IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ANTHONY GERALD FOX **APPELLANT**

VS. **No. 2022-KA-00988-COA**

STATE OF MISSISSIPPI **APPELLEE**

BRIEF OF AN AMICUS CURIAE

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STATEMENT OF THE ISSUES[1]

I. **The Evidence is Sufficient to Support the Jury's Verdict.**

II. **The Parties have Misapprehended and Misapplied this Court's Holding in *Brown v. State*, 304 So. 3d 692 (Miss. Ct. App. 2020).**

STATEMENT OF THE CASE

A. Procedural History

On August 4, 2020, former Jackson Police Department (JPD) detective, Anthony Fox, was indicted, by the Hinds County Grand Jury, of second-degree murder, in the death of George Robinson. A jury trial was held July 26 to August 4, 2022, in the First Judicial District of the Circuit Court of Hinds County, the Honorable Adrienne Wooten presiding. The following witnesses were called upon to testify by the State of Mississippi: Ronnie Arnold (T. 366); Connie Bolton (T. 435); Constance Johnson (T. 553); JPD Sergeant Lincoln Lampley (T. 485); JPD Sergeant Scott Albrecht (T. 576); JPD Deputy Chief Deric Hearn (T. 576) Paramedics Andrew Cox (T. 618), Kyrstopher Holman (T. 663), and Shawn McEwen (763); and Medical Examiner Dr. Mark LeVaughn (T. 807). Following the State's case-in-chief, the Defense moved for a directed verdict, which the trial court denied. T. 888; 916. The following witnesses were called upon to testify for the Defense: JPD Officer Desmond Barney (T. 922); Dr. Timothy Usee (T. 1078); JPD Officer Damon White (T. 1122); JPD Officer Jason Miller (T. 1148); JPD Detective Jerry Shoulders (T. 1170); JPD Officer Cornell Norman (T. 1207); George Moore (1221); Kay Benson (T. 1244); Dr. Jonathan Arden (T. 1253); Dr. George Russell (T. 1310); JPD Deputy Chief Deric Hearn (T. 1389); Defendant Anthony Fox (T. 1429). The Defense rested and the State finally

[1] In accordance with the requirements of MRAP 29, including its page limitation, this brief is limited to the single issue relevant to the Appellee's confession of error. That notwithstanding, the Hinds County District Attorney's Office is prepared to file a more substantive brief addressing all issues raised by the Appellant if this Court so orders.

rested. T. 1532; 1541. The jury found Fox guilty of manslaughter. T. 1727. The jury was polled, and each and every juror affirmed his or her verdict. T. 1727.

A sentencing hearing was held on August 18, 2022. At the hearing, Fox was sentenced to twenty (20) years in the custody of the Mississippi Department of Corrections (MDOC) with fifteen (15) years suspended and five (5) years of post-release supervision (PRS). T. 1777-1778; C.P. 953. Defendant timely appealed. C.P. 1291.

B. Factual History

On January 13, 2019, JPD's Special Arms and Tactics Team (SWAT) was activated to search for a juvenile murder suspect in the Washington Addition area of Jackson. T. 493-495. Unrelated to the manhunt, 62-year-old George Robinson was having a cookout at his home on Jones Avenue, which is located within Washington Addition. T. 371. The previous week, Robinson had suffered a stroke which left him partially paralyzed. T. 557.

Officer Lincoln Lampley, Officer Desmond Barney, and the Defendant, Anthony Fox, were activated that day as part of SWAT. T. 493-495. Lampley was riding in the vehicle that Fox was driving. T. 495. According to Lampley, the SWAT team was on Jones Avenue to "see if we could talk to some people and get information about where [the suspect] might be at." T. 495. Upon arriving to Jones Avenue, they observed people gathered at Robinson's house and decided to conduct field interviews, "talking with people, asking questions, if they want to talk to us . . . if they don't want to talk to us they don't have to." T. 496-497.

According to Lampley, he and Fox exited their vehicle and approached the yard where the barbeque attendees were congregating. T. 497. Lampley testified that he did not seen anything suspicious or illegal. T. 497. He further testified that he observed Robinson sitting in the vehicle speaking to a female outside the vehicle, but that did not raise his level of suspicion. T. 500-502.

