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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TY LEIC DAE JHON CHANEYFIELD,

APPELLANT

APPELLATE CASE NO. 2023-001595

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

STATEMENT OF ISSUES ON APPEAL

I. Whether the court erred by admitting exhibits which depicted Appellant wearing a bandana over his face and making an obscene gesture at the camera, where the State had other evidence that Appellant was at the location where the images were recorded, since the probative value of the evidence was substantially outweighed by the danger of unfair prejudice, and the exhibits should have been excluded pursuant to Rule 403, SCRE?

II. Whether the court erred by admitting exhibits which depicted Appellant wearing a bandana over his face and making an obscene gesture at the camera, since character evidence is not admissible for the purpose of proving action in conformity therewith, and the exhibits should have been excluded pursuant to Rule 404(a), SCRE?

III. Whether the court erred in imposing sentence for possession of a weapon during the commission of a violent crime, where Appellant received a life-without-parole sentence for the violent crime, since § 16-23-490(A) prohibits the imposition of sentence for the weapon when the defendant has received life without parole for the underlying offense?

STATEMENT OF THE CASE

On August 11, 2022, a Beaufort County Grand Jury indicted Appellant, Ty Chaneyfield, for the following offenses: murder; two counts of attempted murder; first-degree assault and battery by a mob; second-degree assault and battery by a mob; third-degree assault and battery by a mob; and possession of a weapon during the commission of a violent crime. R. *(Indictments). Appellant was tried before the Honorable R. Ferrell Cothran and a jury, from September 25 – 29, 2023, and October 2, 2023. Appellant was represented by Scott W. Lee. Duffie Stone prosecuted the case. Tr. 1; Tr. 106; Tr. 367; Tr. 617; Tr. 910. Appellant was convicted as indicted. Tr. 921, l. 17 – 922, l. 19.

Appellant was sentenced to imprisonment for life without the possibility of parole for murder. He was sentenced to concurrent terms of imprisonment of thirty years for each count of attempted murder, thirty years for first-degree assault and battery by a mob, twenty-five years for second-degree assault and battery by a mob, one year for third-degree assault and battery by a mob, and five years for possession of a weapon during the commission of a violent crime. There was no objection to the sentence for possession of a weapon during the commission of a violent crime. Tr. 955, l. 14 – 956, l. 22; R. (Sentence Sheets).

This appeal follows.

STANDARD OF REVIEW

The standard of review for all three issues is abuse of discretion.

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).

"A trial court has particularly wide discretion in ruling on Rule 403 objections." *State v. Lee*, 399 S.C. 521, 527, 732 S.E.2d 225, 228 (Ct. App. 2012); *see also State v. Dial*, 405 S.C. 247, 260, 746 S.E.2d 495, 502 (Ct. App. 2013) ("A trial judge's decision regarding the comparative probative value and prejudicial effect of relevant evidence should be reversed only in exceptional circumstances.") (citation omitted).

"In criminal cases, the appellate court sits to review errors of law only." *State v. Vick*, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009) (quoting *State v. Wilson*, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is "bound by the trial court's factual findings unless they are clearly erroneous." *Id.* (quoting *Wilson*, 345 S.C. at 5-6, 545 S.E.2d at 829). The reviewing court "does not re-evaluate 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. Slocumb*, 412 S.C. 88, 91, 770 S.E.2d 436, 438 (Ct. App. 2015). "A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support." *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

STATEMENT OF FACTS

D.J. Fields (Decedent) was driving his black Acura in Beaufort County when he was shot and killed shortly before 11:30 p.m. on March 5, 2021. Tr. 155, ll. 8-15; Tr. 160, ll. 12-18; Tr. 162, l. 19 – 163, l. 6; Tr. 246, ll. 2-6; Tr. 247, ll. 18-20. E.J. Graham and Kylan Simmons were in the car. The three friends had been "riding around" the area that night. They stopped at Parker's Kitchen for drinks, and then at Wendy's to talk to some girls. Tr. 220, l. 25 – 228, l. 24.

