RECEIVED
Mar 21 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
The Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,……RESPONDENT

v.

LINDA LYN MONETTE,……..APPELLANT

FINAL BRIEF OF RESPONDENT
Appellate Case No. 2021-001276

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General

TOMMY EVANS, JR.
Assistant Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

S.R. Hubbard, III
Solicitor, Eleventh Judicial Circuit
205 E. Main SR., 3rd Fl.
Lexington, South Carolina 29072
(803) 785-8352

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

APPELLANT STATEMENT OF ISSUE ON APPEAL

1. Did the trial court err by admitting a statement given by Appellant to law enforcement during custodial interrogation where the statement was the product of coercion?

RESPONDENT COUNTER-STATEMENT OF ISSUE ON APPEAL

1. Did the trial court err in admitting a statement given by the Appellant to law enforcement during a lawful interview where she was read her *Miranda* rights four times prior and immediately prior to this interview, and only questioned due to her request, where there were no threats or coercion prior or during this interview?

STATEMENT OF THE CASE

On May 14, 2019, the Appellant Linda Lyn Monette, was spending the night at the home of Austin Hanahan (Austin) in Lexington, South Carolina. As Austin's eight-year old son Mason was sleeping on the couch Appellant and Austin went to the bedroom. (R. p. 477 l. 17-20). Appellant went into the kitchen to grab something to eat. At that time the side door was kicked in and an intruder entered the home armed with a pistol. (R. p. 477 l. 22-23). At that time he grabbed the Appellant placed the gun to her head and told her to call for Austin. (R. p. 582 l. 12-15). However, Austin was already out of bed armed with his gun standing in the hallway. Austin saw the Appellant in the living room with a gun to her head so he fired one shot into the air in order to scare the intruder.(R. p. 999 l. 16-18; p. 1000 l. 7-10; p. 10000 l. 12-16). The intruder fired back, and a gunfight ensued. (R. p. 1001 l. 21-24). After this gunfight the intruder ran out the side door, though Austin was shot in the stomach he still chased the intruder. (R. p. 1002 l. 10-14). Once he got outside the intruder was not there. Austin went back into the residence where he found that Mason was shot in the head, so the Appellant immediately called 911. (R. p. 404 l. 15-17).

Deputy Dustin Pollard of the Lexington County Sheriff's Department was the first to arrive at the scene. (R. p. 412 l. 9-12). When he arrived he spoke to Austin who was standing in his yard. Austin gave a description of the intruder and informed Deputy Pollard that his son was inside injured. (R. p. 413 l. 10-13). Once Deputy Pollard entered the residence he saw the Appellant with a towel pressed upon Mason's forehead. (R. p. 415 l. 7-16). Deputy Pollard removed the towel and saw a large hole in the middle of his forehead, that appeared to be fatal. (R. p. 415 l. 17-20). Deputy Pollard spoke to the Appellant who gave him a description of the intruder as a black male wearing a mask and a hoodie. (R. p. 416 l. 9-10). The Appellant told Deputy Pollard that the intruder was wearing a GD bandana, GD was an abbreviation for the Gangster Disciples a local street gang. (R.

p. 436 l. 2-10). Deputy Pollard then went through the house where he saw a Draco[1] on the floor, and down the hall he viewed blood and shell casings. In the master bedroom Deputy Pollard also found a AR-15 sitting on the floor near the bed. (R. p. 422 l. 22 – p. 423 l. 2).

Once Emergency Medical Services (EMS) arrived they were informed that there were two patients on the scene, however, Mason was the most critical. (R. p. 447 l. 4-6). When they approached Mason they found him unresponsive lying on the couch. (R. p. 447 l. 6-7). Firefighters who had already arrived had bandaged the wound and were providing oxygen. (R. p. 447 l. 8-11). Mason had lost a lot of blood, EMS noted that he lost about two liters of blood. (R. p. 447 l. 12-13). Mason remained unresponsive as they took him in the ambulance to the hospital. (R. p. 447 l. 14-16). Appellant got in the front seat of the ambulance as they took Mason to the hospital. (R. p. 455 l. 9-11). During the ride EMS personnel did witness the Appellant on her phone texting someone. (R. p. 456 l. 19-20).

