STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
The Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

v.

JONATHAN R. RACKLEY,

APPELLANT.

Appellate Case No. 2021-001141

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

I. Whether the court erred by excluding evidence the decedent had methamphetamines in her bloodstream since this evidence of drug use was relevant, and its exclusion was highly prejudicial since there was no motive for appellant to kill his new decedent girlfriend and her drug use was probative as to whether the decedent may have accidentally shot herself or committed suicide as the defense purported where appellant told the police he awoke to the sound of a gunshot, and that he did not know how the decedent was shot?

RESPONDENT'S COUNTERSTATEMENT OF ISSUES ON APPEAL

I. Did the trial court act within its broad discretion to exclude the toxicology report evidence where Appellant was unable to demonstrate: 1) Victim was under the influence of methamphetamines at the time of the gunshot, 2) how much methamphetamine was in Victim's system at the time of the gunshot, 3) when Victim actually used methamphetamines prior to the gunshot, and 4) that any other record facts or evidence supported a theory of Victim's death being a result of accidental or intentional self-harm due to drug use?

STATEMENT OF THE CASE

Jonathan Richard Rackley (hereinafter "Appellant") was indicted for murder of his girlfriend, Jamie Lynn Scruggs (2019-GS-39-2090), and possession of a weapon during the commission of a violent crime (2019-GS-39-2544). Appellant proceeded to a jury trial before the Honorable Judge G.D. Morgan, Jr., on September 20, 2021 through September 24, 2021. Appellant was represented by attorney Aaron De Bruin, Esquire. The State was represented by Assistant Solicitors Shannon Odom and Seth Johnson, of the Thirteenth Judicial Circuit Solicitor's Office. (R. p. 1).

At the conclusion of the trial Appellant was found guilty on all indicted charges. (R. p. 525). Judge Morgan sentenced Appellant to 50 years for murder and 5 years for possession of a weapon during the commission of a violent crime. The trial court ruled that these sentences were to run consecutively, totaling 55 years imprisonment. (R. p. 525; p. 526). This appeal now follows.

STATEMENT OF FACTS

The Crime

Between the late night and early morning hours of July 12 and 13, 2019, Appellant was with his girlfriend Jamie Lynn Scruggs, and their friends Jason Trammel, Barry Edwards, and Alicia (Nikki) Edwards. They were hanging out together in the shed behind Appellant's home. (R. p. 29-33; p. 21-23). The testimony of Mr. Edwards and Mr. Trammel indicated that Victim and Appellant appeared to be having a good time, were in a good mood, and were lovestruck. (R. p. 28; p. 33; p. 22). Most of the group left between the hours of 10pm and 1:03am, leaving Appellant and Victim together alone in the shed. (R. p. 23; p. 33; p. 99; p. 407). Appellant's mother, Angela Rackley, testified that she went out to check on her son and his girlfriend and then headed to sleep. (R. p. 102).

Appellant's neighbor to the rear, Riley Bagwell, testified at trial that she heard arguing between what she believed to be a man and a woman. She described the voices as "loud", as if they were shouting. (R. p. 60; p. 66, lines 10-12). She started to text[1] about it with her friend, Kaleigh Stone, who is also a neighbor to Appellant. It was at that time that she heard a single gunshot. (R. p. 66-70; p. 46). She proceeded to tell her mother about the gunshot. Kaleigh Stone testified that she too heard the gunshot. (R. p. 51). The Snapchat records between the girls demonstrated that the gunshot took place at 1:51am. (R. p. 71).

