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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable R. Kirk Griffin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE J. PRIOLEAU,

APPELLANT

APPELLATE CASE NO. 2022-000449

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court reversibly erred by granting the State's motion prohibiting Appellant from telling the jury in opening statements or eliciting the fact in cross-examination that he gave a statement to police after turning himself in to authorities, where the fact that Appellant gave a statement was not disputed and likely to be introduced at trial, where stating that fact was not hearsay, yet where the State wanted to avoid the jury from knowing about this fact if it chose not to put the statement into evidence?

STATEMENT OF THE CASE

Appellant Maurice Jerome Prioleau was indicted by the Charleston County Grand Jury on April 2, 2019, for two counts of first degree criminal sexual conduct (CSC 1st), kidnapping, armed robbery, possession of a deadly weapon during commission of a violent crime, and grand larceny ($2000 to $10,000). R. 542-543, R. 546-547, R. 550-551. His case proceeded to trial from March 28th to April 4th, 2022, before the Honorable R. Kirk Griffin and a jury. R. 1. Rodney Davis and Carmen Martinez represented Appellant, while the State was represented by Anne Williams and Jennifer Shealy. R. 1.

After the close of its case-in-chief, the State dismissed the charge of grand larceny. R. 376, ll. 9-14. The jury ultimately found Appellant guilty of kidnapping and both counts of CSC 1st, but not guilty of armed robbery and, possession of a deadly weapon during commission of a violent crime. R. 522, ln. 14—R. 523, ln. 9. The trial court sentenced Appellant to an aggregate term of sixty (60) years imprisonment as follows: thirty (30) years for the first CSC 1st; thirty (30) years for the second CSC 1st to run consecutive to the first sentence; and thirty (30) years for kidnapping to also run consecutive to the first CSC 1st sentence. R. 540, ll. 5-18.

STANDARD OF REVIEW

"In criminal cases, this Court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown." State v. King, 422 S.C. 47, 54, 810 S.E.2d 18, 22 (2017) (quoting State v. Laney, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006)). Rulings regarding the scope of an opening statement are likewise left to the trial court's discretion and are reversible upon a showing of abuse of discretion, and prejudice to the defendant. State v. Harris, 275 S.C. 463, 465, 272 S.E.2d 636, 638 (1980). Similarly, "[t]he scope of cross-examination is within the discretion of the trial judge, whose decision will not be reversed on appeal absent a showing of prejudice." State v. Pradubsri, 403 S.C. 270, 276, 743 S.E.2d 98, 101 (Ct. App. 2013). "An abuse of discretion occurs when the court's decision is unsupported by the evidence or controlled by an error of law." King, 422 S.C. at 54, 810 S.E.2d at 22 (citing State v. Black, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012)). A trial judge may not limit a defendant's right to engage in cross-examination unless the record clearly shows the cross-examination is improper. State v. Mizzell, 349 S.C. 326, 331, 563 S.E.2d 315, 317 (2002).

STATEMENT OF THE FACTS

On August 13, 2018, Appellant Maurice Prioleau had gotten off work around 8:00 pm. He went to his home in North Charleston, showered, left at approximately 9:00 pm and walked up Rivers Avenue to purchase drugs at a location on Ten Mile Road. R. 398, ln. 14-20.

According to Appellant's recollection of the night, he walked to the intersection of Rivers Avenue and Harley Street where he waited for the light to change so he could cross the street. A car stopped by him, and the driver—Kathleen McCarthy (McCarthy)—asked what he was doing. When Appellant responded that he was going to get "some stuff," McCarthy offered to give him a ride. McCarthy then indicated she had to make a stop first, and pulled into a parking lot between two businesses off of Harley Street. R. 399, ln. 9—R. 401, ln. 15. Appellant asked her if she used "expo." After the two discussed the matter, Appellant and McCarthy purportedly arranged a sex-for-drugs agreement wherein Appellant would give McCarthy an ecstasy pill, McCarthy would perform fellatio and sexual services, and then Appellant would give McCarthy crack as well. R. 401, ll. 17-25. Appellant claimed to give McCarthy the ecstasy pill, yet according to Appellant McCarthy kept stalling and did not fulfill the first part of their arrangement after several attempts. R. 402, ln. 1—R. 403, ln. 12. Appellant and McCarthy then left the car and walked over to a grassy area between buildings to have sex. R. 403, ln. 14—R. 404, ln. 22; R. 405, ll. 12-25. When Appellant indicated he did not have crack on him but had to go buy it, McCarthy was distraught. Appellant claimed he then took McCarthy's car with permission, but admittedly did not intend to return once he left. R. 404, ln. 23—406, ln. 18.