After leaving Wendy's, the Acura got on Bluffton Parkway and a dark car sped up and got beside it. Graham saw muzzle flashes come from the passenger rear and passenger front seats. He felt an impact. Graham was shot in the head, but he recovered. Tr. 172, l. 19 – 174, l. 10; Tr. 248, l. 7 – 251, l. 25; Tr. 638, ll. 18-21; Tr. 647, ll. 14-17. Decedent was shot in the chest and abdomen and died. Tr. 170, l. 17 – 171, l. 1; Tr. 655, ll. 6-9; Tr. 658, ll. 6-9. The Acura crashed into a ditch. Tr. 168, ll. 2-8. Simmons, who called 911, had minor injuries from the crash. Tr. 241, l. 19 – 243, l. 12. Shell casings in the road showed that two guns were fired at the Acura—a .45 caliber pistol and a gun that fired rifle-caliber rounds. Tr. 192, l. 2 – 194, l. 1; Tr. 603, l. 1 – 608, l. 6.

Now, prior to this shooting, Jimmie Green had let it be known he was looking for the people who "shot up his house." Green believed Memphis Daniels and Jaliel Hooper[1] had shot into his home, striking his sister. Someone told Green that the "ops," i.e., his opponents or enemies, were driving a black car.[2] Tr. 291, l. 16 – 292, l. 4; Tr. 321, l. 20 – 322, l. 2; Tr. 325, ll. 1-4; State's Exhibit #102.

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[1] Jaliel Hooper was also referred to as Julio Hoover in the transcript. Tr. 143, ll. 18-24.

[2] Pretrial, Appellant sought to exclude any reference to gangs, including the term "ops." The solicitor agreed not to reference gangs. However, the court ruled the State could use the term "ops." Tr. 80, l. 13 – 89, l. 2.

So, the night of the shooting in this case, Green's girlfriend, Shayniah Void,[3] met up with Green at the Station 300 (a bowling alley) so that she could get some marijuana from him. While there, Green told Shayniah Void to be on the lookout for his "ops." Shayniah Void was riding with her sister, Stacy Void, and her brother, Jayden Void. Stacy Void's infant was also in the car. The Voids were driving a blue car. Tr. 264, l. 12 – 270, l. 4; Tr. 289, ll. 5-9; Tr. 279, l. 22 – 271, l. 8; Tr. 308, ll. 5-25; Tr. 317, l. 1 – 322, l. 2.

The Voids left Station 300 and went to Wendy's. The girls who had been talking to Decedent and his friends at Wendy's noticed the Void's blue car coming by several times and remarked upon it. Tr. 254, l. 6 – 256, l. 16. Shayniah Void called Green and told him she saw his "ops" in a black car. Green drove over. The Voids watched as Green's Hyundai Santa Fe approached, did a U-turn, and followed the black car as it left and headed for the highway. The Voids followed along behind Green, who was following the black car. Tr. 293, l. 15 – 298, l. 1; Tr. 324, l. 7 – 327, l. 12. Green's Santa Fe pulled up beside the black car and shots were fired at the Acura. The Voids watched the Acura crash after it was hit by the gunfire. The Voids went back to Station 300 to get something to eat. Tr. 299, l. 5 – 300, l. 23; Tr. 327, l. 10 – 331, l. 8. As it happened, Shayniah Void was wrong about Green's "ops" being in the black car. Inside the black Acura were Decedent, Graham, and Simmons. They were the "wrong people." Tr. 145, ll. 18-20; Tr. 343, ll. 13-14.