Appellant's mother, Angela Rackley, testified that she was awoken by the sound of a pop that she first thought was fireworks. (R. p. 103). She testified that she waited a couple of minutes to see if more would come. She then claims to have gone to her front door where she saw a car "going up the driveway fast." [2] (R. p. 104). She then went out to the shed to investigate. She testified that she found her son holding a towel to Victim's head. (R. p. 109-111). She testified that she told Appellant to call 911, but that he resisted, arguing that police would think he did it. She then testified that Appellant's "hands were shaking so bad he couldn't", so she placed the 911 call herself. (R. p. 112). Records show that the 911 call was placed at 1:58am by a female caller. (R. p. 149; p. 85). Records also showed that Appellant hands were not shaking too much to call his friend Barry at 1:55am, followed by an exchange of texts with Barry at 1:56am, and followed further by another call to Barry at 2:03am. (R. p. 37-38). Angela agreed that she told the 911 operator approximately four different stories as to how the gunshot occurred. (R. p. 121-122) Specifically, Angela's comments about the accident include stating that: 1) it was an accident; 2) it was a stray bullet; 3) it was a ricochet; and 4) that the dog jumped on Appellant and the gun went

[1] Their texting was via a cellphone app called "Snapchat". (R. p. 74).
[2] Angela had not mentioned this vehicle to law enforcement or the solicitor in advance of trial. (R. p. 105).

off. (State's Exhibit #19, at 0:28; at 0:32; at 0:45; at 7:55). *She conceded that Appellant had never told her that the dog jumped in his lap*[3], nor did he tell her that it was an accident, or that he shot her. He only told her that it was a stray bullet. (R. p. 121). She conceded that she made up the other stories. (R. p. 122-123). Her 911 call also provided a description of Appellant's clothing, describing him as wearing a black t-shirt and/or black shorts. (State's Exhibit #19, at 5:48-6:52). However, Appellant was clearly wearing a blue t-shirt and grey shorts once detained and brought in for questioning.[4] Moreover, Appellant claimed that he never went back into the home except for the purpose of turning on the porch light for officers to see. (R. p. 144; 281); (State's Exhibit #58, at 23:54-25:10).

Officers Bolt and Morris responded to the scene at 2:10am, followed shortly after by EMS personnel. (R. p. 87-88). Officer Bolt testified that Appellant did not appear to have blood on his clothes or his hands. (R. p. 182). However, Appellant stated during questioning that he assisted in holding a towel to Victim's head that night, and that he never washed his hands prior to law enforcement's arrival. (State's Exhibit #58, at 27:50-28:20). The officers were forced to detain Appellant because he became confrontational and refused to abide their instructions to leave the shed – a necessary step to secure the scene so that EMS could proceed. (R. p. 175). Appellant also resisted his detention when he swung his arm at Officer Bolt in an effort to avoid being handcuffed. (R. p. 175).

No gun was found in the shed. Instead, a gun was found in the cabinet above the washing machine inside the home. (R. p. 204). Appellant ultimately admitted to moving the gun from the

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[3] Though Appellant claimed he did not know how the shooting occurred, the dog jumping and somehow discharging the firearm would *later* be the story that Appellant most consistently stuck to during his interview with law enforcement at the station. (State's Exhibit #58, at 18:50-19:50; at 49:38 – 49:55; at 50:10-51:00).

[4] The washing machine contained damp clothing for an adult male. (R. p. 204).

shed to the cabinet. (State's Exhibit #58, at 39:10-39:30; at 44:15-45:25). DNA testing from the gun showed strong likelihood ratios for Appellant, Victim, and an unidentified third person as DNA contributors. (R. p. 164). The gun also had fresh blood on it. (R. p. 295). Law enforcement recovered a single shell casing from inside the shed. Analysis demonstrated that this shell casing was fired by the gun recovered from the cabinet. (R. p. 233; p. 344; p. 369). Both Angela and Appellant tested positive for the presence of gunshot residue. (R. p. 383).

Testimony at trial revealed that Victim was right-handed. (R. p. 18). However, the autopsy of Victim's wound demonstrated that the bullet struck her head from behind her left ear and exited out the front right portion of her head. (R. p. 311). Forensic pathologist, Dr. Grace Dukes, concluded that Victim's wound was not a "contact wound", as there were no tears in the entrance wound, no soot residue, and no burns. (R. p. 304-306). She further concluded that Victim's wound was not the result of a close-range gunshot, as there was no evidence of stippling indicative of shots fired within 2-3 feet of the victim. (R. p. 309-310). Dr. Dukes testified that in light of the nature of the gunshot wound, the absence of the firearm at the scene, and the lack of suicidal ideation in Victim's past, she concluded that Victim's death was the result of homicide, not suicide. (R. p. 303-304).