Detective Cameron Sherban was called to investigate and first reported to the crime scene. At the scene deputies informed him that two people was injured and on their way to the hospital, one child, and one adult. (R. p. 463 l. 22 – p. 464 l. 1). Detective Sherban left and went to Lexington Memorial Hospital where he was informed that Mason was pronounced dead. (R. p. 465 l. 5-9). At the time the Appellant was present, so Detective Sherban spoke with her. She told them she was at the house with Austin and Mason, that they were watching TV. Mason fell asleep on the couch, Appellant and Austin then went into the back bedroom. They walked out multiple times to the kitchen to get snacks, the last time Appellant went out by herself and that is when the intruder came into the house. (R. p. 477 l. 16-23).

[1] A Draco is an assault rifle without the stock and a much shorter barrel.

During the investigation law enforcement obtained a search warrant for Austin's home. During this search law enforcement discovered a large quantity of marijuana and a large amount of cash. There was enough found in order to arrest the Appellant and charge her with possession with intent to distribute marijuana. (PWID marijuana). (R. p. 573 l. 19-24). Appellant was later arrested at the hospital by a United States Marshall and transported to the Lexington County Sheriff's Department where she was placed into an interview room. (R. p. 575 l. 10-15).

On May 14, 2019, Appellant was read her *Miranda* rights and was questioned by Detective Joe Hart. (R. p. 575 l. 23). Appellant told Detective Hart the identical story she told Detective Sherban. (R. p. 582 l. 12-15). Appellant also informed Detective Hart that during the day she went to Planet Fitness to work out, (R. p. 590 l. 20-22), that she had a friend by the name of Brandon Rodighiero who was currently incarcerated in the County Detention Center, and that she knew a guy by the name of Rey Romero. (R. p. 599 l. 3-8; p. 613 l. 12-14). Appellant stated that she only saw him that day at the 7 to 11 convenience store when she went there to get a bottle of water. (R. p. 612 l. 7-13).

On May 15, 2019, Appellant was interviewed again by Detective Hart. Prior to this interview law enforcement received a search warrant to obtain information from the Appellant's cell phone. Due to phone video and text recovered from the Appellant's phone law enforcement knew about her relationship with Rey Romero. Detective Hart informed the Appellant that they knew she was having a sexual relationship with him. Appellant told them she was, but no one knew about it. (R. p. 621 l. 12-15). Appellant also informed Detective Hart that she met Rey at Planet Fitness the day of the incident to work out. (R. p. 622 l. 2-4). Surveillance video at Planet Fitness revealed the Appellant arrived with Rey and left with him. (R. p. 629 l. 19-20). Through

surveillance at the 7 to 11 store a convenience law enforcement also knew that Appellant took Rey there and then left for Austin's house.

The detectives discovered that after the incident Appellant texted Rey numerous times, however, she erased those texts. When asked about why she deleted these texts Appellant informed them she was asking Rey if he was involved. (R. p. 630 l. 3-6). This is because Rey once told her that near his birthday he wanted to do a "lick"[2] to have money for his birthday which was June 1. (R. p. 636 l. 1-4; p. 636 l. 12-13).

When the Appellant was first arrested for the PWID marijuana charge Detective Hayli Livingston had entered Sheriff Department Headquarters to start her shift. Since she was the only female present, Detective Hart asked if she could escort the Appellant to the bathroom. (R. p. 737 l. 3-8). While in the bathroom, the Appellant told Detective Livingston that the other detectives think she killed her stepson, but she didn't. (R. p. 738 l. 3-5). Appellant informed Detective Livingston that if they wanted anything else from her she would only speak Detective Livingston. (R. p. 738 l. 18-20). Detective Livingston informed the other detectives what she was told by the Appellant, so they agreed to have her present for other interviews. (R. p. 739 l. 16-19).