Afterwards, Jimmie Green was convicted of these crimes. Tr. 499, ll. 16-19. In addition to Green, Shayniah Void and Jayden Void were charged in this case. Tr. 305, l. 9 – 306, l. 11; Tr. 307, ll. 19-20. Stacy Void was ultimately not charged, although she was interrogated by law enforcement several times, and they reminded her that she knowingly took her infant to a

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[3] Shayniah Void's first name was alternately spelled as Shayna and Sheniah in the transcript. Tr. 436, ll. 7-8.

shooting and that she might face charges. Tr. 343, l. 17-19; Tr. 355, l. 16 – 356, l. 4; State's Exhibit #102. The guns were never recovered. Law enforcement found gunshot primer residue on the window frames of Green's Santa Fe, which indicated a gun was fired inside the car. Tr. 594, l. 5 – 597, l. 24. DNA swabs taken from inside the Santa Fe contained mixtures of DNA, some of which were consistent with containing the DNA of Appellant and of a juvenile, M.A. Tr. 627, l. 9 – 634, l. 1. Appellant and M.A. were also charged in these crimes. Tr. 274, ll. 5-8.

Cell phone records showed Appellant's phone, Green's phone, and Shayniah Void's phones used a cell tower near Station 300 about twenty minutes before the shooting, at 11:03 p.m. However, surveillance footage showed Green's Santa Fe left the area thereafter at 11:05 p.m., and Green's cell phone was used again coming back to the area and hitting a nearby tower at 11:21 p.m. Tr. 447, l. 8 – 452, l. 16. The 911 call made by Simmons was placed at 11:28 p.m. Tr. 155, ll. 8-15.

The State presented testimony from a jailhouse snitch, Harold Rogers, who had served thirty years in prison for crimes in Maryland: armed robbery, robbery, attempted robbery, strong-arm robbery, theft, and kidnapping. After serving those sentences, Rogers was transferred to the Beaufort County jail for a pending armed robbery in South Carolina. Rogers was eligible for mandatory life-without-parole under South Carolina law. According to Rogers, he was a jailhouse "paralegal." Rogers, a white man in his fifties, claimed that Appellant, a black teenager, bonded with him at the jail and "kept coming up" to him to confess that he was one of the shooters in this case. Court's Exhibit #1; Tr. 516, l. 13 – 532, l. 20; Tr. 541, ll. 1-25; Tr. 548, l. 7 – 550, l. 25. The defense cross-examined Rogers about whether he could have obtained this same information by sneaking looks at Appellant's discovery when it was unattended at the jail. Tr. 542, l. 2 – 543, l. 17; Tr. 553, l. 9 – 556, l. 16; Tr. 868, l. 21 – 869, l. 9.

Appellant testified at his trial. Appellant had the day off from work, and he admitted being at Station 300 with Green and M.A. that night, and he admitted riding in the car with Green prior to the shooting. However, Appellant stated he left after going to Station 300—Green took him back to his car, which was parked in the Edgefield neighborhood, and Appellant headed back to Hardeeville. Tr. 693, ll. 18-22; Tr. 699, l. 21 – 714, l. 5. The defense presented the testimony of a private investigator who drove from Station 300 to the Edgefield neighborhood (like Green dropping Appellant off would have done), and then back to Wendy's (where Green's Hyundai began to tail Decedent's Acura), and the trip took fifteen minutes and twenty-five seconds. Tr. 808, l. 11 – 834, l. 20. Therefore, Appellant's testimony that he was not present during the shooting was compatible with the cell tower evidence in the case. Tr. 865, ll. 7-11.

Jayden Void and Stacy Void testified. Jayden Void had pending charges of assault and battery by a mob in the first, second, and third degree. Tr. 305, l. 9 – 307, l. 20. Jayden Void testified when they went to Station 300, Green had people with him, including Appellant. Tr. 267, l. 8 – 268, l. 16. Jayden stated he last saw Appellant at Station 300 around 11:00 p.m., and he did not know where Green went after leaving Station 300 but before showing up at Wendy's (i.e., Green could have dropped Appellant off). Tr. 313, l. 1 – 314, l. 6. Stacy Void saw Appellant at Station 300 that night, and she claimed he heard Green talk about looking for his "ops." Tr. 320, l. 10 – 322, l. 7; Tr. 267, l. 11 – 271, l. 12. Stacy Void claimed Appellant had a long gun underneath his jacket. Tr. 330, ll. 9-19. She further alleged that when Shayniah Void called Green to tell him she saw his "ops," Stacy overheard Appellant's voice in the background of the call. Tr. 328, l. 15 – 330 l. 2.