Also pertinent to the case, Appellant at one point during his interview claimed that after he and Victim were awoken by the gunshot, that "we came up together . . .she was straight then". However, when he returned from looking for the dog, he saw that she had been shot. (State's Exhibit #58, at 20:50–21:45). At the end of his interview, Appellant became angered by law enforcement's questioning and reacts by flipping over the table in front of him and yelling: "I didn't kill the bitch." (State's Exhibit #58, at 56:10–56:30).

ISSUE AS IT WAS PRESENTED AT TRIAL

Defense counsel sought to question Dr. Dukes about Victim's toxicology report and that Victim had drugs in her system. (R. p. 317-318). This drew an objection from the State and the jury was excused so as to argue the issue. At trial there was an apparent miscommunication between assistant solicitor Johnson and defense counsel. (R. p. 318). The assistant solicitor noted that she and defense counsel had agreed not to mention any drug use from the night of the crime, be it from witnesses, the Victim, or Appellant. The assistant solicitor argued that defense counsel had not established a chain of evidence and foundation for the drug evidence, and that the questioning was an attempt to get Victim's drug use in through the back door. (R. p. 319). Defense counsel believed the agreement was reached to only preclude such testimony concerning the drug use by his client, but that Victim's toxicology report was not part of the agreement. (R. p. 319).

The defense first suggests that the evidence is relevant to combat the lack of close-range gunshot evidence from the pathologist, and that DNA evidence shows the possibility that Victim manipulated the gun and magazine, which could have taken place while Appellant was asleep. (R. p. 319-320). The defense postures such evidence as suggesting Victim "might not have, in her normal state of mind, done something crazy like this, but, you know, she's under the influence. She may have done something to herself." (R. p. 320, lines 8-10). The trial court responded by asking what proof exists that Victim was "under the influence", to which defense counsel could only point to the positive test for methamphetamines. He then conceded that she may not be "under the influence, but she at least had methamphetamines in her system." (R. p. 320, lines 19-22). Defense counsel then explained that he is not attempting to ask the pathologist if Victim was under the influence, only that she tested positive for methamphetamine, and that "maybe [she] was using meth, maybe she was under the influence of it, maybe she did something to herself accidentally."

(R. p. 321, lines 1-6). The court understood, but noted that defense counsel was falling short of demonstrating some kind of proof that Victim was under the influence in a way that would cause her to do something resulting in self-harm; relying on just the positive test for meth would be insufficient for defense counsel's proposed purpose. (R. p. 321, lines 7-16). Defense counsel further mentioned drug paraphernalia at the scene and argued the evidence is relevant because drugs could suggest the possibility she harmed herself, but conceded that he could not say whether or not she was under the influence and cannot even establish when Victim had last used drugs. (R. p. 321, line 17 through p. 322, line 4).

In response, the assistant solicitor argued that defense counsel had not clarified the need for a proper foundation and chain, and that reference to the DNA on the gun lacks any direct link to drug use. He further argued that defense counsel can already establish that Victim could have manipulated the gun at some point, but that reference to drug use is simply trying to use a back door to paint Victim as a drug addict. (R. p. 322).

The court concluded that in the absence of evidence that Victim was under the influence, or when the drugs were consumed, or even how much meth was consumed, defense counsel's argument is merely speculation that cannot make the leap to show potential self-harm. The court ruled that such an argument lacks relevancy, runs afoul of Rule 403 such that unfair prejudice would substantially outweigh the probative value of the evidence, and appears to be a backdoor effort for character evidence in violation of Rule 404. (R. p. 323, line 10 through p. 328, line 23). The trial court even noted that the witnesses present that night all indicated that Victim and Appellant were in a good mood, that the night appeared to be a good night of fun, and that if some issue existed with Victim being under the influence of meth, it would have come out with those witnesses. (R. p. 325, line 16 through p. 326, line 3). The trial court therefore sustained the

objection and would not permit any examination on the issue. (R. p. 328).