Lampley approached the barbeque grill intending to show them a picture of the murder suspect; meanwhile, Fox approached Robinson's vehicle presumably to do the same. T. 497; 502. However, before Lampley could begin the conversation with the individuals, he "heard a commotion" consisting of "loud commands coming from Detective Fox." T. 502-504. Lampley stated that he observed Fox attempting to secure Robinson's left arm and remove him from the vehicle and heard commands to stop reaching." T.504. Ronnie Arnold, who was attending the barbeque, and Connie Bolton, who watched the events from the porch of her house, both witnessed Fox forcibly remove Robinson from the car and slam him headfirst into the concreate. T. 377;421; 445-446. According to Arnold, before Robinson was forcibly removed from the vehicle by Fox, he heard Robinson saying "I can't move too fast, sir" and "I just had a stroke" and observed Robinson attempting to unbuckle his seatbelt. T. 377; 421. Bolton also testified that, after Robinson was "slammed" head-first into the pavement, she witnessed Fox "stomp" Robinson with a booted foot. T. 468. At that point, Bolton took her children inside so they would not be exposed to the violence of the altercation. T. 443. When Bolton returned, she began recording the aftermath with her cell phone. T. 451. On the recording, Bolton can be heard saying, "they really worked him over" and the police were "kicking people ass." T. 453.

Despite Fox's later claim that he witnessed a drug transaction and that, during the struggle, Robinson put something in his mouth, no drugs, weapons, or other illegal items were recovered from Robinson or his vehicle. T. 522; 543. No other witness testified to observing a suspected drug transaction. Likewise, while positive for a small amount of marijuana, Robinson's toxicology report was negative for any other illegal narcotic including cocaine, opioids, and barbiturates. T. 822.

American Medical Rescue (AMR) was called to the scene to treat Robinson's head injury. T. 622. However, according to paramedic Andrew Aycox, and substantiated in AMR treatment report, the call was "cancelled by law enforcement." T. 624-626. Despite his report indicating "cancelled by law enforcement" and "no patient found," Aycox testified that he applied a bandage to Robinson's head. T. 634. The testimony at trial would establish that, the following day, upon learning that Robinson was hospitalized in critical condition, Aycox attempted to amend his report to add encounter information; however, he was unsuccessful in his attempt. T. 634-650. After "arresting" Robinson for resisting arrest and disorderly conduct, Fox ordered Robinson to leave the scene.[2] T. 420.

Robinson then went to a hotel on Highway 80 where his girlfriend, Constance Johnson, was staying.[3] According to Johnson, Robinson had a bloody bandage on his head and told her that a police officer had beaten him up. T. 555-556. Johnson then left the hotel to go to the store. T. 557. When she returned, Robinson was laying down and complaining of a severe headache. T. 557. Approximately, fifteen minutes later, Robinson began "foaming at the mouth and . . . shaking," and exhibiting other signs of a seizure. T. 557. Johnson called 911. T. 558.

Krystopher Holman and Shawn McEwan were among the AMR personnel who responded to the hotel. T. 664; 770. Both testified that when they arrived, Robinson was unconscious and showing signs of decorticate posturing. T. 669-671; 771-72. McEwan explained that decorticate posturing is involuntary muscle contractions due to a neurological event or "some type of head injury." T. 771-772. Both Holman and McEwan testified that Robinson scored a 6 on the Glasgow

[2] It is important to note that Robinson was cited for "disobeying, resisting arrest, simple misdemeanors" and not for a narcotics violation. T. 509

[3] As Dr. LeVaughn later testified, it is not uncommon for the symptoms of a subdural hematoma to be delayed as it necessarily depends on the speed of the brain bleed. T. 877. He further testified that it is not at all surprising that a person with blunt trauma to be able to get in his car and leave because again, it depends on the speed of the bleed.

Coma Scale. T. 681; 771. Both testified that their primary impression of Robinson was blunt trauma, and their secondary impression was a subarachnoid hemorrhage. T. 676-678; 775-780. Their assessment was that Robinson had suffered a traumatic brain injury as a result of blunt trauma. T. 675; 776-780. Upon being transported to the hospital, Robinson underwent a craniotomy, a surgical procedure performed to relieve pressure on the brain caused by a subdural hematoma" T. 819-820.

At approximately 2:00 am on the morning of January 14, 2019, Fox's supervisor, Sergeant Scott Albrecht, was notified by a patrol sergeant at UMMC that the patrol sergeant had spoken to the relative of an individual in critical condition and that a K-9 unit was mentioned. T. 580. Albrecht went to UMMC and learned that Robinson was in critical condition as a result of an encounter with Fox. T. 581. Albrecht informed his supervisor and, as a result, Fox, Lampley, and Barney were immediately ordered to JPD headquarters to complete use of force reports. T. 583-584. This was the first time anyone at JPD had documented the encounter with Robinson. T. 699.