On May 15 at around 4:30 p.m. the Appellant was interviewed again by Detectives Livingston and Hart. (R. p. 739 l. 22-24). After she was again read her *Miranda* rights, Appellant gave her a written statement in her own handwriting. (R. p. 748 l. 9-10). Appellant told the identical story she told Detective Hart, the only change was that while in the ambulance she texted Rey asking him if he had anything to do with this and she got no response, so after she got to the hospital she called Rey who denied that he had anything to do with this. Detectives asked Appellant

[2] A "lick" is a slang term for a robbery.

why Rey would do this, she answered that because Austin had about two pounds of marijuana at his house an everyone knew that he was well off. (R. p.752 l. 1-5).

The Appellant later requested to be subjected to a lie detector test. On May 17 she was escorted by Detective Hart and Detective Marlo McCann, to the South Carolina Law Enforcement Division (SLED) where she was given a lie detector test. Once she was informed of the results of the test, she wished to speak with law enforcement once again, however, they did not wish to speak to her because of her prior inconsistencies. Deputies felt that an additional interview would not be beneficial. (R. p. 794 l. 12-15). While returning to the county detention center they spoke to her in the transport hallway, the Appellant was adamant on talking to the point that when Detective McCann opened the door she refused to enter the jail. (R. p. 795 l. 7-10).

Appellant was once again read her *Miranda* rights, and once again agreed to waive these rights. (R. p. 798 l. 13-17). During this interview she informed law enforcement that she planned this robbery with Rey Romero. (R. p. 800 l. 4-7). Appellant informed them that on that Monday she was at Rey's house, he was upset because she told him that she was still sleeping with Austin. Rey told her that he was, "gonna rob that nigga." Appellant asked Rey if he would really do that and Rey told her that he wouldn't but his" little niggas will." (R. p. 804 l. 16-22). Appellant then told detectives, on the day of the incident Rey told her that he was going to do it, that Austin was, "too pussy to defend himself," and "that he was going to send his little niggas to take his weed." (R. p. 806 l. 24 – p. 807 l. 2). During this interview the Appellant admitted that she knew it was going to happen that night, and she knew that Austin had large amounts of cash in the house. (R. p. 813 l. 16-17; p. 814 l. 3-5; p. 814 l. 6-16). During the interview the Appellant told detectives that she felt better, Appellant asked for something to eat which they gave her. (R. p. 828 l. 11-13). She told them that she felt relieved to get that off her chest. (R. p. 829 l. 3-7).

During trial, a friend of the Appellant Ms. Arlinda Craft testified. Ms. Craft explained that Appellant told her that she was going to recruit someone to take Austin's "shit." (R. p. 1052 l. 23-25). Ms. Craft testified that the Appellant informed her that she was only with Austin for his money and a place to stay. (R. p. 1047 l. 15-18). If the Appellant could not figure out a way to get Austin's stuff she knew people that would help her get whatever she needed from Austin. (R. p. 1051 l. 22-25). Ms. Craft testified that to her personal knowledge the Appellant wanted to rob Austin about five or six months prior to the incident, in December, 2018 or January, 2019. It would have been accomplished but, she did not have the help at that moment. (R. p. 1065 l. 11-14). Ms. Craft stated that the Appellant needed help because if something went missing she would be the only suspect, because Austin did not let anyone else in the house. (R. p. 1065 l. 21 – p. 1066 l. 3).