McCarthy's recollection of events differed from Appellant's in many respects. Specifically, McCarthy indicated she left her home and friends on Clinton Street in North Charleston that evening around dusk to get food from the nearby Piggly Wiggly in preparation

for a cookout. She drove up Rivers Avenue and went at Piggly Wiggly. Upon learning there was no longer going to be a cookout, she left the store and stopped at Las Lupitas Mexican restaurant on her drive back. After getting her food, McCarthy continued driving down Rivers Avenue until she saw some wood by dumpsters in the back of a parking lot by the thrift store in the Liberty Mall Shopping Center. R. 59, ln. 12—67, ln. 22; R. 141, ln. 15—R. 144, ln. 24. Even though it was getting dark, she drove into the parking lot. She left her Buick running with then headlights on, and the driver's door open. R. 144, ln. 25—R. 154, ln. 13. McCarthy retrieved some nearby wood, put it in the backseat, and went back to the dumpster to look at a refrigerator when she was purportedly approached by Appellant. McCarthy indicated Appellant asked her if she used drugs, which she denied, after which Appellant allegedly came upon her with a knife and grabbed her by the waist. R. 70, ln. 17—R. 74, ln. 16.

According to McCarthy, she was forced into the driver's seat of her still-running car by Appellant, the door closed, and then Appellant went around the car to enter in the passenger door. R. 76, ll. 9-10; R. 147, ln. 3—R. 148, ln. 3. Once inside the car, McCarthy claimed Appellant forced her at knife point to perform fellatio four or five times. During this time, McCarthy opened the trunk several times with her foot; Appellant took the keys, got out each time, closed the trunk, and came back into the car. R. 78, ln. 6—R. 80, ln. 22; R. 400, ln. 13—R. 402 ln. 22. During the incident, McCarthy asked Appellant to get vodka from her trunk; when Appellant left the car, McCarthy called her friend John Willis (Willis), who recorded a portion of what occurred between Appellant and McCarthy in the car. R. 80, ln. 25—R. 82, ln. 10. After not finding any alcohol in the trunk, Appellant returned inside, and continued to try and have McCarthy perform oral sex. McCarthy's phone was taken, and she threw her taser out of her window. R. 83, ln. 2—R. 84, ln. 8. McCarthy indicated she was then taken out of her car and

walked between two buildings, whereupon Appellant had sex with her. Afterward, she indicated Appellant threw her clothes into a wooded area; McCarthy stayed in place and counted aloud while Appellant left. She then obtained her dress, put it on, and ran into the nearby Circle K gas station. R. 84, ln. 9—R. 86, ln. 15; R. 117, ll. 6-11; R. 158, ln. 17—R. 162, ln. 3.

Officers from the North Charleston Police Department arrived as did medical personnel shortly after 11:00 pm. McCarthy was taken to MUSC for treatment and released the morning of August 14, 2018, when she was picked up by Willis. R. 119, ll. 1-7; R. 200, ll. 3-14; R. 204, ll. 17-24; R. 329, ll. 13-14. A sketch was made, as was a photographic line-up, and McCarthy identified Appellant as the person with whom she had sex. R. 120, ln. 25—R. 122, ln. 13; R. 123, ln. 14—R. 125, ln. 1. After information was publicly broadcast regarding the incident and associating Appellant's name with it, Appellant turned himself in to authorities on September 18, 2018, and voluntarily gave a statement to Detectives Jellico (Det. Jellico) and Benton. R. 20, ln. 4—R. 22, ln. 11; R. 31, ll. 7-20; R. 364, ll. 4-13.

