

**RECEIVED**  
**Dec 29 2022**  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Lexington County

William P. Keesley, Circuit Court Judge

---

Opinion No. 2022-UP-449 (filed Dec. 14, 2022)

---

THE STATE,

RESPONDENT,

V.

MICHAEL LARONE WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2019-001759

---

PETITION FOR REHEARING

---

On December 14, 2022, this Court affirmed Appellant’s convictions and life sentence in a per curiam decision issued without the benefit of oral argument. State v. Williams, 2022-UP-449 (S.C. Ct. App. filed Dec. 14, 2022). On appeal, Appellant challenged the trial court’s exclusion of evidence regarding a report regarding the results of toxicology testing on the deceased, which was conducted as part of standard autopsy procedures. This Court held the trial court “did not abuse its discretion by excluding the toxicology report” because “[a]ny probative value was substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading

the jury.” Pursuant to Rule 221(a), SCACR, Appellant respectfully requests rehearing due to the significant factual and legal points overlooked and misapprehended by this Court.

Appellant agrees with this Court that the admission of evidence is within the sound discretion of the trial court and will not be reversed on appeal absent an abuse of discretion. However, Appellant respectfully disagrees with this Court’s conclusion that the trial court did not abuse its discretion by excluding the evidence that the deceased’s blood tested positive for methamphetamine at the time of his death. As explained in the brief, the toxicology report was essential to Appellant’s defense.

While investigating the death of the deceased, the Lexington County Sheriff’s Office (LCSO) found a bag containing methamphetamine at the crime scene, but failed to collect the bag or any of its contents in connection with the death investigation. R. 70, ll. 1-9. Doug Novak, LCSO’s evidence supervisor, told the jurors that the police found “a bag in the middle of the road that appeared to have meth – products in it which consists of pill making – Sudafed in it, cans, there were pipes and little other things that they would use to make meth with.” R. 70, ll. 1-9. A narcotics officer confirmed the items were used in manufacturing methamphetamine, seized the items, and destroyed the evidence without performing any testing or taking any measures to preserve the evidence to be used for the death investigation. R. 70, ll. 21-24.

After the state presented Dr. Janice Ross as a witness to testify regarding the cause of death, defense counsel asked Dr. Ross whether it was standard procedure for a pathologist to order a toxicology screen as part of an autopsy. R. 222, ll. 14-24. The solicitor immediately objected. R. 222, ll. 14-24. When arguing in favor of the admission of the testimony, defense counsel explained that he wanted Dr. Ross to inform the jury that she found methamphetamine in the deceased’s blood. R. 223, ll. 2-9. During a proffer, Dr. Ross confirmed that the toxicology results showed

the deceased had methamphetamine in his blood at the time of his death. R. 227, ll. 4-24. The solicitor argued the presence of methamphetamine in the deceased's blood was improper character evidence that had "nothing to do with the actual facts of the case." R. 223, ll. 11-16. Defense counsel countered that the jury was already aware of the evidence of the tools necessary manufacturing methamphetamine being found at the scene and aware of the police ignoring that evidence in connection with the death. R. 223, ll. 17-21.

Although the state had argued the presence of methamphetamine in the deceased's blood was inadmissible as improper character evidence, the judge excluded the evidence on a different basis. After struggling to see how the evidence was relevant to the case, the judge found the proposed testimony from Dr. Ross "should be excluded under Rule 403 because any probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues and misleading the jury." R. 226, ll. 14-21.

"'Relevant evidence' means evidence having *any* tendency to make the existence of *any* fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE (emphasis added). Under Rule 403, SCRE, relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury." "'Probative' means '[t]ending to prove or disprove.'" State v. Gray, 408 S.C. 601, 609, 759 S.E.2d 160, 165 (Ct. App. 2014).

According to this Court, "'[p]robative value' is the measure of the importance of that tendency to the outcome of a case." Id. at 610, 759 S.E.2d at 165. "Unfair prejudice means an undue tendency to suggest [a] decision on an improper basis." State v. Spears, 403 S.C. 247, 253, 742 S.E.2d 878, 881 (Ct. App. 2013). "Rule 403 only requires suppression of evidence that results in unfair prejudice

– prejudice that damages an opponent for reasons other than its probative value, for instance, an appeal to emotion.” United States v. Mohr, 318 F.3d 613, 619-620 (4th Cir. 2003).

The presence of methamphetamine in the deceased’s blood was of high probative value as it cast doubt on the credibility of the state’s key witnesses in a case that hinged on the credibility of those witnesses. The state’s key witness, Nakerrius Pressley, claimed the death of his brother was the product of a drug deal gone bad. R. 18, ll. 2-8. Although Pressley initially blamed Dayyan Felder and publicly threatened Felder, Pressley told the jurors that Appellant shot the deceased. R. 22, ll. 13-25; R. 83, ll. 9-21. Felder also testified as a witness for the state. However, the stories told by Pressley and Felder involved convoluted, inconsistent, and nonsensical arrangements for a simple drug deal.