Brandon Rodighiero also testified, he stated, that he and the Appellant started out as friends and the relationship became more for a little while. Appellant approached him asking if he would rob Austin, Mr. Rodighiero told her that it was dangerous because Austin has kids and a family. (R. p. 1073 l. 4-6). Mr. Rodighiero stated that the Appellant really wanted to rob Austin, and he kept telling her that it was dangerous so just leave it alone. (R. p. 1075 l. 4-9). At the time they were having this conversation he had pending charges for strong armed robbery. (R. p. 1075 l. 10-15). Mr. Rodighiero would later be reincarcerated for a charge of burglary in the first degree. When he was in jail he asked the Appellant if she could help his mom with the bond. The Appellant told him that she could and that she was getting an apartment and would `be able to pay six months rent so if he got out he could stay with her. (R. p. 1079 l. 11-18). On the Appellant's phone law enforcement found a message from the Appellant to Mr. Rodighiero stating, "I love you Brandon, for real. Somebody's buying me an apartment, and paying six months rent everything will be just fine." (R. p. 1080 l. 21-23). On the incident date the Appellant called Mr. Rodighiero and left him

a message telling him that she'll call tonight and that she should have the money by then. (R. p. 1081 l. 12-18).

During the trial Dr. Nicholas Batalis was admitted as an expert in forensic pathology testified. (R. p. 780 l. 10-11). On May 16, 2019, Dr. Batalis performed the autopsy on Mason. (R. p. 781 l. 2-5). Dr. Batalis testified that Mason received a gunshot wound to the head that entered just behind the left ear, going through the ear, briefly exiting the head through the ear and then almost immediately back into the face just in front of the ear. (R. p. 783 l. 8-14). Portions of the bullet then continued through the frontal part of the brain and there was an exit wound in the midforehead measuring two inches is size in its greatest dimension. (R. p. 783 l. 15-17; p. 785 l. 11-12). Dr. Batalis determined that the cause of death was a gunshot wound to the head that resulted in not only bleeding but destruction of the brain. (R. p. 788 l. 9-11). The manner of death was a homicide, which is a death at the hands of another individual. (R. p. 788 l. 19-21).

After five days of testimony a jury of her peers found the Appellant guilty of murder, attempted armed robbery, burglary in the first degree, and conspiracy. (R. p. 1260 l. 9-23). After the reading of the verdict Appellant appeared before the trial court for sentencing. The trial court sentenced the Appellant to a forty year period of incarceration for the offense of murder; thirty years for burglary in the first degree and attempted armed robbery; and, five years for conspiracy. (R. p. 1261 l. 4-19). These offenses would be served concurrently.

ARGUMENTS

1. **The trial court did not err in admitting a statement given by the Appellant during a lawful interview that was requested by the Appellant, and after being read her *Miranda* rights four times, there exists no threats or coercion prior or during this interview.**

Relevant Facts

Prior to trial Appellant made a motion pursuant to *Jackson v. Denno* to suppress a statement she made to law enforcement, confessing to being a part of the incident involving the death of Mason Hanahan.

During this hearing Detective Michael Joe Hart testified that the Appellant consented to being submitted to a polygraph. (R. p. 62 l. 2-5). On May 17, 2019, Detective Hart along with Detective Marlo McCann both of the Lexington County Sheriff's Department picked up the Appellant from the Lexington County Detention Center in order to transport her to SLED for the polygraph examination. (R. p. 112 l. 1-9). Upon the conclusion of the examination on the way back to the Detention Center the Appellant did not wish to go back but wanted to talk again. (R. p. 113 l. 9-14). By then Appellant had given numerous statements that law enforcement knew were untrue, so they did not wish to speak with the Appellant unless she was determined to tell the truth.