STANDARD OF REVIEW

"'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." SCRE 401. "Although 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, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." SCRE 403. "Evidentiary rulings are within the sound discretion of the trial court, and such rulings will not be reversed absent an abuse of discretion or the commission of legal error that prejudices the defendant." *State v. Garner*, 389 S.C. 61, 65, 697 S.E.2d 615, 617 (Ct. App. 2010). An abuse of discretion "means nothing more or less than that the ruling of the trial court was without reasonable factual support, resulted in prejudice to the rights of appellant, and therefore, in the circumstances, amounted to error of law." *Bridges v. Wyandotte Worsted Co.*, 239 S.C. 37, 40, 121 S.E.2d 300, 302 (1961).

"The trial judge is given broad discretion in ruling on questions concerning the relevancy of evidence, and his decision will be reversed only if there is a clear abuse of discretion." *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (citing *State v. Jeffcoat,* 279 S.C. 167, 303 S.E.2d 855 (1983)). A trial court's rulings pursuant to a 403 balancing test are subject to an abuse of discretion standard and great deference is given to the trial court's decision. *State v. Myers*, 359 S.C. 40, 48, 596 S.E.2d 488, 492 (2004). "A trial judge's balancing decision under Rule 403 should not be reversed simply because an appellate court believes it would have decided the matter otherwise because of a differing view of the highly subjective factors of the probative value or the prejudice presented by the evidence." *State v. Hamilton*, 344 S.C. 344, 358, 543 S.E.2d 586, 594

(Ct. App. 2001), overruled on other grounds by *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005) (citing *United States v. Long*, 574 F.2d 761 (3d Cir.1978)). A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in "exceptional circumstances." *Hamilton,* at 593 (citing *United States v. Green*, 887 F.2d 25, 27 (1st Cir.1989)).

ARGUMENT

I. **The trial court did not abuse its discretion in finding evidence and testimony of Victim's toxicology report inadmissible under Rule 401 and 403, where the record provided no indication Victim was under the influence of drugs and that Appellant's arguments of Victim's possible self-harm due to drug use were entirely speculative.**

The trial court was well within its discretion to exclude evidence and questioning in regard to Victim's toxicology report under Rules 401 and 403. Appellant was unable to establish through any evidence or record facts that Victim was under the influence of methamphetamine at the time of the gunshot, was unable to demonstrate when Victim might have used drugs prior to the gunshot, and likewise could not establish Victim demonstrated behavior that might support the possibility she posed a risk of accidental or intentional self-harm. Appellant's basis for seeking to admit the evidence was entirely speculative, tended to paint Victim as drug addict, and would do no more than suggest a verdict on an improper basis. The evidence was properly excluded by the court.

It is well established that a trial court's decisions regarding relevancy and Rule 403 balancing are afforded great deference, and that such cannot be overturned simply due to a reviewing court concluding that it would have weighed evidence differently. *Hamilton*, 543 S.E.2d at 594. On the basis of this standard, and in light of the record, the trial court was well within its discretion to balance the evidence as it did and exclude evidence and questioning regarding Victim's toxicology report. However, the admissibility of a victim's toxicology report is not a

novel issue. South Carolina courts have addressed similar circumstances to this case, most notably in the case of *State v. Washington.*[5] *State v. Washington*, 424 S.C. 374, 404–07, 818 S.E.2d 459, 474–76 (Ct. App. 2018), aff'd in part, vacated in part, rev'd in part, 431 S.C. 394, 848 S.E.2d 779 (2020); cf. *State v. Coleman*, 301 S.C. 57, 389 S.E.2d 659 (1990)(holding that evidence of drug use by a defendant is not competent evidence that can establish defendant's motive or state of mind for a crime where the record does not support any relationship between the crime and the drug use); see also *State v. Drayton*, 411 S.C. 533, 550, 769 S.E.2d 254, 263 (Ct. App.), cert. granted in part, judgment vacated in part, 415 S.C. 43, 780 S.E.2d 902 (2015)(finding no error in limiting defendant's cross-examination of the pathologist concerning the toxicology report of victim, where victim's body was found with multiple deadly wounds to the chest and neck and where evidence of drug use was already in the record).

