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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAVRIC JORDAN SMITH,

APPELLANT

APPELLATE CASE NO. 2023-000832

FINAL BRIEF OF APPELLANT

LARA M. CAUDY
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STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion by admitting testimony from an expert child sexual abuse practitioner concerning prior consistent statements made by the complainant that were beyond the time and place of the alleged sexual assault and were not made for the purpose of medical diagnosis or treatment and where Appellant was prejudiced by the erroneous admission of this evidence since the expert's testimony improperly corroborated and bolstered the complainant's testimony?

STATEMENT OF THE CASE

A Greenville County grand jury indicted Appellant on January 18, 2023 for second degree criminal sexual conduct with a minor, kidnapping, and incest. R. 671. His case was called to trial on May 15, 2023 before the Honorable Perry H. Gravely, and a jury. R. 1. Assistant Solicitors Meghan Gasser and Christine Sustakovitch represented the state. William Yarborough represented Appellant. R. 1.

On May 19, 2023, the jury found Appellant guilty as indicted. R. 665, l. 21 – 666, l. 3. He was sentenced to sixteen years for second degree criminal sexual conduct with a minor, sixteen years for incest, and fifteen years for kidnapping. R. 669, l. 24 – 670, l. 7.

This appeal follows.

STATEMENT OF FACTS

In 2013, Minor and her younger brother, M.R., moved from Nebraska to South Carolina with their parents. Shortly thereafter, Minor's mother and father separated and by January 2015 were legally divorced. After their parents separated, Minor and M.R. lived with their mother, Samantha Miller, in Spartanburg. Appellant and Samantha began dating in 2014 and married in 2018. After Appellant and Samantha married, the family moved to Anderson, where Appellant's mother and other extended family lived. Appellant and Samantha had a son, M.S., in August 2018, and a daughter, S.S., in September 2020. R. 328, l. 21 – 332, l. 24.

In early 2020, when these allegations were made, Appellant was a long haul truck driver for Cheeseman Transport and was out of town for long periods of time. He was also in the National Guard. A majority of Appellant's time off from Cheeseman was spent with the National Guard, meaning he was rarely home. R. 335, l. 17 – 336, l. 2. Appellant testified that being away from home was difficult and put a strain on his marriage. Consequently, Appellant ended his service with the National Guard in January 2020 and in March 2020 was seeking a local position with Cheeseman. R. 523, l. 13 – 525, l. 15; R. 337, ll. 11-13.

Cheeseman Transport, Appellant's then employer, has several properties across the United States, including one in Greer, South Carolina. The property in Greer has a warehouse and a large lot to store cabs and trailers when they are not in use. Cheeseman employees also use the property to load and unload freight. R. 242, ll. 2-22. Because Appellant drove long distances, he was assigned a sleeper cab. A sleeper cab, as opposed to a day cab, has a small bed in the back of the cab where the driver can sleep if traveling for more than a day. R. 241, l. 19 – 242, l. 1. The front of the cab and the back where the bed is located are separated by a black privacy curtain.

On Sunday, March 1, 2020, Appellant was returning home after being out on the road for days. Around 7:30 pm, Appellant made his last delivery in Pendleton. He then had to drive through Anderson, where his family lived, to park his truck at the Cheeseman property in Greer. Minor, who was twelve years old at time, had been longing to have "a ride along" with Appellant in his truck. However, Cheeseman had strict passenger guidelines, which required any passenger be at least thirteen years old. Additionally, the driver had to submit an authorization form and seek prior approval by the safety department before any passenger could ride in the truck. Despite these guidelines, Samantha and Appellant agreed that Minor could ride with Appellant in his truck from Anderson to the Cheeseman property in Greer that evening.

After Appellant made his last delivery in Pendleton, he met Samantha and Minor at an Exxon gas station in Anderson shortly before 8:00 pm. Also in the car was Samantha's then eight year old son M.R. from her first marriage and M.S., Samantha and Appellant's then one year old son. Minor got into the truck with Appellant at the gas station. Samantha and the other two children followed behind Appellant's truck in Samantha's car all the way to Greer. R. 336, l. 16 – 338, l. 23.

