

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Jul 07 2023**

**SC Court of Appeals**

Appeal from Horry County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARRELL D. LAND,

APPELLANT

APPELLATE CASE NO. 2022-001086

ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS.....i

TABLE OF AUTHORITIES ..... ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE .....2

STANDARD OF REVIEW .....3

ARGUMENT

**The trial judge erred in admitting a written purported confession through a co-defendant/witness who never had possession of the purported confession and only claimed to recognize the handwriting instead of requiring the State to lay the proper foundation by introducing the purported confession through another fellow inmate/witness who claimed to have received it and the officer who confiscated it from that witness' jail cell.**.....4

CONCLUSION.....8

PETITION TO BE RELIEVED AS COUNSEL.....9

**TABLE OF AUTHORITIES**

**Cases**

Deep Keel, LLC v. Atlantic Private Equity Group, LLC, 413 S.C. 58, 773 S.E.2d 607 (Ct. App. 2015)..... 7

State v. Brockmeyer, 406 S.C. 324, 751 S.E.2d 645 (2013) ..... 3

State v. Brown, 424 S.C. 479, 818 S.E.2d 735 (2018) ..... 6

State v. Green, 427 S.C. 223, 830 S.E.2d 711 (Ct. App. 2019), aff'd as modified, 432 S.C. 97, 851 S.E.2d 440 (2020) ..... 6

State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011)..... 3

State v. Pagan, 369 S.C. 201, 631 S.E.2d 262 (2006) ..... 3

**Other Authorities**

2 McCormick On Evid. § 221 (7th ed. 2016)..... 6

**Rules**

Rule 901(a), SCRE ..... 6

**STATEMENT OF ISSUE ON APPEAL**

Did the trial judge err in admitting a written purported confession through a co-defendant/witness who never had possession of the purported confession and only claimed to recognize the handwriting instead of requiring the State to lay the proper foundation by introducing the purported confession through another fellow inmate/witness who claimed to have received it and the officer who confiscated it from that witness' jail cell?

## **STATEMENT OF THE CASE**

In June of 2020, the Horry County Grand Jury indicted, Appellant, Darrell De'Marcus Land, for murder and possession of a weapon during a violent crime, indictments #2020-GS-26-02425, 02427. (R. pp. 558-561). On July 25, 2022, Appellant proceeded to jury trial before the Honorable D. Craig Brown. Jeffrey T. Lucas represented the Appellant at trial. Mary Ellen Walter prosecuted the case. The jury returned verdicts of guilty and Judge Brown sentenced Appellant to life in prison. A timely notice of intent to appeal was served on August 1, 2022. This appeal follows.

### **STANDARD OF REVIEW**

The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion.” State v. Hatcher, 392 S.C. 86, 91, 708 S.E.2d 750, 753 (2011) (quoting State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” Id.; see also State v. Brockmeyer, 406 S.C. 324, 340, 751 S.E.2d 645, 653 (2013).

## ARGUMENT

**The trial judge erred in admitting a written purported confession through a co-defendant/witness who never had possession of the purported confession and only claimed to recognize the handwriting instead of requiring the State to lay the proper foundation by introducing the purported confession through another fellow inmate/witness who claimed to have received it and the officer who confiscated it from that witness' jail cell.**

The jury found Appellant guilty of the murder of Arnold Jamal "Juice" Bennett. Bennett was reported missing to the Myrtle Beach Police Department on August 5, 2019. (R. p. 75, lines 5-18). On August 13, 2019, the Myrtle Beach Police Department received a phone call that Bennett's truck had been located in the Little River/North Myrtle Beach area. (R. p. 95, lines 2-5). Bennett's remains were discovered in the woods on August 30, 2019. (R. p. 88, line 23 – p. 89, 90, 91, lines 1-12). The coroner testified that the cause of death was a gunshot wound to the head and the manner of death was a homicide. (R. p. 152, line 22 – p. 153, lines 1-2).