In *Washington*, the defendant sought to admit Herman Manigault's (the victim) toxicology report and evidence of his high BAC level, arguing that such was relevant to the issue of whether Victim provoked or instigated the altercation that led to his death. Though evidence existed that Herman had been drinking, there was no evidence from witnesses that he was highly intoxicated or under the influence. Similarly, during proffer, the forensic pathologist could not predict whether Herman would have acted in an aggressive manner, or in a subdued manner, despite agreeing that his judgment would have been impaired. *Id.* at 475. Defendant's attorney argued that a high BAC renders people more likely to overreact, behave aggressively or violently, experience lessened pain sensitivity, and lower inhibitions, such that it makes more probable and probative the possibility that Herman started the fight. Nevertheless, the trial court excluded the evidence.

[5] Appeal to the South Carolina Supreme Court did not address the exclusion of Victim's toxicology report, only issues concerning the instruction of accomplice liability.

On appeal, this Court found that there was no abuse of discretion by the trial court in refusing to admit the toxicology report. This Court specifically doubted the relevancy of the desired evidence, as there was no evidence Herman was the aggressor and to the contrary the evidence suggested Washington struck the first blow from behind Herman. *Id.* at 476. Notwithstanding questions of relevance, this Court also agreed with the trial court that the risk of unfair prejudice substantially outweighed the probative value under Rule 403, for lack of evidence that Herman's intoxication led to the fight.

This case presents similar circumstances, and a similar analysis is appropriate. First, there is no indication that Victim was under the influence of methamphetamines at the time of the shooting (R. p. 320), nor evidence of when she had last used the drug. (R. p. 322). In conjunction, there is no evidence that Victim exhibited behavior that would raise concern over accidental or intentional self-harm. The party goers described Victim and Appellant as being happy and loving in the hours leading up to the shooting. (R. p. 28; p. 33; p. 22). The court noted these facts, and upon the trial court's questioning of relevance, defense counsel conceded that he could not connect the toxicology report to any facts tending to support the theory that drug use impacted Victim's actions and led to her death. (R. p. 320; p. 321).

Also similar to *Washington*, is that the evidence in the record runs counter to the speculative theory proposed for admitting the toxicology report. Most notably, is that the forensic pathologist found no evidence supporting a contact-wound or close-range wound, and that the bullet entered behind Victim's left ear and exited out the right front portion of her skull. These facts strongly contradict a self-harm theory. Additionally, evidence showed that Appellant hid the gun after the shooting, changed clothes prior to police arriving, was combative with police, and surmised a theory that his dog could have caused an accidental discharge of the gun *after* his mother confirmed

that Appellant had never mentioned such an excuse to her while she spoke with the 911 operator. Such evidence strongly suggests evidence of Appellant's guilt for the crime, not Victim accidentally or intentionally shooting herself. In addition, the evidence from Riley Bagwell demonstrates that she heard an argument immediately before the gunshot, and Appellant's interview about how his own girlfriend wound up dead in his shed ended with him flipping a table and yelling that he "didn't kill the bitch."

There is simply nothing to connect the toxicology report to the theory of self-harm proposed by Appellant at trial, rendering the trial court's doubt of relevance proper. And, even if relevant, in the absence of such a connection or other corroborative facts the trial court properly concluded that risk of prejudice substantially outweighed the nominal probative value surmised by Appellant at trial. A trial court is afforded substantial deference in both matters of relevancy and Rule 403 analysis and Judge Morgan did not abuse such discretion in this case.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgments, convictions, and sentences of the trial court should be affirmed.

(Signature block on following page)

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CERTIFICATE OF COMPLIANCE

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

This 22nd day of February, 2023.

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