Appellant's case proceeded to jury trial from March 28th to April 4th, 2022. R. 1. During pretrial hearings, the State moved to prevent the defense from mentioning the mere fact that Appellant made a statement to police because the State may elect not to put Appellant's statement into evidence during its case-in-chief, and was unaware "of any other hearsay exception or any other rule that would allow the defendant to put his own statement in." R. 9, ln. 24—R. 10 ln. 10. Counsel for Appellant (Counsel) responded that, even if the contents of Appellant's confession may be curtailed in opening statements, "the fact that [Appellant] turned himself in and gave a statement, those are facts, not hearsay. Those are physical acts and we think we should absolutely be able to discuss that not only in opening, but throughout the trial." R. 10, ll. 15-22. Counsel further argued as follows:

> Hearsay—certainly, if an act is a form of speech, giving someone the bird, et cetera, I would understand that, but that [Appellant] physically turned himself into police and physically gave a statement, period, is not covered by the hearsay rules and we should be able to talk about it in opening and throughout the case unless it meets some other objection.
>
> Now, as to the specific wording of anything towards that that [Co-counsel] would say in opening, we would be happy to deal with that small portion of our opening to not run afoul of.

R. 10, ln. 23—R. 11, ln. 8. Additionally, Counsel asserted that if the State chose "not to enter a statement, that's their strategy, but again, the fact that a statement was given and they choose not to introduce it, that's strategy." R. 12, ll. 1-4.

The trial court ruled in favor of the State as follows:

> Well, it still would create -- if the jury hears my client turned himself in and gave a statement, all that's going to be in their mind is what's the statement. And if it's not offered as an admission, it's hearsay. *The fact that he gave a statement, while not necessarily—the act of giving a statement is not necessarily hearsay, the net effect is that the jury is going to be wondering well, where is this statement.*
>
> So Mr. Davis y'all can talk about in the opening that he turned himself in, but the only time a statement is going to come up is if the State offers that statement in their case in chief or if Mr. Prioleau decides to take the stand. I just don't think that's fair to the parties to say well, there's this statement, but nobody is going to offer it. If Mr. Prioleau wants—I don't know what he says in the statement, I don't know what his defense is going to be, but if he wants to get the contents of that statement in, he can certainly take the stand to get that done.

R. 12, ll. 6-23 (emphasis added). Additionally, the matter was revisited the following day prior to opening statements when the State told the trial court that it had "not decided if we're putting [Appellant's statement] in yet. And so it is the State's position that there could be no mention whatsoever to the Defendant making a statement until we make the decision and enter it." R. 31, ln. 23—R. 32, ln. 1. The trial court agreed, and restated it's ruling as follows:

> I agree. It becomes admissible once it's offered as an admission. *At this point, any reference to any statement being made would be hearsay.* So as far as opening statements go, I think the Defense can say he turned himself in, that's not a statement, but with regard to any mention of making a statement or any of the specific things which were said during this interview process, those are not admissible at this point.

R. 32, ll. 2-9 (emphasis added). Accordingly, Counsel made no mention regarding the fact that Appellant made a voluntary statement to police after turning himself into authorities either during opening statements or cross-examination of the detective who took the statement. R. 39, ll,15—R. 41, ln. 1; R. 370, ll. 6-7.

The jury deliberated upon Appellant's case for over seven (7) hours on the first day of deliberations, and returned the following Monday where they contemplated the case for nearly an additional seven (7) hours, asking several questions and rehearing portions of testimony from McCarthy and Appellant throughout. R. 486, ln. 18; R. 489, ln. 25; R. 491, ln. 21; R. 497, ln. 3; R. 498, ln. 1; R. 502, ln. 24; R. 512, ln. 1—R. 516, ln. 2; R. 518, ln. 4; R. 519, ln. 24; R. 522, ln. 2. The jury ultimately found Appellant guilty of two counts of CSC 1st, and one count of kidnapping; however, Appellant was acquitted of armed robbery and possession of a deadly weapon during the commission of a violent crime. R. 522, ln. 14—R. 523, ln. 9. He was sentenced to thirty (30) years for the first CSC 1st, thirty (30) years for the second CSC 1st to run consecutive to the first sentence, and thirty (30) years for kidnapping also running consecutive to the first CSC 1st sentence. R. 540, ll. 5-18.