On January 15, 2019, Robinson died as a result of his injuries. T. 878. An autopsy was performed on January 17, 2019. T. 812. According to Chief Medical Examiner, Dr. Mark LeVaughn, his post-mortem examination of Robinson revealed that Robinson suffered from "at least three blunt injuries" to the head. T. 833. Robinson's cause of death was ruled to be multiple blunt injuries to the head as evidenced by facial abrasions, scalp contusions, brain contusions, subdural hematoma, and brain swelling. T. 829-830; State's Exhibit 6.

ARGUMENT

The State of Mississippi, by and through the Hinds County District Attorney's Office, is compelled to file the instant amicus brief due to the Mississippi Attorney General's Office's (MSAGO) decision to confess error on sufficiency of the evidence. See Brief of Appellee. In so doing, the MSAGO is presenting the evidence in the light most favorable to the defense, rather than the verdict. When the evidence is viewed in the light most favorable to the verdict, it is clear that the jury's verdict was supported by sufficient evidence. Further, the MSAGO's reliance on this Court's holding in *Brown v. State*, 304 So. 3d 692 (Miss. Ct. App. 2020) is misplaced. The factual misrepresentations in the State's brief, the leaps in logic in its argument, make it clear that the MSAGO has departed from its duty to represent the State of Mississippi, and instead, is zealously advocating for the interest of a convicted criminal defendant.[4]

As this Court has recognized, even when a party confesses error, this Court has "an obligation to examine the record to determine whether the conviction should stand or be reversed. *McCollum v. State*, 186 So. 3d 948, 953 (Miss. Ct. App. 2016) (citing Sibron *v. New York*, 392 U.S. 40, 58, 88 S. Ct. 1889, 20 L.Ed.2d 917 (1968)). And "if the record can be conveniently examined and such examination reveals a sound and unmistakable basis or ground upon which the judgment may be safely affirmed, we may disregard . . . and affirm." *Walker v. Bailey*, 270 So. 3d 195, 198 (¶7) (Miss. Ct. App. 2018) (quoting *Poole v. Walton*, 214 So.3d 1064, 1066 (¶5) (Miss. Ct. App. 2016)). Despite the ease at which this Court can review the record and safely affirm, the Hinds County District Attorney's Office, seeks to assist this Court by filing the instant amicus brief pursuant to Mississippi Rule of Appellate Procedure 29, as such action is in the interest of justice.

[4] See Miss. Code Ann. § 97-11-3.

I. The Evidence was Sufficient to Support the Jury's Verdict.

Fox's conviction of culpable negligent manslaughter should be affirmed, as the jury's verdict was supported by sufficient evidence as to each and every element of the offense.

In reviewing a challenge to the sufficiency of the evidence, the Mississippi Supreme Court has held that "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." *Brooks v. State*, 203 So. 3d 1134, 1137 (¶11) (Miss. 2016) (quoting *Warren v. State*, 187 So. 3d 616, 627 (¶30) (Miss. 2016)). In so doing, the reviewing Court is "not required to decide—and in fact . . . must refrain from deciding—whether [the Court] think[s] the State proved the elements." *Lenoir v. State*, 222 So. 3d 273, 279 (¶25) (Miss. 2017) (quoting *Poole v. State*, 46 So. 3d at 293 (¶20)). Instead, this Court "must decide whether a reasonable juror could rationally say that the State did" prove the elements. *Id.* Upon review, the State enjoys "all favorable inferences which may be made from that evidence." *Wilson v. State*, 853 So. 2d 822, 825 (¶12) (Miss. Ct. App. 2003). Fox was indicted for second-degree murder in violation of Mississippi Code Annotated section 97-3-19(1)(b). C.P. 14. Fox was found guilty of the lesser-included offense of culpable negligent manslaughter in violation of Mississippi Code Annotated section 97-3-47 C.P. 878. Thus, the relevant inquiry is whether any rational trier of fact could have found, beyond a reasonable doubt, that Fox was guilty of culpable negligent manslaughter.

Section 97-3-47 is a statutory codification of the common law crime of involuntary manslaughter. *Craig v. State*, 520 So.2d 487, 491 (Miss. 1988). Culpable-negligence manslaughter is "the killing of a human being, by the act, procurement, or culpable negligence of another, and without authority of law." *O'Kelly v. State*, 267 So. 3d 282, 291 (¶31) (Miss. Ct. App.

