or taken out of context." *Blanden v. State*, 276 So. 3d 1204, 1210 (¶21) (Miss. Ct. App. 2018) (quoting *Watkins v. State*, 101 So. 3d 628, 633 (¶16) (Miss. 2012)). "No reversible error exists if the instructions fairly, though not perfectly, announce the law of the case and create no injustice." *Ambrose v. State*, 254 So. 3d 77, 146 (¶236) (Miss. 2018) (quoting *Ronk v. State*, 172 So. 3d 1112, 1125 (¶20) (Miss. 2015)). "In homicide cases, the trial court should instruct the jury about a defendant's theories of

defense, justification, or excuse that are supported by the evidence, no matter how meager or unlikely." *Id.* "[H]owever, this entitlement is limited in that the court may refuse an instruction which incorrectly states the law, is covered fairly elsewhere in the instructions, or is without foundation in the evidence." *Id.*

¶28. In the present case, Pulliam's proposed jury instruction D2-3 stated:

> A person who uses defense force shall be presumed to have reasonably feared imminent death or great bodily harm, or the commission of a felony upon him or upon his vehicle which he was occupying, if the person against whom the defensive force was used was in the process of unlawfully and forcibly entering, or had unlawfully and forcibly entered, an occupied vehicle, and the person who used defensive force knew or had reason to believe that the forcible entry or unlawful and forcible act was occurring or had occurred. If you believe that Dwight Thedford was in the process of unlawfully and forcibly entering, or had unlawfully and forcibly entered a vehicle occupied by Quavares Pulliam, and that Quavares Pulliam knew or had reason to believe that the forcible entry or unlawful and forcible act was occurring or had occurred, then you must presume that Quavares Pulliam reasonably feared imminent death or great bodily harm or the commission of a felony upon him or upon the vehicle he was occupying. This presumption is called the Castle Doctrine presumption.

In considering whether to give the proposed jury instruction, the circuit court found there had been no evidence presented that Thedford tried to break into or forcibly enter Pulliam's vehicle. After concluding that instruction D2-3 lacked an evidentiary basis, the circuit court refused Pulliam's castle-doctrine instruction.

¶29. "The castle doctrine, as revised effective July 1, 2006, 'curtailed the duty to retreat and created a presumption that the defendant reasonably feared imminent death, great bodily harm, or the commission of a felony upon him from a person who has unlawfully and forcibly entered the immediate premises of a dwelling, occupied vehicle, business, or place

of employment.'" *Beal v. State*, 225 So. 3d 1276, 1283 (¶19) (Miss. Ct. App. 2016) (quoting *Newell*, 49 So. 3d at 74 (¶22)). As codified in Mississippi Code Annotated section 97-3-15(3)-(4) (Rev. 2014), the castle doctrine provides:

> (3) A person who uses defensive force shall be presumed to have reasonably feared imminent death or great bodily harm, or the commission of a felony upon him or another or upon his dwelling, or against a vehicle which he was occupying, or against his business or place of employment or the immediate premises of such business or place of employment, if the person against whom the defensive force was used, was in the process of unlawfully and forcibly entering, or had unlawfully and forcibly entered, a dwelling, occupied vehicle, business, place of employment or the immediate premises thereof or if that person had unlawfully removed or was attempting to unlawfully remove another against the other person's will from that dwelling, occupied vehicle, business, place of employment or the immediate premises thereof and the person who used defensive force knew or had reason to believe that the forcible entry or unlawful and forcible act was occurring or had occurred. This presumption shall not apply if the person against whom defensive force was used has a right to be in or is a lawful resident or owner of the dwelling, vehicle, business, place of employment or the immediate premises thereof or is the lawful resident or owner of the dwelling, vehicle, business, place of employment or the immediate premises thereof or if the person who uses defensive force is engaged in unlawful activity or if the person is a law enforcement officer engaged in the performance of his official duties.
>
> (4) A person who is not the initial aggressor and is not engaged in unlawful activity shall have no duty to retreat before using deadly force under subsection (1)(e) or (f) of this section if the person is in a place where the person has a right to be, and no finder of fact shall be permitted to consider the person's failure to retreat as evidence that the person's use of force was unnecessary, excessive or unreasonable.

¶30. As we explained in *Beal*,

> Two prongs must be satisfied for the castle doctrine to apply. Under the first prong, the defendant must show three things: (1) he was "where he had a right to be," (2) he was "not the immediate provoker and aggressor," and (3) he was

> "not engaged in unlawful activity." *Newell*, 49 So. 3d at 74 (¶22) (citing Miss. Code Ann. § 97-3-15(4)). If these conditions are met, then under the second prong, the defendant "is presumed to have reasonably feared imminent death or great bodily harm or the commission of a felony upon him," if the jury finds any of the circumstances of [section] 97-3-15(3) apply—that is, if the person is in his dwelling, a vehicle, or place of business or employment, or the immediate premises thereof, and the person against whom defensive force is used was in the process of unlawfully and forcibly entering the premises or attempting to remove another from such premises. *Newell*, 49 So. 3d at 74 (¶22).