At the Detention Center a conversation was made in the hallway leading up to the booking room. This conversation was captured on surveillance video. (R. p. 120 l. 3-5). The Appellant argues that this video proved that she was being yelled at and coerced into a confession, during trial Defense decided to introduce this video as a defense exhibit. The video reveal detectives speaking to Appellant sternly, this is due to the fact she has already given numerous previous statements that were untrue, and she still wished to speak to law enforcement. This interview was brought on at the request of the Appellant not law enforcement, detectives did not wish to waste their time with another false statement. On the video detectives are constantly telling the Appellant

to just "tell the truth." (R. p. 120 l. 20-22; p. 122 l. 21-23). There is even a portion of the video where the Appellant asks for a promise that she would not be charged with murder. That request was rejected by the detectives. The video also reveals that they opened the door for the Appellant to go through which she refused. This is what Detective McCann stated in her testimony. (R. p. 795 l. 7-10). Upon the conclusion of her hearing the trial court ruled, "in looking at the totality of everything under a preponderance standard, overall, I believe the statement, particularly the ones you contest, are voluntary, will be admissible at trial." (R. p. 213 l. 7-10).

Standard of Review

In criminal cases the appellate court sits to review errors of law only. *State v. Wilson,* 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). The admission or exclusion of evidence is left to the sound discretion of the trial judge, whose discretion will not be reversed on appeal absent an abuse of discretion. *State v. Tucker,* 319 S.C. 425, 428, 462 S.E.2d 263, 265 (1995). When reviewing a trial court's ruling concerning voluntariness, this Court does not reevaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial court's ruling is supported by any evidence. *State v. Saltz,* 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001). Any statement given freely and voluntarily without any compelling influences is admissible as evidence. *Miranda v. Arizona,* 384 U.S. 436, 478, 86 S.CR. 1602, 1629 (1966). A statement obtained from custodial interrogation is inadmissible unless the suspect was advised of and voluntarily waived his or her rights under *Miranda v. Arizona. Dickerson v. United States,* 530 U.S. 428, 120 S.CR. 2326 (2000).

Discussion

The Appellant argues that she was denied her rights under the Fifth Amendment of the United States Constitution where her confession was allowed into evidence after being coerced.

If a defendant is advised of his *Miranda*, but nevertheless chooses to make a statement, the "burden is on the State to prove by a *preponderance of the evidence* that his rights were voluntarily waived." *Saltz,* 346 S.C. at 136, 551 S.E.2d at 252, *quoting, State v. Washington,* 296 S.C. 54, 370 S.E.2d 611 (1988)(emphasis in original). A hearing was held that revealed that the Appellant was read her *Miranda* rights some four times prior to the actual confession, rights being waived by the Appellant each time. "Once a voluntary waiver of *Miranda* rights is made that waiver continues until the individual being questioned indicates that he wants to revoke the waiver and remain silent or circumstances exist which establish that his 'will had been overborne and his capacity for self-determination critically impaired.'" *State v. Rochester,* 301 S.C. 196, 200, 391 S.E.2d, 244, 246 (1990), *quoting, State v. Moultrie,* 273 S.C. 60, 61-62, 254 S.E.2d 294, 294-295 (1979). The Appellant never once invoked her rights to remain silent, nor once requested an attorney during the interview within the hallway. She was also just given her *Miranda* right prior to the polygraph.

In the infamous video that was admitted into evidence by the Appellant, it shows that law enforcement officers are constantly wishing the Appellant to "tell the truth." The Appellant was never threatened nor promised anything, actually when the Appellant requested a promise that she would not be charged with murder each detective denied this promise, and distinctly told her that they could not promise she would not be charged with murder.

There exists two dimensions to a waiver inquiry: (1) the waiver must be "voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception" and (2) the waiver must be "made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it." *State v. Moses,* 390 S.C. 502, 513, 702 S.E.2d 395, 401 (2010), *quoting, Moran v. Burbine,* 475 U.S. 412, 421, 106 S.CR. 1135 (1986). The Appellant was never threatened nor coerced. It is obvious on the video the

detectives are speaking sternly out of frustration because the Appellant had earlier given them 4 statements all untrue. The detectives made it obvious to the Appellant that all they wanted was for her to tell the truth. No promises were made nor any threats. There was some discussion about the Appellant being charged with murder of an eight-year-old boy; however, that is not unlawful if truthful. Truthful statements about [the defendant's] predicament are not the type of 'coercion' that threatens to render a statement involuntary. *U.S v. Braxton,* 112 F.3d 777, 782 (4th Cir. 1997).