This appeal follows.

ARGUMENT

The trial court reversibly erred by granting the State's motion prohibiting Appellant from telling the jury in opening statements or eliciting the fact in cross-examination that he gave a statement to police after turning himself in to authorities, where the fact that Appellant gave a statement was not disputed and likely to be introduced at trial, where stating that fact was not hearsay, yet where the State wanted to avoid the jury from knowing about this fact if it chose not to put the statement into evidence.

The trial court abused its discretion by prohibiting Appellant from mentioning anything about the fact that he indeed gave a statement to police after he turned himself into authorities. The fact that Appellant had given a statement was not in and of itself hearsay, and he should have reasonably expected to rely upon full and fair application of the South Carolina Rules of Evidence to both tell the jury of that fact and elicit the same from police during cross-examination. Instead, upon motion from the State, the trial court initially acknowledged that this fact was not hearsay but nonetheless prohibited any mention of the fact that Appellant gave a statement to police based upon the possibility that the juror's minds might speculate "where is this statement." R. 12, ll. 6-23. Further, immediately before opening statements, the trial court reiterated its ruling, only this time specifically and improperly categorizing as hearsay the mere fact that Appellant made a statement to law enforcement. R. 32, ll. 2-9. Accordingly, the trial court erred as a matter of law.

Hearsay is defined as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Rule 801(c), SCRE; see also State v. King, 422 S.C. 47, 66, 810 S.E.2d 18, 28 (2017) ("Hearsay is a statement, which may be written, other than one made by the declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted.") (citing State v. Brockmeyer, 406 S.C. 324, 351, 751 S.E.2d 645, 659 (2013)). Further, a "statement" is deemed to be "(1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an

assertion." Rule 801(a), SCRE. Generally, hearsay testimony is inadmissible unless an exception provided by rule or statute applies. Rule 802, SCRE; see also King, 422 S.C. at 66, 810 S.E.2d at 28 (citing Brockmeyer, 406 S.C. at 351, 751 S.E.2d at 659). However, "[w]here a witness may have personal knowledge of the matter in controversy and his testimony does not affirmatively appear to be hearsay, it should be received, subject to being stricken if it later appears to be objectionable hearsay." Watson v. Sellers, 299 S.C. 426, 432, 385 S.E.2d 369, 372 (Ct. App. 1989) (citing 31A C.J.S. *Evidence* Section 202 (1964)).

In the present case, under the guise of a hearsay objection, the State sought suppression of any mention of the fact that Appellant made a statement to law enforcement after he turned himself in to authorities on September 18, 2018, because the State claimed it had not yet decided if it was going to put Appellant's statement into evidence. R. 9, ln. 24—R. 10, ln 10. Counsel correctly argued "the fact that [Appellant] turned himself in and gave a statement, those are facts, not hearsay. Those are physical acts and we think we should absolutely be able to discuss that not only in opening, but throughout the trial." R. 10, ll. 15-22. Counsel further asserted that if the State chose "not to enter a statement, that's their strategy, but again, the fact that a statement was given and they choose not to introduce it, that's strategy." R. 12, ll. 1-4. In other words, the State sought to suppress a non-hearsay fact from the jury in order to shield itself from possible ramifications of a void it knowingly left in its presentation of evidence before the jury.

The trial court erred by ruling in favor of the State as follows:

> Well, it still would create -- if the jury hears my client turned himself in and gave a statement, all that's going to be in their mind is what's the statement. And if it's not offered as an admission, it's hearsay. *The fact that he gave a statement, while not necessarily—the act of giving a statement is not necessarily hearsay, the net effect is that the jury is going to be wondering well, where is this statement.*

> So Mr. Davis y'all can talk about in the opening that he turned himself in, but the only time a statement is going to come up is if the State offers that statement in their case in chief or if Mr. Prioleau decides to take the stand. I just don't think that's fair to the parties to say well, there's this statement, but nobody is going to offer it. If Mr. Prioleau wants—I don't know what he says in the statement, I don't know what his defense is going to be, but if he wants to get the contents of that statement in, he can certainly take the stand to get that done.