During Jayden Void's testimony, the State offered into evidence a video and still photographs taken from the video of Appellant and M.A. These exhibits, State's Exhibits #40 – 42, are on file with this Court. The video was filmed by one of the Void sisters at Station 300 and it showed Appellant and M.A. posing while making obscene hand gestures at the camera and wearing bandanas over their faces. Tr. 315, ll. 10-22; State's Exhibits #40 – 42. The exhibits portrayed Appellant in an incredibly sinister light. Appellant objected to the admission of the exhibits pursuant to Rule 403, SCRE and Rule 404, SCRE. Tr. 271, l. 16 – 288, l. 10. Counsel argued the obscene gestures and bandanas were unfairly prejudicial. "[T]he probative value of that is substantially outweighed by the potential for the prejudicial effect. It's kind of gratuitous, you know, showing that these guys are obviously bad guys, they're flipping the bird at the camera." Tr. 274, ll. 17-21. Counsel argued the exhibits painted Appellant "like he's the kind of guy who would do exactly what he's charged with." Tr. 277, ll. 1-3. Counsel argued the exhibits were unnecessary, since the State had other ways to show Appellant was at Station 300 that night. Counsel offered to stipulate that Appellant was at Station 300. Tr. 274, l. 22 – 275, l. 16.

The State argued the exhibits corroborated Jayden Void's testimony that Appellant was at Station 300 with Green and M.A., and showed they were acting in concert. Tr. 275, l. 18 – 276, l. 16. The State also argued that Harold Rogers, the jailhouse snitch, told authorities Appellant stated to Rogers that the prosecution had a picture of him at Station 300 wearing a mask and flipping a bird. Tr. 277, l. 6-17.

The court ruled the exhibits were admissible under Rules 403 and 404, SCRE. The court found the probative value of the images was substantial, and it was "just" a bird. Tr. 278, ll. 13-24. The court found Harold Roger's anticipated testimony made the images probative. The

exhibits were admitted. Tr. 279, l. 2 – 288, l. 8. The State showed the images again and again during its case. Tr. 288, l. 11 – 289, l. 9; Tr. 320, l. 20 – 321, l. 9; Tr. 409, ll. 2-20. Rogers never testified as the solicitor claimed he would—he did not testify that Appellant told him law enforcement had a picture of him at Station 300 wearing a mask and flipping a bird. However, the images had already been admitted and shown to the jury multiple times when Rogers testified.

Closing arguments and charging took place on a Thursday. The jury deliberated all day Friday, and returned a verdict after further deliberation on Monday. Tr. 914, l. 1 – 922, l. 19; Tr. 930, ll. 20-21.

ARGUMENT

I. The court erred by admitting exhibits which depicted Appellant wearing a bandana over his face and making an obscene gesture at the camera, where the State had other evidence that Appellant was at the location where the images were recorded, since the probative value of the evidence was substantially outweighed by the danger of unfair prejudice, and the exhibits should have been excluded pursuant to Rule 403, SCRE.

"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." Rule 403, SCRE. "Unfair prejudice means an undue tendency to suggest decision on an improper basis, such as an emotional one." *State v. Saltz*, 346 S.C. 114, 127, 551 S.E.2d 240, 247 (2001). "The determination of whether the danger of unfair prejudice outweighs the probative value of evidence must be based on the entire record and will turn on the facts of each case." *State v. Holland*, 385 S.C. 159, 171, 682 S.E.2d 898, 904 (Ct. App. 2009) (quoting *State v. Lyles*, 379 S.C. 328, 338, 665 S.E.2d 201, 206 (Ct. App. 2008)).

These exhibits were incredibly, and unfairly, prejudicial. Appellant was charged with a brazen and terrifying crime—a car full of innocent high school students was sprayed with bullets on the public highway; one person was killed and two others were injured. The case was highly emotional given the violent death of an innocent teenager. The images of Appellant masked by a bandana while making an obscene gesture portrayed him as a dangerous and lawless thug. The prosecution displayed and referenced the images multiple times throughout trial.