Detective Kenneth Marcus of the Horry County Police Department testified that Bennett's cell phone records showed communication with Appellant on August 4, 2019. (R. p. 461, line 16 – p. 417, lines 1-16). Detective Marcus also testified that he found text messages about a marijuana purchase between Appellant and Bennett on Appellant's phone from August 4, 2019. (R. p. 462, line 17 -p. 463-464). Detective Marcus also testified about text messages between Appellant and Steven Morgan. (R. p. 468, line 21 – p. 469, lines 1-8). On August 4, 2019, Morgan and his girlfriend, Lane Styron, lived on Sandridge Road. in Little River, South Carolina. (R. p. 469, line 4, R. p. 176, line 18 – p. 177, lines 1-8). Morgan and Styron moved to North Carolina in the middle of September, a little over a month after Bennett's disappearance.

Morgan was initially charged as an accessory before the fact to the murder of Bennett. (R. p. 203, lines 10-12). Pursuant to a plea agreement with the State, prior to Appellant's trial, Morgan was allowed to plead guilty to accessory after the fact. (R. p. 204, lines 8-19). According to

Morgan, in early August of 2019, Bennett drove his car to Morgan's Sandridge Road house accompanied by an unknown person in a truck. (R. p. 206, line 15 – p. 207, lines 1-20). At trial Morgan claimed that Appellant told him he wanted to rob the man in the truck. (R. pp. 208-211). According to Morgan, he left the house to pick up Styron after she finished working at Bojangles, leaving Appellant and the person in the truck at the house. (R. p. 212, line 1 – p. 213, lines 1-7). Morgan testified that he and Styron had dinner at Fuji Hibachi in North Myrtle Beach and then they met their friend Dave back at the Sandridge Road house. (R. p. 213, lines 2-23). Morgan claimed that when they returned Appellant was inside the house cleaning up blood on the floor that Appellant said came from dogs fighting. (R. p. 214, lines 4 – 25). Morgan testified that Appellant put the towels that he used to clean up the blood in the trunk of his car and then left, leaving the truck at the house. (R. p. 217, lines 3-23). According to Morgan, Appellant came back and got the truck the next day. (R. p. 218, line 16 – p. 219, lines 1-23).

Morgan and Appellant were both arrested in connection with the murder of Bennett and were both housed in different pods at the J. Reuben Long Detention Center. (R. p. 222, lines 6-16). Morgan testified that he and Appellant started communicating through letters or kites passed on by another inmate, Jesse Smith. (R. p. 222, line 15 – p. 223, lines 1-8). According to Morgan, Appellant approached him with an idea about using voodoo to get the charges against both of them dropped. The plan required Morgan to confess to the murder so that Appellant would be released from jail and could then visit the voodoo priest to perform a ritual that would result in all charges being dropped. (R. p. 227, line 22 – p. 228, line 1). Morgan admitted confessing to the murder of Bennett but claimed it was based on information provided to him by Appellant. (R. p. 229, lines 13-19).

Jesse Smith, the kite passer, testified at trial that Morgan talked to him about the voodoo plan. (R. pp. 405-410). Morgan told Smith that Appellant was going to write a confession as insurance in case the voodoo did not work but Appellant wanted Smith to keep the purported confession instead of giving it to Morgan. (R. p. 407, lines 12-25). Smith testified that he showed the purported confession to Morgan and then kept it in his cell in an envelope addressed to his mother. (R. p. 409, lines 11-23; p. 411, line 14 – p. 412, lines 1-2). The purported confession was found in Smith’s cell by Corporal Stephen Donahue who worked at the J. Reuben Long Detention Center. (R. p. 428, line 22 – p. 429, lines 1-7).