When making a determination of whether a statement was freely and voluntarily given the court must look at the totality of the circumstances. The trial judge's determination of the voluntariness of a statement must be made on the basis of the totality of the circumstances, including the background, experience and conduct of the accused. *Saltz,* 346 S.C. at 136, 551 S.E.2d at 252. When looking at the totality of the circumstances it is clear that this confession was given voluntarily. The Appellant was a 23 year old high school graduate who was living on her own. There was never any evidence of any mental impairment suffered by the Appellant. She was questioned numerous times prior to this questioning. Each time when in police custody she was read her *Miranda* rights including prior to the confession.[3] The Appellant initiated the last interview. That is proven by watching the video, when Detective McCann opened the door to the booking station the Appellant refused to enter. This reveals Appellant was the person who initiated this interview, so it was done free and voluntarily. There was also testimony that once she actually confessed she seemed to open up. She stated that she felt better and asked for something to eat which was provided by detectives. (R. p. 828 l. 11-13). Detective McCann testified that Appellant stated that she felt relieved that she had gotten this out of her system and off her chest. (R. p. 829

[3] Appellant was read her *Miranda* rights as much as five times each time waiving those rights and deciding to make a statement to law enforcement.

l. 18-19). Even though this testimony was made during the trial and after the statement was allowed into evidence, this was further proof that the video did not reveal any coercion made by law enforcement, they were just seeking the truth. This interview was initiated by the Appellant, which she had the opportunity not to talk to detectives, or at least request a lawyer. She volunteered to be interviewed and never requested a lawyer, although she was read her *Miranda* rights numerous times including prior to this interview.

The Appellant argues that during that interview in the hallway at the detention center she was subjected to "yelling, withholding of counsel, the inability to eat food, the length of time involved," and comments about "the parents don't trust them and that's why they're not out on bond." (IBOA pg. 8.) The State argues that there is no evidence presented that the Appellant was subject to any of this conduct by law enforcement. However, if she was her self-determination had to be critically impaired in order for her statement to be not allowed into evidence. The mere existence of threats, violence, implied promises, improper influence or other coercive police activity, however, does not automatically render a confession involuntary. The proper inquiry "is whether the defendant's will has been 'overborne' or his 'capacity for self-determination critically impaired.'" *United States v. Pelton,* 835 F.2d 1067, 1071 (4th Cir. 1987), *quoting, Schneckloth v. Bustamonte,* 412 U.S. 218, 225, 93 S.CR. 2041, 2046 (1973). Each case requires careful scrutiny of all surrounding circumstances. *State v. Pittman,* 373 S.C. 527, 647 S.E.2d 144 (2007). The factors to be considered are frequently examined and broadly defined. The defendant's "background, experience, and conduct are relevant, as are the circumstances creating the environment in which the statement is made: the length of the interrogation; its location; its continuity; the defendant's maturity; education; physical condition; and mental health." *State v. Miller,* 375 S.C. 370, 385, 652 S.E.2d 444, 452 (CR. App. 2007), *quoting, Withrow v. Williams,*

507 U.S. 680, 113 S.CR. 1745 (1993). There is no evidence presented by the Appellant revealing that her will was overborne or her capacity for self-determination was critically impaired. Nor was their any evidence that she was denied food, or counsel. Further, there is no evidence of a conversation wherein she was told about her parents not trusting her. This was a statement given by the Appellant willingly, and upon her request. She had more than one opportunity to deny any further questioning and request counsel, but she refused to do so. Actually her last interview where she confessed she requested this interview, detectives did not wish to speak to her anymore due to her prior untruths. So any statement that she made was totally voluntary, not done under any duress or coercion, after she was informed of her *Miranda* rights and properly and knowingly waived.