Beal, 225 So. 3d at 1284 (¶20).

¶31. Upon review, we find the evidence presented at trial failed to establish that Pulliam was "in his dwelling, a vehicle, or place of business or employment, or the immediate premises thereof, and the person against whom defensive force is used was in the process of unlawfully and forcibly entering the premises or attempting to remove another from such premises." *Id.* (citing *Newell*, 49 So. 3d at 74 (¶22)). Officer Clay and Deputy Saxton each testified about the statements Pulliam made to them regarding the events leading up to the shooting. The State also entered into evidence Pulliam's recorded interview during which he provided a statement about the shooting. At no point during any of the three statements did Pulliam indicate that Thedford had attempted to forcibly enter his vehicle or to remove him from the vehicle. Instead, in all three statements, Pulliam indicated that he voluntarily exited his vehicle after Thedford approached. In addition, Pulliam himself provided that Thedford did not begin acting physically aggressive (i.e., charging Pulliam) until both men were standing outside the vehicle together. Based on Pulliam's own statements, we agree with the circuit court that a castle-doctrine instruction lacked any evidentiary basis. We therefore find this issue lacks merit.

III. The State's Self-Defense Jury Instruction

¶32. Pulliam contends that the circuit court also erred by giving jury instruction S-4, which stated:

> The Court instructs the jury that when a defendant claims the right of self-defense in resisting an attacker, the defendant may not use more force than reasonably necessary, under the circumstances then and there existing, to repel his attacker.
>
> If you find from the evidence in this case, beyond a reasonable doubt, that the defendant, Q[ua]vares Pulliam, did kill Dwight Thedford, by shooting him with a firearm, and that such killing was a use of more force than reasonably necessary under the circumstances then and there existing, the self-defense does not apply.
>
> If you find, however, that the use of deadly force was reasonably necessary under the circumstances then and there existing, then it is your sworn duty to find the defendant not guilty.
>
> It is the duty of the jury alone to determine the reasonableness of the use of force.

According to Pulliam, jury instruction S-4 misstated the law on self-defense by requiring that he use no more than reasonably necessary force to repel an attack. As discussed, we review the circuit court's decision to give a jury instruction for abuse of discretion. *Newell*, 49 So. 3d at 73 (¶20).

¶33. In *Thomas v. State*, 145 So. 3d 687, 693 (¶25) (Miss. Ct. App. 2013), the jury received a self-defense instruction substantially similar to S-4 in the present case. In discussing the self-defense instructions given in *Thomas*, this Court found that the given instructions fairly covered the law of the case. *Id.* at 694 (¶26). Likewise, in *Duke v. State*, 146 So. 3d 401, 405 n.2 (Miss. Ct. App. 2014), we noted that the jury was properly instructed on self-defense

where it received, among others, an instruction stating that a person "who claims self-defense to his actions may not use excessive force to repel the attack, but may only use such force as is reasonably necessary under the circumstances."

¶34. Based upon a review of Mississippi caselaw, we conclude that jury instruction S-4 fairly "announce[d] the law of the case and create[d] no injustice." *Ambrose*, 254 So. 3d at 146 (¶236) (quoting *Ronk*, 172 So. 3d at 1125 (¶20)). As a result, we find no abuse of discretion in the circuit court's decision to give the instruction. This assignment of error lacks merit.

IV. The Sufficiency of the Evidence

¶35. In his final issue on appeal, Pulliam contends the State presented insufficient evidence to overcome the presumption that he shot Thedford in reasonable self-defense. We apply the following standard of review to Pulliam's claim:

> When reviewing a challenge to the sufficiency of the evidence, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. The issue on appeal is not whether the reviewing court would have found the defendant guilty; rather, the conviction must be affirmed if there was sufficient evidence for any rational trier of fact to have rendered a guilty verdict.

Russell v. State, 296 So. 3d 217, 223-24 (¶17) (Miss. Ct. App. 2020) (citations and internal quotation marks omitted).

¶36. Here, the jury found Pulliam guilty of imperfect self-defense manslaughter. "An unjustified and unexcused taking of life is presumed to be murder unless there is evidence upon which a jury can rationally justify mitigation down to manslaughter." *Crump v. State*,

237 So. 3d 808, 819 (¶36) (Miss. Ct. App. 2017) (quoting *Neal v. State*, 805 So. 2d 520, 525 (¶16) (Miss. 2002)). Both "[h]eat-of-passion manslaughter and what is known as 'imperfect self-defense' . . . derive from Mississippi Code Annotated section 97-3-35 (Rev. 2014)." *Id*. "[U]nder the theory of imperfect self-defense, an intentional killing may be considered manslaughter if done without malice but under a bona fide (but unfounded) belief that it was necessary to prevent death or great bodily harm." *Brown v. State*, 222 So. 3d 302, 307 (¶21) (Miss. 2017) (quoting *Ronk*, 172 So. 3d at 1126 (¶22)). "The State bears the burden to prove beyond a reasonable doubt that the defendant committed the offense and did not act in self-defense." *Brisco v. State*, 295 So. 3d 498, 510 (¶25) (Miss. Ct. App. 2019) (citing *Franklin v. State*, 72 So. 3d 1129, 1136 (¶29) (Miss. Ct. App. 2011)), *cert. denied*, 293 So. 3d 834 (Miss. 2020).