The exhibits were unnecessary, and they had no probative value since the State had other evidence—witness testimony—that placed Appellant at Station 300 with his codefendants.

Appellant even offered to stipulate he was there. The exhibits did no more than corroborate the Void siblings' testimony that Appellant was present at Station 300 with Green and the juvenile twenty minutes before the shooting. "Although photographs may be used to corroborate other evidence, it is well-established that photographs calculated to arouse the sympathies and prejudices of the jury are to be excluded if they are irrelevant or unnecessary to the issues at trial." *State v. Middleton*, 288 S.C. 21, 24, 339 S.E.2d 692, 693 (1986) (cleaned up). The prosecution's argument that the images were probative of Harold Rogers's testimony was not borne out. Rogers never testified regarding the exhibits. Nor did the exhibits show the codefendants acting in concert, it simply showed them together. The exhibits (State's Exhibits #40 – 42) should have been excluded pursuant to Rule 403, SCRE.

The error was not harmless. "The harmless error rule generally provides that an error is harmless beyond a reasonable doubt if it did not contribute to the verdict obtained." *State v. Collins*, 409 S.C. 524, 537, 763 S.E.2d 22, 29 (2014). "In applying the harmless error rule, the court must be able to declare the error had little, if any, likelihood of having changed the result of the trial and the court must be able to declare such belief beyond a reasonable doubt." *Id.*, 409 S.C. at 538, 763 S.E.2d at 29 (cleaned up). *See also State v. Jones*, 440 S.C. 214, 264, 891 S.E.2d 347, 373 (2023) (horrific autopsy photographs did not contribute to the jury's sentence of death given defendant's methodical killing of his five small children while they begged for mercy). In this case, Appellant provided a colorable explanation that he was not present during the shooting. There was a reasonable possibility that excluding the contested exhibits could have changed the outcome of the case.

II. The court erred by admitting exhibits which depicted Appellant wearing a bandana over his face and making an obscene gesture at the camera, since character evidence is not admissible for the purpose of proving action in conformity therewith, and the exhibits should have been excluded pursuant to Rule 404(a), SCRE.

"In a criminal case, the State cannot attack the character of the defendant unless the defendant himself first places his character in issue." *State v. King*, 334 S.C. 504, 512, 514 S.E.2d 578, 582 (1999) (citing Rule 404(a), SCRE; *Mitchell v. State*, 298 S.C. 186, 379 S.E.2d 123 (1989)). Rule 404(a), SCRE, provides that,

> **Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion**, except:
> (1) Character of Accused. Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same;
> (2) Character of Victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;
> (3) Character of Witness. Evidence of the character of a witness, as provided in Rules 607, 608, and 609.

(emphasis added). "'Character' refers to a generalized description of a person's disposition or a general trait such as honesty, temperance or peacefulness. Generally speaking, character refers to an aspect of an individual's personality which is usually described in evidentiary law as a 'propensity.'" *State v. Nelson*, 331 S.C. 1, 7, 501 S.E.2d 716, 719 (1998) (cleaned up). *See State v. Braxton*, 343 S.C. 629, 635, 541 S.E.2d 833, 836 (2001) (example of defendant's violence and willingness to produce a pistol was inadmissible character evidence under Rule 404(a), SCRE).

The contested evidence was character evidence of dangerousness, lawlessness, and vulgarity. The bandana-covered face and obscene gesture portrayed Appellant as a crude and defiant gang member. *E.g.*, *State v. Liverman*, 386 S.C. 223, 227, 687 S.E.2d 70, 71 (Ct. App.