In fact, the solicitor was forced to address the inconsistencies of the stories in her closing argument. R. 236, ll. 9-10; R. 236, l. 25 – R. 237, l. 2. The solicitor tried to excuse the inconsistent and nonsensical stories by claiming that Pressley had “just seen his brother get shot.” R. 236, ll. 10-16. The solicitor claimed this was the “worst day of [Pressley]’s life.” R. 236, ll. 14-15. The solicitor also told the jury that Pressley and Felder were “perceiving things differently” based on their differing vantage points to explain the stark contrast in their testimony. R. 237, ll. 1-2. Just as the solicitor tried to excuse Pressley’s testimony with the alleged trauma of the shooting, the solicitor told the jurors to forgive any inconsistencies in Felder’s testimony because he was “panicking” having “just seen someone get shot.” R. 237, ll. 4-5. Then, turning to the evidence of methamphetamine in the case, in her closing argument, the solicitor remarked that “[t]he defense talked a little bit about this meth trash that was found” at the crime scene. R. 238, ll. 13-14. The solicitor warned the jurors that this evidence was “just some distraction” because “[w]e don’t know when it got there, how it got there or was it in the victim’s car.” R. 238, ll. 14-16.

Defense counsel challenged the state's theory – and Felder's and Pressley's accounts – throughout the trial. See e.g., R. 243, l. 8 – R. 249, l. 8. Had defense counsel been allowed to present evidence of the deceased's toxicology results, then the connection between the deceased and the methamphetamine found at the scene would have been even more powerful. These two pieces of evidence when presented *together* would have cast doubt on the state's two key witnesses – Pressley and Felder. Showing the deceased had methamphetamine in his blood at the time of his death would have eroded further the credibility of these witnesses as it along with the “meth trash” found near the scene heightened the likelihood that the deceased was present for a sale of methamphetamine, not marijuana as the witnesses insisted. Casting doubt on the credibility of the state's key witnesses with the physical, irrefutable evidence of methamphetamine in the deceased's blood at the time of his death was of great importance to the key issue in Appellant's case, particularly where his defense was reasonable doubt. Cf. Watson ex rel. Watson v. Chapman, 343 S.C. 471, 477, 540 S.E.2d 484, 487 (Ct. App. 2000) (physician's alcohol dependency was relevant to his ability to make decisions and as such, its probative value outweighed any danger of unfair prejudice); Gulledge v. McLaughlin, 328 S.C. 504, 510, 492 S.E.2d 816, 819 (Ct. App. 1997) (holding a driver's blood alcohol content was admissible on the issue of contributory negligence).

Furthermore, the danger of unfair prejudice, confusing the issues, or misleading the jury from presenting evidence from the pathologist that the deceased's blood contained methamphetamine are exceedingly low here. The state would suffer no unfair prejudice as the toxicology evidence would have explained the “meth trash” and cast doubt on the state's witnesses regarding the nature of the transaction. The jury would not have been confused or misled by the toxicology evidence either because the jury was aware that drugs were involved in the case; rather, the evidence of methamphetamine in the deceased's blood at the time of his death would have

clarified the issues in the case and helped the jury to arrive at a just verdict. Balancing the high probative value of the evidence against the low danger of unfair prejudice, confusion of the issues or misleading of the jury required admission of the evidence and reversal of the trial judge.

The trial court erred in excluding the results from the decedent’s toxicology report because the results were probative in connecting the decedent to the bag of meth-related items found on the scene. Contrary to what the solicitor argued at trial, the purpose of showing the jury this connection was not to attack the decedent’s character but rather to demonstrate that law enforcement’s investigation was incomplete and inadequate because they ignored evidence that should have been taken seriously. The probative value of connecting the decedent to the bag found on scene was that it cast substantial doubt on the state’s theory of the case that this shooting was the result of marijuana being traded for a gun. The decedent’s toxicology report was probative in showing that there was more to the story which was told by Pressley and Felder, and because they were the only eyewitnesses to the shooting, it was essential that Appellant cast as much doubt as possible on their testimony.

Appellant respectfully requests rehearing concerning these significant factual and legal points overlooked and misapprehended by this Court when issuing its opinion.

  
\_\_\_\_\_  
Susan B. Hackett  
Appellate Defender  
SCCID - Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
ATTORNEY FOR APPELLANT

This 29<sup>th</sup> day of December, 2022.

**RECEIVED**  
**Dec 29 2022**  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Lexington County

William P. Keesley, Circuit Court Judge

Opinion No. 2022-UP-449 (filed Dec. 14, 2022)

THE STATE,

RESPONDENT,

V.

MICHAEL LARONE WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2019-001759

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the petition for rehearing in the above-referenced case has been served upon Michael D. Ross, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is [mikeross@scag.gov](mailto:mikeross@scag.gov); and on Michael Larone Williams, #313839, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 29<sup>th</sup> day of December, 2022.



Susan B. Hackett  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

**From:** [Stock, Chris](#)  
**To:** [SC - ROSS MICHAEL](#); [SC - RANKIN BRANDY](#)  
**Cc:** [Hackett, Susan](#)  
**Subject:** Williams, Michael Larone - Petition for Rehearing - 2019-001759  
**Date:** Thursday, December 29, 2022 2:20:00 PM  
**Attachments:** [Williams, Michael Larone - Petition for Rehearing - 2019-001759 - AG Cover Letter.pdf](#)  
[Williams, Michael Larone - Petition for Rehearing - 2019-001759.pdf](#)

---

Mr. Ross,

Please find attached for service the Petition for Rehearing for Michael Larone Williams' appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

**Chris Stock**

Administrative Assistant  
Commission on Indigent Defense  
Appellate Division  
(803) 734-1330