2018) (quoting Miss. Code Ann. § 97-3-47 (Rev. 2014)). The Mississippi Supreme Court has defined culpable negligence as "negligence of a degree so gross as to be tantamount to a wanton disregard, or utter indifference to, the safety of human life." Finally, "[t]he rule is that in order to give the term culpable negligence in the statute its proper setting it should be construed to mean negligence of a higher degree than that which in civil cases is held to be gross negligence." *Brown v. State*, 304 So. 3d 692, 696 (¶15) (Miss. Ct. App. 2020) (quoting *Moore v. State*, 238 Miss. 103, 109-10, 117 So. 2d 469, 471 (1960)).

Contrary to the appellee's contention, the question of whether Fox's actions were reasonable, reckless, and negligent were questions for the jury to resolve, not the Attorney General. In *Smith v. State*, 197 Miss. 802, 814-15, 20 So.2d 701, 704-05 (1945), the Mississippi Supreme Court opined that, "[N]egligence, to become criminal, must necessarily be reckless or wanton and of such a character as to show an utter disregard of the safety of others under circumstances likely to cause injuries."

Based on the evidence and testimony at trial, it is clear that sufficient evidence existed to allow this case to go to the jury. Indeed, the State submits, as the trial court found in its denial of the Defense's motion for a directed verdict, that the State's evidence was sufficient to support a conviction of second-degree murder; and "[w]here there is evidence to justify a murder conviction, the appellant cannot complain of a manslaughter conviction." *Hubbard v. State*, 437 So.2d 430, 438 (Miss. 1983).

Lampley testified that SWAT, including he and Fox, stopped at Robinson's to conduct field interviews in furtherance of locating a juvenile murder suspect thought to reside in the area. T. 493-494. At that time, Lampley was seeking citizen assistance. T. 495. As he approached the barbeque grill area, Lampley observed Robinson in his vehicle speaking to a woman who was

standing at his car window, but stated that nothing suspicious had occurred that would cause him to believe a crime was taking place. T.495. Suddenly, before he could ask people on the scene any questions, he heard a commotion and observed Fox forcibly removing Robinson from his vehicle. T. 502-504. Ronnie Arnold testified that he observed Fox ordering Robinson out of the car, heard Robinson saying "I can't move too fast, sir" and "I just had a stroke" and observed Robinson attempting to unbuckle his seatbelt. T. 377; 421. At that point, Fox "end up snatching the door open and grabbed him and throw him on the ground." T. 377. Arnold testified that Robinson's head hit the concreate "hard" and that Robinson's head was bleeding. T. 388. Fox then had his knee on Robinson's back and his head pushed against the car tire and the ground. T. 389. Arnold provided an in-court identification of Fox. Connie Bolton, testified to seeing Fox "snatch" Robinson out the car and "body slam" him head-first into the asphalt T. 445-446. Bolton further stated that she saw Fox raise his foot and "stomp" Robinson." T. 446. She testified that afterwards, Robinson was leaning against the vehicle and his head was bleeding. T. 448. There was testimony that Fox cancelled the AMR call and ordered Robinson to leave the scene. T. 625-626; 420. The jury further heard testimony that, pursuant to JPD policies, Fox should not have field released Robinson following an encounter involving use of force. T. 700-715.

Constance Johnson testified that Robinson arrived at her hotel room following the incident with a bandaged and bloody head and told her that JPD had assaulted him. T. 555-556. Johnson stated that, after Robinson complained of a severe headache and laid down, he began "foaming at the mouth," "shaking" and having a seizure. T. 557-558. Johnson called 911 and AMR responded to the hotel. Both Kyrstopher Holman and Shawn McEwen testified that, when they arrived at the hotel, Robinson was unconscious and showing signs of decorticate posturing. T. 669-671; 771-72. McEwan explained that decorticate posturing is involuntary muscle contractions due to a

neurological event or "some type of head injury." T. 771-772. Both Holman and McEwan testified that Robinson scored a 6 on the Glasgow Coma Scale. T. 681; 771. Both medical professionals testified that their primary impression of Robinson was blunt trauma, and their secondary impression was a subarachnoid hemorrhage. T. 676-678; 775-780. Their assessment was that Robinson had suffered a traumatic brain injury as a result of blunt trauma. T. 675; 776-780. Dr. LeVaughn testified that Robinson, after being transported to UMMC, underwent craniotomy a "surgical procedure that's done to enter the cranial cavity . . . to remove hemorrhage on the surface of the brain." T. 819-820. According to Dr. LeVaughn, the hemorrhage or subdural hematoma "is bleeding on the outside surface of the brain" which causes pressure on the brain and "can result in death . . . if not removed." T. 820. Dr. LeVaughn testified that his examination of Robinson revealed that Robinson suffered from "at least three blunt injuries" to the head. T. 833. Dr. LeVaughn testified that the victim's cause of death was multiple blunt injures to the head and the manner of death was homicide. T. 830. Dr. LeVaughn further testified that when someone experiences blunt force trauma to the head, it is not uncommon for the there to be a delay in the symptoms becoming visible as it depends on the speed of the brain bleed. T. 877