Minor sat in the front passenger seat next to Appellant during the drive. The two talked about Minor's upcoming birthday. Minor wanted to cut her hair "really short" but her mother did not care for her cutting her hair. Minor and Appellant discussed ways to convince Samantha to allow Minor to cut her hair. In addition to talking to Appellant, Minor played games on her phone during the ride. Minor claimed that at one point, Appellant reached his hand out and touched her "chest area" over her clothes. This made Minor uncomfortable. She told Appellant to stop and pushed his hand away. R. 157, l. 22 – 160, l. 15.

Once they reached the Cheeseman property, Appellant told Minor to move to the back of the cab where the bed was located because Minor was not allowed to be in the truck given her age and because Appellant had not requested authorization to have a passenger in his truck that evening. R. 160, l. 19 – 162, l. 4. Minor laid down on the bed and continued to play games on her phone. Meanwhile, Appellant drove the truck to the back of the property where he unhooked and parked the trailer where all the other trailers were located. He then got back into the cab of the truck and moved the cab to its assigned parking spot. Samantha and the other children were parked in this area waiting. R. 162, ll. 7-16; R. 70, l. 21 – 71, l. 23.

Minor claimed that at some point during this process, Appellant came into the back of the cab and laid down on the bed beside her. Appellant asked Minor what she was playing on her phone and then started playing the game too. He eventually put the phone to the side and stood up. Minor claimed Appellant then began to undress her. According to Minor, Appellant pulled her leggings and underwear down to her ankles and lifted her shirt and bra up to her chin exposing her chest. Her pants and underwear did not come off as she was wearing black combat boots, which prevented the clothing from sliding all the way off. Minor testified Appellant then lifted her legs above his head and held both of her hands together with one of his hands. Minor claimed Appellant bent down, licked her vagina with his tongue, and digitally penetrated her. Appellant then "pulled down his pants and underwear and pulled out his penis." Minor claimed Appellant grabbed his penis with his free hand and tried to put his penis inside her vagina. However, it would not go in. Minor said it burned when Appellant tried to put his penis inside her and when he stopped, she felt a "throbbing pain." Appellant eventually pulled his underwear and pants back up and let go of her hands and legs. Minor got dressed while Appellant collected trash in the front of the cab. She did not recall Appellant saying anything during the alleged

assault. After getting dressed, Minor grabbed her phone, got out of the truck, and climbed into her mother's car, which was parked directly adjacent to the cab of Appellant's truck. R. 162, l. 17 – 170, l. 10.

After Appellant gathered his laundry and any remaining trash from the cab, he likewise got into Samantha's car and the family drove home to Anderson. On the way home, they stopped at a QuikTrip gas station to purchase snacks. Appellant and Minor went into the gas station together while Samantha and the other children stayed in the car. Once they arrived home, the children went straight to bed as it was late. The next morning, which was a Monday, Samantha took the children to school and daycare and drove to Greenville where she attended classes. Appellant slept in since he had worked all week. R. 170, l. 13 – 175, l. 15.

At school, Minor told several friends that she "thought she had lost [her] virginity to [her] stepdad." One of Minor's friends told the guidance counselor what Minor said. R. 28, l. 12 – 30, l. 19; R. 175, l. 16 – 176, l. 21. After discussing the allegations with Minor, the principal reported the allegations to law enforcement. R. 44, l. 11 – 47, l. 2. Minor was then taken to AnMed Medical Center to undergo a sexual assault examination. R. 102, ll. 12-14; R. 297, l. 11 – 298, l. 20. During the examination, vaginal swabs were collected as well as Minor's underwear. Her underwear contained a feminine hygiene pad. R. 307, ll. 19-25; R. 309, ll. 15-17. Minor told the nurse who conducted the exam that she had showered and changed her clothing since the alleged assault. R. 312, ll. 19-24.

The following day, March 3, 2020, Minor attended a forensic interview at Foothills Alliance in Anderson where she again alleged she had been sexually assaulted. R. 104, l. 25 – 107, l. 4; R. 135, ll. 12-18. On March 5, 2020, Minor returned to Foothills Alliance and was physically

examined by a "child abuse practitioner." Minor's pelvic exam was normal, meaning "there were no signs of any trauma or injury." R. 390, l. 20 – 393, l. 4.