The State moved to introduce the purported confession, marked State’s exhibit #101, during the testimony of Morgan before Smith or Corporal Donahue testified. (R. p. 233, line 1 – p. 234, lines 1-21). A bench conference was held and the exhibit was introduced over objection. (R. p. 233, line 24; p. 234, lines 17-18). Although Morgan claimed to recognize the handwriting, he never took possession of the exhibit and only saw the exhibit when Smith showed it to him. The judge erred in admitting the exhibit before the State was able to lay the proper foundation. The error requires reversal.

In State v. Green, 427 S.C. 223, 229–30, 830 S.E.2d 711, 714 (Ct. App. 2019), aff’d as modified, 432 S.C. 97, 851 S.E.2d 440 (2020), this Court wrote:


All evidence must be authenticated. State v. Brown, 424 S.C. 479, 488, 818 S.E.2d 735, 740 (2018); 2 McCormick On Evid. § 221 (7th ed. 2016) (“[I]n all jurisdictions the requirement of authentication applies to all tangible and demonstrative exhibits.”). Authentication is a subspecies of relevance, for something that cannot be connected to the case carries no probative force. The trial judge acts as the authentication gatekeeper, and a party may open the gate by laying a foundation from which a reasonable juror could find the evidence is what the party claims. Rule 901(a), SCRE (“The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.”). The authentication standard is not high, Deep Keel, LLC v. Atlantic Private Equity

Group., LLC, 413 S.C. 58, 64–65, 773 S.E.2d 607, 610 (Ct. App. 2015), and a party need not rule out any possibility the evidence is not authentic. In the realm of authentication, the law, like science, is content with probabilities.

In the present case, at the time the State moved to introduce exhibit #101, a reasonable juror could not have found that the exhibit was what the State claimed it to be – the purported confession of Appellant. Prior to the introduction in evidence the State needed testimony from Smith about where and from whom he got the exhibit and testimony from Corporal Donahue about where and from whom he got the exhibit. While the bar may not be high, the State did not satisfy the condition precedent for the admission of the exhibit at the time the State moved for admission. The trial judge erred in admitting the purported confession.

**CONCLUSION**

Based on the above argument, this Court should reverse the convictions and remand for a new trial.

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

This 7<sup>th</sup> day of July, 2023.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

Jul 07 2023

Appeal from Horry County

SC Court of Appeals

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARRELL D. LAND,

APPELLANT

APPELLATE CASE NO. 2022-001086

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Darrell D. Land states:


1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. She has reviewed the record of appellant's trial before Judge D. Craig Brown, which was held on July 25-28, 2022, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, she asks the Court to relieve her as counsel for Darrell D. Land.

Respectfully Submitted,

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

This 7<sup>th</sup> day of July, 2023.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Jul 07 2023**

Appeal from Horry County  
Honorable D. Craig Brown, Circuit Court Judge **SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

DARRELL D. LAND,

APPELLANT


APPELLATE CASE NO. 2022-001086

**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments and sentencing sheets;
- (2) Trial transcript pp. 1-557;
- (3) State's Exhibits #1- #15, #17, #30-#31, #36- #40, #50 - #53, #58 - #59, #61- #73, #84 - #85 – photos; **TO BE TRANSPORTED**
- (4) State's #16 – evidence record;
- (5) State's #32 – Chain of Custody;
- (6) State's #33 – Coroner's Report;
- (7) State's #34 – Dr. Abel's report;
- (8) State's #41 – Questioned Document Report;
- (9) State's #42 – Questioned Document Report;

I certify that this designation contains no matter which is irrelevant to this appeal.

  
Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

This 7<sup>th</sup> day of July, 2023.

ATTORNEY FOR APPELLANT


**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders 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."

**RECEIVED**

**Jul 07 2023**

**SC Court of Appeals**

  
Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

This 7<sup>th</sup> day of July, 2023.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Jul 07 2023**

**SC Court of Appeals**

Appeal from Horry County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.


DARRELL D. LAND,

APPELLANT

APPELLATE CASE NO. 2022-001086

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Darrell D. Land, #327556, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 7<sup>th</sup> day of July, 2023.

  
Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT