

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jul 26 2022

SC Court of Appeals

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRYAN AUSTIN SEIDLE,

APPELLANT.

APPELLATE CASE NO. 2020-001485

AMENDED FINAL REPLY BRIEF OF APPELLANT

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In arguing the decedent’s sex offender status was not relevant, the state misapprehended why appellant sought to admit the evidence, which was to show appellant’s state of mind during the confrontation with the decedent, why appellant reasonably believed it was necessary to arm himself that night, and whether appellant’s fear of great bodily injury or death was reasonable. The state also offered no sound legal basis as to how the state would have been unfairly prejudiced by the admission of the decedent’s sex offender status.1

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ARGUMENT IN REPLY

In arguing the decedent's sex offender status was not relevant, the state misapprehended why appellant sought to admit the evidence, which was to show appellant's state of mind during the confrontation with the decedent, why appellant reasonably believed it was necessary to arm himself that night, and whether appellant's fear of great bodily injury or death was reasonable. The state also offered no sound legal basis as to how the state would have been unfairly prejudiced by the admission of the decedent's sex offender status.

Introduction

The state filed its initial brief of respondent on February 28, 2022. In arguing the decedent's registry status was not relevant in its initial brief, the state mischaracterized the record. It claimed, "In fact, Ingersoll's sex offender registry requirement was based on a sex crime he committed as a seventeen year old against a fifteen year old victim. . . ." BOR at 8. In support of this assertion, the state cited to a comment made by the trial judge in which the judge was speaking *hypothetically*. See R. 101, ll. 16-22. Specifically, the judge stated, "What - - and the other thing is we would kind of almost have to know a little bit about what the facts are. I think, you know, if we're talking about propensity for violence and *if Mr. Ingersoll [the decedent] was 17 years old and he had sex with a 15 year old, that's not violent at all*. I mean it's probably inappropriate and it's certainly illegal but *do we know anything about the [underlying] facts of the case?*" R. 101, ll. 16-22 (emphasis added).

Appellant filed an initial reply brief on March 21, 2022 to correct this misrepresentation of the record contained in the state's initial brief since the record is clear that neither party was aware of the underlying facts of the offense which required the decedent to register as a sex offender. R. 101, l. 21 – 102, l. 7; R. 105, ll. 4-11. On May 16, 2022, after the state and

appellant had filed their respective final briefs, the state moved to amend its final brief to correct “a partially inaccurate assertion.” In a return filed May 23, 2022, appellant opposed the state’s motion pursuant to Rule 211(b)(2), SCACR, which only allows the correction of “obvious typographical errors and misspellings” contained in the initial brief. “No other changes may be made.” Rule 211(b)(2), SCACR. Appellant also opposed the motion because permitting the state’s amendment would render appellant’s reply brief absurd.

By order filed June 30, 2022, this Court granted the state’s motion to amend its final brief. It also permitted appellant to file an amended reply brief within thirty days. On July 5, 2022, the state filed its amended final brief of respondent removing the “inaccurate assertion.” This amended final reply brief of appellant follows.

Discussion

The state argued the decedent’s sex registry status was not relevant because there was no evidence the underlying conviction was committed through the use of physical violence. BOR at 8. The state further suggested the decedent’s conviction “was based solely on the victim’s age.” BOR at 8. The state’s argument misapprehends why appellant sought to admit the evidence of the decedent’s registry status. Appellant did not seek to admit the evidence to attack the decedent’s character pursuant to Rule 404(a) and (b), SCRE or Rule 405, SCRE. Defense counsel made clear that he did not intend to introduce evidence of the underlying conviction. Rather, appellant sought to testify that he was repeatedly told as a child that he could not be alone with the decedent because of the decedent’s registry status, and that he needed to protect his vulnerable sister from the decedent. This evidence was relevant as to appellant’s state of mind during the confrontation with the decedent. It was also relevant as to whether appellant reasonably believed it was necessary to arm himself that night and whether his fear of great

bodily injury or death was reasonable, both elements of his defense. See State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984) (explaining the elements of self-defense). Additionally, because appellant did not seek to introduce the underlying allegations of the offense which led to the decedent's registry status, there was little, if any, prejudice to the state. Certainly there was no unfair prejudice. See Rule 403, SCRE.

Contrary to what the state argued, appellant was prejudiced by the trial judge's erroneous exclusion of this evidence. See BOR at 9-10. Evidence the decedent was a registered sex offender, and that appellant was not permitted to be alone with the decedent as a minor without a parent or another adult present, was vital evidence in support of appellant's defense. Such evidence was highly probative as to why appellant reasonably believed it was necessary to arm himself that night in his effort to expel the decedent from his home after his mother left. The evidence would have countered the state's argument that appellant was at fault in bringing on the difficulty. Additionally, the evidence was probative as to appellant's state of mind during the confrontation and whether he reasonably believed he was in imminent danger of losing his life or sustaining serious bodily injury when the decedent charged him while wielding a knife.

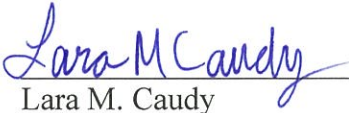
Tellingly, the state wholly failed to address appellant's argument that the exclusion of this evidence violated his due process right to present a complete defense. See State v. Burgess, 391 S.C. 15, 21, 703 S.E.2d 512, 515 (Ct. App. 2010) ("The United States Constitution guarantees a criminal defendant the right to present a complete defense."); Crane v. Kentucky, 476 U.S. 683, 690 (1986). Appellant's defense at trial was self-defense. Evidence the decedent was a registered sex offender, and that appellant was not permitted to be alone with the decedent as a minor without a parent or another adult present, was essential evidence in support of his defense.

The trial judge abused his discretion by refusing to admit relevant admissible evidence the decedent was a registered sex offender, and this Court should reverse appellant's conviction and remand for a new trial.

CONCLUSION

Based on the foregoing argument, appellant's conviction should be reversed and this case remanded to the Florence County Court of General Sessions for a new trial.

Respectfully submitted,


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This 26th day of July, 2022.


CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Amended Final Reply Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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This 26th day of July, 2022.