Despite Minor's initial disclosure, she recanted the allegations on numerous occasions. She first recanted on April 17, 2020 when she told Investigator Gregory Walter that the allegations were not true. Minor likewise told two therapists that the alleged assault did not occur. On July 22, 2020, she wrote Appellant a letter apologizing for lying about the accusations. She wrote a second letter with no addressee also stating the allegations were false and she lied because she felt Appellant was trying to take the place of her biological father. Minor similarly told the prosecutor on August 8, 2020 that the assault did not happen. Minor claimed at trial that all of her "recantations were lies" and that she only recanted because Appellant's family "started not liking [her]." R. 183, l. 9 – 185, l. 7; R. 199, l. 17 – 203, l. 8.

The vaginal swabs collected from Minor on March 2, 2020 and a cutting from the feminine hygiene pad that was in her underwear were analyzed at the Greenville County DNA Laboratory. Y-STR testing was conducted on both items and the profile developed "matched the profile of Marvic Smith [Appellant] and any of his paternal male relatives." This included Minor's one year one brother, M.S., who is Appellant's son. Autosomal DNA testing was not conducted on either item because there was too much female DNA on the samples, presumably Minor's DNA. R. 470, l. 19 – 471, l. 2; R. 473, l. 9 – 479, l. 7.

STANDARD OF REVIEW

"The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice." State v. Simmons, 423 S.C. 552, 561, 816 S.E.2d 566, 571 (2018) (quoting State v. Kromah, 401 S.C. 340, 349, 737 S.E.2d 490, 494-95 (2013)); See State v. Douglas, 369 S.C. 424, 429, 632 S.E.2d 845, 847-48 (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. (quoting Kromah, 401 S.C. at 349, 737 S.E.2d at 495); See Douglas, 369 S.C. at 429-30, 632 S.E.2d at 848.

ARGUMENT

The trial court abused its discretion by admitting testimony from an expert child sexual abuse practitioner concerning prior consistent statements made by the complainant that were beyond the time and place of the alleged sexual assault and were not made for the purpose of medical diagnosis or treatment and where Appellant was prejudiced by the erroneous admission of this evidence since the expert's testimony improperly corroborated and bolstered the complainant's testimony.

Relevant Facts

Kelli Clune, who was qualified as an expert in pediatrics and child sexual abuse, was the "child abuse practitioner" who examined Minor on March 5, 2020 at Foothills Alliance in Anderson. Clune performed a chronic medical exam as opposed to an acute medical exam. She testified that an acute medical exam takes place in a hospital and occurs within seventy-two hours of an alleged sexual assault. During an acute exam, the medical practitioner collects evidence and examines the individual for injuries. During a chronic exam, on the other hand, the practitioner verifies the existence of any injuries and ensures any such injuries are healing. In order to do so, the practitioner conducts a "head to toe" external exam of the child. The examiner may also conduct sexually transmitted disease (STD) testing since STDs "may not show up" during the first seventy-two hours. Lastly, the practitioner reviews "all the information from all the investigative bodies" as well as the medical history of the patient and "forms an opinion on the risk of abuse." Clune maintained that chronic exams are performed even if no acute findings are made during the original exam. R. 379, l. 7 – 384, l. 18.

The following exchange took place during direct examination between the solicitor and Clune:

Q: As a part of your diagnosis and treatment of Minor, did you ask her what had occurred?

A: Yes, I did.

Q: And did she disclose to you whether she had been sexually assaulted?

A: Yes, she did.

Q: Did she indicate to you the location or place where she was sexually assaulted?

A: Yes, she did.

Q: What did she say?

A: It was in a truck.

Q: Okay. What was the chief medical complaint that you were following up on, meaning potential sexual battery that the child had endured in this case?

A: Was for sexual abuse.

Q: Okay. Let's go through those one by one. Did, was there any allegation, **did the child disclose oral sex in this case**?

A: **Yes, she did.**

Q: And **was that oral sex performed on her or did she have to perform it on somebody**?

A: **It performed on her.**

Q: **Did Minor disclose vaginal penal penetration or contact**?

A: **Yes, she did.**

Q: And did she disclose anything else related to her vagina in this case?

A: **She disclosed touching with a hand on her vagina.**

Q: Okay. I want to go one by one.

THE COURT: Hold on.

MR. YARBOROUGH: May we approach?

THE COURT: Yes.

(Off the record.)

Q: Ms. Clune, okay. So for the purpose of medical diagnosis and treatment, is it important for you to find out what the potential types of sexual batteries are?