R. 12, ll. 6-23 (emphasis added). In other words, the trial court acknowledged the fact in question was not hearsay, and that the "net effect" was essentially showing an evidentiary gap in the State's case-in-chief. Additionally, the matter was compounded when the Court revisited it the following morning prior to opening statements when the State told the trial court that it had "not decided if we're putting [Appellant's statement] in yet. And so it is the State's position that there could be no mention whatsoever to the Defendant making a statement until we make the decision and enter it." R. 31, ln. 23—R. 32, ln. 1. The trial court agreed, and took its ruling even further by erroneously categorizing as hearsay the physical fact that Appellant gave a statement to police:

> I agree. It becomes admissible once it's offered as an admission. At this point, *any reference to any statement being made would be hearsay*. So as far as opening statements go, I think the Defense can say he turned himself in, that's not a statement, but with regard to any mention of making a statement or any of the specific things which were said during this interview process, those are not admissible at this point.

R. 32, ll. 2-9 (emphasis added).

The fact that Appellant gave a statement to police was just that: a physical fact, and not a "statement" under the rules of evidence. <u>See</u> Rule 801(a), SCRE. It made no mention of the content of Appellant's actual statement to police—verbal or otherwise. Further, this type of fact is regularly admitted into evidence as "investigative information" learned by law enforcement,

which "may be couched in terms of explaining an officer's conduct during an investigation, [yet] it may not be used to offer the substance of an out-of-court statement that would otherwise violate our state's rules against hearsay." King, 422 S.C. at 68, 810 S.E.2d at 29; see also State v. Weaver, 361 S.C. 73, 86-87, 602 S.E.2d 786, 792-93 (Ct. App. 2004) (holding an officer's testimony in response to questions asked in cross-examination explained his part in the investigation while not repeating statements made to him by individuals was not hearsay). Nothing specifically limits the State as the only party permitted to ask questions of law enforcement regarding such information, likely because it is merely a witness testifying to the fact that a statement was made to them without testifying as to the substance of the statement—it is simply a fact, not hearsay. Therefore, fact that police took Appellant's statement after he turned himself in was a wholly admissible non-hearsay fact.

Appellant should have reasonably expected to elicit this fact through at least one of the State's witnesses competent to testify to it—in this case, Det. Jellico. Det. Jellico not only was one of the primary investigators in the case, but also was present when Appellant gave his statement. In other words, Det. Jellico was a fact witness who could have competently testified to the simple fact that Appellant gave a statement to police after he turned himself in. As such, Appellant had a reasonable expectation to raise this fact in opening statements, as he had a reasonable expectation that such a non-hearsay fact was admissible through cross-examination. See, e.g., State v. Brown, 277 S.C. 203, 284 S.E.2d 777 (1981) ("An opening statement serves to inform the jury of the general nature of the action and defenses involved in a case so they will be better prepared to understand the evidence presented."); State v. Kornahrens, 290 S.C. 281, 284, 350 S.E.2d 180, 182 (1986); Smalls v. State, 415 S.C. 490, 499, 783 S.E.2d 817, 821 (2016); see also Alford v. United States, 282 U.S. 687, 692, 51 S. Ct. 218, 219, 75 L. Ed. 624 (1931)

("Counsel often cannot know in advance what pertinent facts may be elicited on cross-examination. For that reason it is necessarily exploratory; and the rule that the examiner must indicate the purpose of his inquiry does not, in general, apply."). What is more, the State would not have incurred any prejudice had the defense mentioned the fact that Appellant made a statement to police and subsequently failed to produce evidence supporting the fact from Det. Jellico. See United States v. Sloan, 36 F.3d 386, 398 (4th Cir. 1994) (quoting United States v. Wright-Barker, 784 F.2d 161, 175 (3d Cir. 1986) (It is a "well established principle that when 'an opening statement is an objective summary of evidence [counsel] reasonably expects to produce, *a subsequent failure in proof will not necessarily result in a mistrial.*'") (emphasis added)). Accordingly, Appellant was entitled to discuss in both his opening statement as well as on cross-examination the fact that he made a statement to police after turning himself into authorities, and the trial court committed an error of law by prohibiting the defense from doing so by categorizing the non-hearsay fact as hearsay.