2009), affirmed, 398 S.C. 130, 727 S.E.2d 422 (2012) (bandana signified gang membership); *State v. Khingratsaiphon*, 352 S.C. 62, 67, 572 S.E.2d 456, 458 (2002) (wearing of bandanas was consistent with gang attire); *Johnson v. State*, 433 S.C. 550, 559, 860 S.E.2d 696, 701 (Ct. App. 2021) ("Evidence of gang affiliation demands careful handling because of its power to distract the fact finder from its rational task of deciding the facts from objective evidence, luring their attention to the lurid, raising the risk that they will decide the case on an improper or subjective (often an unduly emotional) basis."); *Rhoad v. State*, 372 S.C. 100, 104 n. 2, 641 S.E.2d 35, 37 n. 2 (Ct. App. 2007) (obscene gesture and "F**k you, you bastard" are "commonly understood to have the same meaning"). The 404(a) exceptions did not apply. Appellant did not place his character in issue and therefore the State was not permitted to attack his character. The evidence should have been excluded. Rule 404(a), SCRE.

The error was not harmless. "[W]here there is other properly admitted evidence of conduct demonstrating the particular character trait in question, there is no reversible error." *State v. Haselden*, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003) (citing *State v. Cheeseboro*, 346 S.C. 526, 552 S.E.2d 300 (2001)). "The erroneous admission of character evidence is harmless beyond a reasonable doubt if its impact is minimal in the context of the entire record." *Haselden, supra* (citation omitted). *See State v. King*, 334 S.C. 504, 514, 514 S.E.2d 578, 583–84 (1999) (improper admission of remote thefts suggested to jury that defendant was guilty of committing murder and arson because of criminal propensity to commit crimes and bad character; improper testimony "permeated the trial" and was not harmless). Appellant successfully prevented the State from admitting gang-related evidence pretrial, and the State agreed not to reference gangs. However, these exhibits were an illicit entry of gang evidence. Appellant testified and he provided a colorable alternate scenario in which he was not present

during the shooting. The contested exhibits pulled the jury's eyes off the ball in this case, which was whether Appellant was in Green's car when the shots were fired, and instead focused the jury upon whether Appellant looked like, and behaved like, a thug. The repeated exhibition of this evidence permeated the trial. The error was not harmless. *E.g.*, *State v. King*, 334 S.C. at 514, 514 S.E.2d at 583–84.

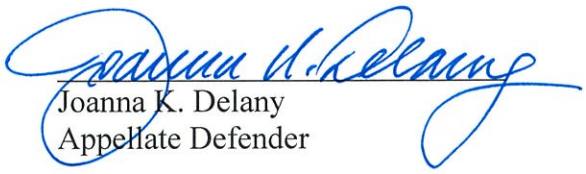
III. The court erred in imposing sentence for possession of a weapon during the commission of a violent crime, where Appellant received a life-without-parole sentence for the violent crime, since § 16-23-490(A) prohibits the imposition of sentence for the weapon when the defendant has received life without parole for the underlying offense.

Appellant was convicted of the underlying violent crimes, and he was sentenced to life without parole (LWOP) for murder. Therefore, he should not have been sentenced for the weapon. S.C. Code Ann. § 16-23-490(A) prohibits the imposition of a five-year sentence for possession of a weapon during the commission of a violent crime when the defendant has received an LWOP sentence for the underlying offense. *See* § 16-23-490(A) (explaining that under this statute the "five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime").

Although this matter was not raised below, this Court can vacate the sentence in the interest of judicial economy. *See State v. Plumer*, 439 S.C. 346, 351, 887 S.E.2d 134, 137 (2023) ("[W]hen a trial court imposes what the State concedes is an illegal sentence, the appellate court may correct that sentence on direct appeal or remand the issue to the trial court even if the defendant did not object to the sentence at trial and even if there is no real threat of incarceration beyond the limits of a legal sentence."). Appellant's sentence was not permitted by law. Appellant respectfully asks this Court to vacate the five-year sentence.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his convictions and sentences and remand the case for a new trial (Issues I – II). Appellant further respectfully requests this Court vacate his five-year sentence for possession of a weapon during the commission of a violent crime (Issue III).



Joanna K. Delany
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ATTORNEY FOR APPELLANT

This 20th day of August, 2024.