In summary, the evidence at trial, when viewed in the light most favorable to the verdict, revealed that the defendant, while conducting field interviews in pursuit of a juvenile murder suspect, forcibly removed a 62-year-old, partially paralyzed stroke survivor from a vehicle, without legal authority, and slammed him head-first into concreate. While the testimony at trial was disputed as to the force and nature of the altercation, it is undisputed that as a result, Robinson suffered at least three blunt injuries to the head. Fox interfered with Robinson's medical treatment and ultimately ordered him from the scene. It is further undisputed that Robinson died of multiple

blunt injuries to the head. Thus, a reasonable jury could, and did, find Fox guilty of culpable negligent manslaughter.

II. The Parties are Misapprehending and Misapplying this Court's Holding in *Brown v. State*, 304 So. 3d 692 (Miss. Ct. App. 2020).

Both the appellant and the appellee assert that this Court's decision in *Brown*, 304 So. 3d 696 is controlling. It is not. The parties' argument is erroneous as it clearly misapprehends this Court's holding in *Brown*. The key question in Brown is how directly related the defendant's negligence must be to the cause of death to support a conviction of culpable negligence manslaughter.

There, the appellant, Brown, was working as a security guard at a restaurant bar and grill, when he physically removed a patron in the aftermath of an altercation into which the patron had intervened. *Brown*, 304 So. 3d at 694 (¶2). As a result of being restrained and removed, the patron fell unconscious. *Id.* Brown attempted CPR and the patron was transported by ambulance to a nearby hospital, where he passed away. Brown was later charged and indicted with culpable-negligence manslaughter for patron's death. *Id.* At trial, the medical examiner testified that the "cause of death was determined to be complications of hypertensive cardiovascular disease associated with a physical altercation." *Id.* at 694 (¶7). Although the autopsy showed that the victim had a number of "small bruises and lacerations" there were "no internal injuries found" and many of the external injuries could have resulted from CPR and the subsequent medical procedures.

This Court began its analysis by recognizing that "a defendant is not liable for every consequence which may be remotely traced back to him but only for those which he should reasonably have foreseen as something likely to happen - not for those which might possibly happen but for those which under the circumstances so nearly approached a probability as to be

characterized as likely to happen." *Id.* at 696 (¶16) (quoting *Goudy v. State*, 203 Miss. 366, 369, 35 So. 2d 308, 309 (1948)). The *Brown* Court then examined two other cases where the Mississippi Supreme Court "affirmed homicide convictions where, **like [Brown], there was evidence the cause of death was a combination of heart issues and stress**." (emphasis added).

In *Jackson v. State*, 441 So. 2d 1382, 1383 (Miss. 1983), the defendant was convicted of murder while engaged in a robbery after he had robbed and beaten the deceased in the head with a tire iron. However, the pathologist determined that the cause of death "was cardiac arrest resulting from stress compatible with blows to [the victim's] head." *Id.* In addition, there was evidence of an extensive struggle including two eyewitnesses who saw the victim and the defendant struggling in the restroom where the attack occurred; blood splatter at the scene; and small amounts of blood on the defendant's face and hands. *Id.* Despite the cause of death being attributed to the unforeseen cardiac arrest, the Mississippi Supreme Court found that the evidence was sufficient to sustain the defendant's murder conviction. *Id.*

In *Hawkins v. State*, 101 So. 3d 638 (Miss. 2012), the defendant was accused of murdering his girlfriend. There, the victim sustained severe trauma to her face, neck, and arms. *Id.* at (¶4). However, the actual cause of death was determined to be "cardiovascular death through arrhythmia" as a "product of an assault, blunt force trauma" *Id.* at (¶6). The Mississippi Supreme Court held that the evidence was sufficient to support a conviction of depraved heart murder. *Id.* at 643 (¶15).