A: Yes - - -

THE COURT: Hold on, I'm sorry. And this is subject to the objection of defense counsel.

MR. YARBOROUGH: Yes, sir. And I was renewing my objection.

THE COURT: Right. But it's ongoing, I'll let it be ongoing.

MR. YARBOROUGH: Thank you. And so all of this testimony would be protected.

Q: Okay.

A: Yes. In order for me to know the testing that we do for sexually transmitted diseases is different tests for different contacts. So it's important for me to know what part of the suspect's body touched what part of the victim's body so that I can do the correct testing.

R. 388, L. 15 – 390, l. 15 (emphasis added).

Clune further testified that Minor "had a normal pelvic exam," meaning "there were no signs of any trauma or injury." According to Clune, "a normal exam does not rule in or rule out sexual abuse." She claimed that out of one hundred children who are examined, only five will have physical signs of sexual abuse. R. 390, l. 20 – 393, l. 4.

After Clune was excused and the jury left the courtroom, defense counsel put his objection on the record. He stated that he assumed Clune was going to testify about the physical findings of her exam (that Minor had a "normal" exam). Instead, "she specifically went into the facts of this case and about the disclosures and what happened." Counsel argued, "And so what that does is that leaves the jury with the impression that this witness being an expert knows something about the facts of this case and that bolsters the testimony of . . . the child witness, of the mother, and law enforcement." R. 394, l. 1 – 395, l. 4.

In response to counsel's objection, the trial court asked, "[T]his is not your independent witness, this is a woman that actually examined this child, didn't she?" Defense counsel answered affirmatively and asserted, "That's the problem right there." The court then emphasized that the state "didn't ask her [Clune] did you believe her [Minor] or anything like that." R. 395, ll. 5-13. Defense counsel countered that the witness was qualified as an expert and was permitted to testify about "the specific facts of this case and in those circumstances that testimony is bolstering and it's not admissible." R. 395, ll. 14-21.

The assistant solicitor argued in response that Clune performed a chronic medical exam, was properly qualified as an expert, and for purposes of medical diagnosis and treatment, "the state elicited the different types of abuse, and that's all we did. We didn't ask for any kind of diagnosis, any kind of opinion at all." R. 395, l. 22 – 396, l. 20.

The trial court overruled the objection finding Clune's testimony was not bolstering. R. 396, l. 24 – 397, l. 4.

Discussion

The trial court abused its discretion by admitting testimony from Kelli Clune, who was qualified as an expert in pediatrics and child sexual abuse, concerning Minor's prior consistent statements that were beyond the time and place of the alleged sexual assault and were not made for the purpose of medical diagnosis or treatment. Appellant was prejudiced by the erroneous admission of this evidence since Clune's testimony improperly corroborated and bolstered Minor's testimony.

All criminal defendants are entitled to a fair trial. U.S. Const. Amend. VI; S.C. Const. Art. 1, § 14. The Rules of Evidence are designed to ensure a fair trial occurs. One of the most important Rules of Evidence concerns the rule against hearsay. "'Hearsay' is 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. Hearsay is not admissible except as provided by the South Carolina Rules of Evidence, by other rules prescribed by our Supreme Court, or by statute. Rule 802, SCRE.

Rule 801(d)(1)(D), SCRE, provides, "A statement is not hearsay if . . . [t]he declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is . . . consistent with the declarant's testimony in a criminal sexual conduct case ... where the declarant is the alleged victim and the statement is *limited to the time and place of the incident.*" Rule 801(d)(1)(D), SCRE (emphasis added). This rule limits corroborating testimony to the time and place of the alleged assault. Any other details or particulars must be excluded. See Thompson v. State, 423 S.C. 235, 241, 814 S.E.2d 487, 490 (2018). If the statement goes beyond time and place, then it is hearsay, and in order to be admissible, it must fall within one of the exceptions to the general rule against hearsay. State v. Burroughs, 328 S.C. 489, 497, 492 S.E.2d 408, 412 (Ct. App. 1997) (citing Rule 802, SCRE).

One of the exceptions to the general rule against hearsay is when a statement is "'made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.'" Burroughs, 328 S.C. at 501, 492 S.E.2d at 414 (quoting Rule 803(4), SCRE). "The rationale for the exception is that a patient has a strong motivation to be truthful about information that will form the basis of his diagnosis and treatment, making statements in this regard inherently trustworthy." Tracy A. Bateman, Admissibility of Statements Made for Purposes of Medical Diagnosis or Treatment as Hearsay Exception under Rule 803(4) of the Uniform Rules of Evidence, 38 A.L.R.5th 433.