Appellant was also prejudiced by the trial court's erroneous ruling.[1] Appellant's right to present a full and complete defense was inhibited by the trial court's erroneous ruling prohibiting him from mentioning anything about the fact that he indeed gave a statement to police after he turned himself in to authorities. "Whether rooted directly in the Due Process Clause of the Fourteenth Amendment, or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants "a meaningful opportunity to present a complete defense."' Crane v. Kentucky, 476 U.S. 683, 690, 106 S. Ct. 2142, 2146, 90

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[1] "An 'error without prejudice does not warrant reversal.'" State v. Page, 406 S.C. 272, 287, 750 S.E.2d 623, 631 (Ct. App. 2013) (quoting State v. King, 367 S.C. 131, 136, 623 S.E.2d 865, 867 (Ct. App. 2005)).

L.Ed. 2d 636 (1986) (citing California v. Trombetta, 467 U.S. 479, 485, 104 S.Ct. 2528, 2532, 81 L.Ed.2d 405 (1985)) (internal citations omitted). As the United States Supreme Court explained:

> The Confrontation Clause of the Sixth Amendment guarantees the right of an accused in a criminal prosecution "to be confronted with the witnesses against him." The right of confrontation, which is secured for defendants in state as well as federal criminal proceedings, "means more than being allowed to confront the witness physically." Indeed, "[t]he main and essential purpose of confrontation is *to secure for the opponent the opportunity of cross-examination.*"

Delaware v. Van Arsdall, 475 U.S. 673, 678, 106 S. Ct. 1431, 1435, 89 L.Ed. 2d 674 (1986) (quoting Davis v. Alaska, 415 U.S. 308, 315-16, 94 S.Ct. 1105, 1110, 39 L.Ed.2d 347 (1974)) (emphasis in original) (internal citations omitted). While trial courts "retain wide latitude . . . to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant," the court must still permit the opportunity for effective cross-examination. Id.

As Counsel's arguments to the trial court indicated, the defense was prepared to discuss the non-hearsay fact that Appellant provide a statement to police in opening statement and during the trial: "the fact that [Appellant] turned himself in and gave a statement, those are facts, not hearsay. Those are physical acts and we think we should absolutely be able to discuss that not only in opening, but throughout the trial." R. 10, ll. 15-22. Given that the theory of defense was essentially that Appellant neither ran from authorities nor shirked responsibility for what was a consensual incident, Counsel understandably expected to discuss the non-hearsay facts that Appellant not only turned himself in to police, but also provided a statement to them shortly afterward. Instead, the trial court denied Appellant the right to discuss anything whatsoever regarding the fact that Appellant provided a statement to police after turning himself in, stating

"any reference to any statement being made would be hearsay." R. 32, ll. 2-9. Thus, the limitation on Appellant's Due Process right to present a complete defense, as well as his Sixth Amendment Confrontation Clause right, was not based upon concerns of "harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant;"[2] rather, it was based upon an erroneous interpretation and application of law by the trial court, which in turn curtailed Appellant from discussing a fact germane to the overall defense that Appellant neither hid from authorities nor committed a crime. In so doing, "[t]he trial court cut off in limine all inquiry on a subject with respect to which the defense was entitled to a reasonable cross examination. This was an abuse of discretion and prejudicial error." Alford v. United States, 282 U.S. 687, 694, 51 S. Ct. 218, 220, 75 L. Ed. 624 (1931).

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[2] Van Arsdall, 475 U.S. at 678, 106 S. Ct. at 1435, 89 L.Ed. 2d 674.

CONCLUSION

For the foregoing reasons, Maurice Jerome Prioleau respectfully requests reversal of his convictions, and remand for new trial.

Breen Richard Stevens
Appellate Defender

ATTORNEY FOR APPELLANT

This 12th day of September, 2023.

CERTIFICATE OF COUNSEL

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

September 12, 2023

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