This Court found that the facts in *Brown* were distinguishable to the facts in *Jackson* and *Hawkins*, noting that in those cases, "there were multiple blows to the victims resulting in severe blunt-force trauma . . . [and] there were signs of extensive struggles in both cases." *Brown*, 304

So. 3d at 696 (¶19).[5] This Court noted that in those cases "there was ample evidence of negligence so gross as to be tantamount to a wanton disregard of, or utter indifference to, the safety of human life.'" *Id.* Conversely, this Court held that "Brown's singular act of attempting to remove [the patron] from the club does not meet the high burden of culpable negligence." *Id.* at 696 (¶20). This is because, while Brown's conduct may have been negligent, "there was no evidence of severe trauma or trauma in multiple locations that could constitute gross negligence." *Id.* And "[t]he only injuries were a few lacerations, which could have been the result of medical intervention, and petechia in the eyes, which could have been caused during resuscitation attempts . . . [and] . . . there [was no] evidence of an extensive struggle between the two men." *Id.*

The holdings in *Brown*, *Hawkins*, and *Jackson* are wholly inapplicable to the case at bar. *Brown*, *Jackson*, and *Hawkins* all pertain to the causal relationship between the defendant's actions and the cause of the victim's death, where the medical cause of death is a collateral result of the defendant's actions: *Brown*, complications of hypertensive cardiovascular disease associated with a physical altercation; *Jackson*, cardiac arrest resulting from stress compatible with blows to the victim's head; *Hawkins*, blunt force trauma, producing cardiovascular death through arrhythmia. Unlike those cases, here, there is no collateral comorbid condition that caused the death. Instead, the victim died of multiple blunt force trauma to the head consistent with someone being slammed into asphalt head first.

The Attorney General contends that "just as in *Brown*, here[,] there was no evidence of severe trauma or trauma in multiple locations that could constitute gross negligence, the only injuries to the victim were visibly slight, and there was no extensive struggle involving multiple blows to the victims [*sic.*] resulting in severe blunt-force trauma that could sustain a culpable

[5] This Court further distinguished Jackson noting that there, the defendant wielded a deadly weapon. Brown, 304 So. 3d at 696 (¶19).

negligence finding—even if Fox's effort to arrest Robinson may have been negligent." Brief of Appellee P. 4. However, this contention ignores witness testimony and the medical evidence. Two witnesses testified that Fox slammed Robinson's head into the concreate. One witness testified that Fox then held the victim's head on the concreate wedged against a car tire. T. 388-390. Another witness testified that she witnessed Fox "stomp" Robinson with a booted foot, causing her to take her children inside her house to protect them from the brutality of the assault. T. 468. And while the Attorney General opines that there was no evidence of multiple injury, a requirement for culpable negligence that she is erroneously reading into the statute, this position ignores the fact that, as Dr. LeVaughn testified, Robinson suffered from "at least three blunt injuries." T. 833. The Attorney General's argument further ignores a key distinction in *Brown*, where the medical examiner testified that "[n]o internal injuries were found" and the cause of death was only tangentially related to the defendant's actions. Here, the internal injuries were both present and severe, and the cause of death was directly related to those injures. Indeed, the subdural hematoma was so severe that Robinson underwent a craniotomy at the hospital which Dr. LeVaughn testified is a "surgical procedure that's done to enter the cranial cavity . . . to remove hemorrhage on the surface of the brain." T. 820-821. It is reasonably foreseeable that slamming someone's head into concreate and "stomping them" with a booted foot, could cause a head injury resulting in severe injury and even death. Nevertheless, Dr. LeVaughn testified that the victim's cause of death was multiple blunt injures to the head. T. 830.

Despite both the Appellant's and the Appellee's arguments, this Court's holding in *Brown* is not controlling and has little application to the case at bar. There, this Court examined how directly related the defendant's negligence must be to the cause of death to support a conviction of culpable negligence manslaughter, in a particular set of circumstances where the cause of death is

collateral. Here, there is no dispute that the victim's cause of death was directly related to his injuries. Accordingly, the parties' arguments are unsupportable.

CONCLUSION

The Hinds County District Attorneys' Office submits the jury's verdict was supported by overwhelming evidence of guilt. Based upon the arguments presented herein, as supported by the record on appeal, the Hinds County District Attorney's Office requests that this Court disregard the Attorney General's dereliction, examine the record, and affirm Fox's conviction and sentence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, JOE HEMLEBEN, hereby certify that on this day I electronically filed the foregoing pleading or other paper with the Clerk of the Court using the MEC system which sent notification of such filing to all counsel of record.

This the _____ day of July, 2023.

_____
Joe Hemleben
Assistant District Attorney