When looking at the "totality of the circumstances" as the trial court did, the Appellant's confession was obtained legally by law enforcement. Therefore, it was not an error for the trial court to allow this statement into evidence, and to allow the jury to determine whether or not it was admissible.

Finally, although the State is not conceding that the trial court made any error in allowing the Appellant's confession into evidence, if this Court finds that any possible error might have occurred in the trial court's introduction of the Appellant's statement, it should be found harmless. Voluntariness is the only reasonable inference to be drawn from evidence regarding Appellant's confession. *See, State v. Salisbury,* 330 S.C. 250, 272, 498 S.E.2d 655, 666 (CR. App. 1998), *aff'd as modified,* 343 S.C. 520, 541 S.E.2d 247 (2001)(harmless error applies when the only reasonable inference is that the statement was voluntarily given.) The Appellant introduced the video from the hallway at the detention center. This video does not reveal threats, promises given, nor coercion. It only reveals detectives requesting that the Appellant be truthful. It also reveals that

when the Appellant was given the opportunity to end the conversation, she refused. She thereby revealed that her confession was totally voluntary.

In her statement with Detective Hart a statement not objected to by the Appellant, law enforcement first learned about Brandon Rodighiero. (R. p. 599 l. 3-8). Through their own investigation law enforcement discovered Appellant's friend Arlinda Craft. During trial it was revealed that within her confession the Appellant was not completely truthful. In her confession the Appellant made it look as though the idea of this robbery was completely Rey Romero's, and that the robbery was going to occur with or without her assistance. (R. p. 807 l. 15-17). However, during the testimony of Ms. Craft everyone discovered that this was the Appellant's idea from the beginning. Appellant was planning this robbery up to six months earlier. (R. p. 780 l. 11-14). Ms. Craft testified that the Appellant wanted to rob Austin but needed help because she could not take the money and marijuana herself, because Austin would have known she had committed the crime (R. p. 1065 l. 21 – p. 1066 l. 3). Mr. Rodighiero testified that Appellant asked him to rob Austin which he refused to do. After being incarcerated Mr. Rodighiero asked the Appellant for help with his bond money. Appellant informed him she was getting an apartment and was paying six months rent up front, and she was willing to help with his bond. (R. p. 1079 l. 21-24). Mr. Rodighiero also testified that on the day of the incident Appellant messaged him telling him that she will have the money later that night. (R. p. 1081 l. 12-18).

These two witnesses were not discovered due to the Appellant's confession, actually their testimony exposed some of the Appellant's confession as being untruthful. Law enforcement would have been aware of this information even if the Appellant had not made that final statement confessing to these crimes. This would have given the jury ample evidence to determine that the Appellant was the mastermind behind this robbery, therefore, proving her guilt beyond a

reasonable doubt. The outcome of this trial was not changed due to her confession, making any possible error in including this statement harmless. Error is harmless when it could not reasonably have affected the result of the trial. *State v. Simmons,* 423 S.C. 552, 566, 816 S.E.2d 566, 573 (2018). The decision made by the trial court should be affirmed.

CONCLUSION

The trial court made the proper decisions regarding this matter, the State respectfully requests this Court affirm the decisions of the trial court.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

TOMMY EVANS, JR.
Assistant Attorney General

S.R. Hubbard, III
Solicitor, Eleventh Judicial Circuit

By: *s/ Tommy Evans, Jr.*
Tommy Evans, Jr.
Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT

March 21, 2023

RECEIVED
Mar 21 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
The Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,…….RESPONDENT

v.

LINDA LYN MONETTE,……..APPELLANT

Appellate Case No. 2021-001276

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 21st day of March 2023.

s/Tommy Evans, Jr.
Tommy Evans, Jr.
Assistant Attorney General

ATTORNEY FOR RESPONDENT