¶37. At Pulliam's trial, the State presented evidence that officers identified Phillips after they viewed the gas station's surveillance footage and that Phillips subsequently identified Pulliam as the man to whom he had been speaking before he left the gas station. The jury also heard testimony from Officer Clay and Deputy Saxton about the disclosures Pulliam made to each of them about the shooting. In addition, the State entered into evidence the surveillance footage of the shooting and Pulliam's recorded police interview. Officer Clay testified that Pulliam made the first of his three statements shortly after his arrest. According to Officer Clay, Pulliam voluntarily exited his vehicle after Thedford approached and began yelling and cursing at Pulliam. Officer Clay testified that following a verbal altercation during which Thedford spit on Pulliam, Pulliam returned to his vehicle, retrieved his gun, and

shot Thedford. Officer Clay stated that other than the spitting incident, Pulliam mentioned no other physical actions that Thedford took against him. Officer Clay further testified that Pulliam never indicated that he had felt scared or threatened during his interaction with Thedford.

¶38. In his second statement to Deputy Saxton, Pulliam explained that Thedford approached his vehicle and asked for a ride. After Pulliam refused the request, Thedford began "talking real crazy" and spit on Pulliam's vehicle. Pulliam once again stated that he voluntarily exited his vehicle, but in this version of events, he told Deputy Saxton that he (Pulliam) had his gun in his hand as he exited because Thedford's actions had scared him. Unlike in his statement to Officer Clay, Pulliam told Deputy Saxton that Thedford "came at him" and that he therefore punched Thedford with his fist. Deputy Saxton testified that Pulliam then stated that Thedford charged him a second time and that he shot Thedford because he was scared.

¶39. In the third statement given during his recorded police interview, Pulliam again explained that Thedford approached his vehicle, spoke in a crazy manner, and spit on his vehicle. Pulliam admitted that he exited his vehicle because Thedford's actions had angered him. Although he agreed that he could have simply driven away from Thedford, Pulliam maintained that he wanted to see whether he could offer Thedford some help. Consistent with his disclosure to Deputy Saxton, Pulliam stated that he exited his vehicle while holding his weapon. Pulliam explained that Thedford spit on him and that he hit Thedford with the hand holding his gun. According to Pulliam's recorded statement, Thedford then threatened

to kill him. As Thedford charged toward him, Pulliam aimed his gun and shot Thedford in the head. Pulliam stated that Thedford was shirtless during their exchange and that he (Pulliam) could see no visible weapon on Thedford when he shot him.

¶40. In addition to the evidence regarding Pulliam's various statements to police, Dr. Davis testified that Thedford was at least three feet away when Pulliam shot him. The jury also heard evidence that after the shooting, Pulliam fled the crime scene, disposed of his shirt at his mother's house, threw his gun in Lake Ferguson, and then drove to his girlfriend's residence, where he remained until officers arrived to arrest him.

¶41. "Whether [Pulliam] acted in self-defense was a question for the jury to resolve." *Brisco*, 295 So. 3d at 510 (¶26). No dispute exists that Pulliam shot Thedford and later confessed his actions to the police. During his various verbal statements to officers, Pulliam described the circumstances that resulted in the shooting. In describing the events surrounding the shooting, Pulliam admitted to "facts pertinent to the issue, and tending, in connection with other facts, to prove his guilt." *States v. State*, 88 So. 3d 749, 757 (¶35) (Miss. 2012) (quoting *Reed v. State*, 229 Miss. 440, 446, 91 So. 2d 269, 272 (1956)). In connection with the details Pulliam provided during his confessions, the State presented additional evidence to support the elements of imperfect self-defense manslaughter, including the gas station's surveillance footage, the ballistics evidence, the autopsy results, and the testimony about Pulliam's actions after the shooting. Viewing the evidence in the light most favorable to the prosecution, we find the State presented sufficient evidence of the essential elements of imperfect self-defense manslaughter. Based on the State's evidence,

a rational juror could have found beyond a reasonable doubt that Pulliam killed Thedford due to a bona fide but unfounded belief that he faced imminent danger of death or serious bodily harm. We therefore find that Pulliam's argument regarding the insufficiency of the evidence lacks merit.

CONCLUSION

¶42. Because we find no error in the circuit court's judgment, we affirm Pulliam's conviction and sentence for manslaughter.

¶43. **AFFIRMED.**

BARNES, C.J., WILSON, P.J., GREENLEE, WESTBROOKS, McDONALD, LAWRENCE AND McCARTY, JJ., CONCUR.