In Burroughs, this Court held that "a statement that the victim had been raped or that the assailant had hurt the victim in a particular area would be pertinent to the diagnosis and treatment of the victim." 328 S.C. at 501, 492 S.E.2d at 414. However, the testimony of a nurse that the alleged victim of a sexual assault told the nurse that her assailant asked for a hug before the assault "in no way can be viewed as 'reasonably pertinent' to the victim's diagnosis or treatment." Id. The Court found the testimony of the nurse prejudicial to the defendant because it corroborated the victim's testimony in an extremely important way – the prosecution had presented two witnesses to testify the defendant had assaulted them after asking for a hug. Id. at 414-415, 328 S.C. at 502-503. The Court recognized that "while the victim's statement that Burroughs asked her for a hug might be an insignificant detail when considering her story alone, it becomes a very important detail after considering the stories of the other victims." Therefore, the improper corroboration of the alleged victim's testimony resulting from the erroneous admission of the testimony of the nurse was not harmless. Id. at 415, 328 S.C. at 503.

Our Supreme Court explained that a patient's history as told to the doctor is admissible only as to the information upon which the doctor relied in reaching his professional opinion. State v. Brown, 286 S.C. 445, 446, 334 S.E.2d 816, 816-817 (1985) (citing Gentry v. Watkins-Carolina Trucking Co., 249 S.C. 316, 154 S.E.2d 112 (1967)). In Brown, the doctor told the jury that the minor patient stated "Mr. Carl" performed certain sex acts on her. The Supreme Court held defense counsel's objection to the perpetrator's identity as not necessary for diagnosis or treatment should have been sustained. Id. at 446, 334 S.E.2d at 817. Further, the Court stated, "The perpetrator's identity would rarely, if ever, be a factor upon which the doctor relied in diagnosing or treating the victim." Id. at 447, 334 S.E.2d at 817. Therefore, "a doctor's testimony as to history should include only those facts related to him by the victim upon which he relied in reaching his medical

conclusions. *The doctor's testimony should never be used as a tool to prove facts properly proved by other witnesses.*" Id. (emphasis added).

In State v. Simmons, 423 S.C. 552, 816 S.E.2d 566 (2018), our Supreme Court held the trial court abused its discretion by admitting testimony from a pediatrician that the child patient said his father made him and his twin brother suck his penis, showed them pornography, and told them not to tell anyone because of their secret pact. Id. at 559, 816 S.E.2d at 570. The Court concluded the child's statements were hearsay, were not limited to the time and place of the alleged assault, and were not made for the purpose of medical diagnosis and treatment. Id. at 564-65, 816 S.E.2d at 572-73. The Court again emphasized that "a doctor's testimony as to history should include only those facts related to him by the victim upon which he relied in reaching his medical conclusions" and a "doctor's testimony should never be used as tool to prove facts properly proved by other witnesses." Id. at 564, 816 S.E.2d at 572-73 (quoting Brown, 286 S.C. at 447, 334 S.E.2d at 817).

In this case, Clune's testimony concerning Minor's prior consistent statements was hearsay as the statements were not limited to the time and place of the alleged assault and were not made for the purpose of medical diagnosis and treatment. While the state argued the statements were made for the purpose of medical diagnosis and treatment, there was an insufficient nexus between the information provided and the diagnosis or treatment of Minor. Clune testified that during a chronic medical exam, such as the one she performed on Minor, she examines the patient externally from "head to toe." Consequently, Minor's statements were not necessary for medical diagnosis or treatment as Clune would have performed the same examination regardless of Minor's allegations. As defense counsel argued below, Clune's testimony should have been limited to the fact that she medically examined Minor on March 5, 2020 and that Minor had a "normal pelvic exam." See R.

390, ll. 23-25. The state merely used the medical diagnosis or treatment exception as a backdoor way to improperly corroborate Minor's testimony through an expert witness.

Appellant was prejudiced by the erroneous admission of this evidence because it improperly corroborated and bolstered Minor's testimony and therefore her credibility. Because there was no physical evidence that Minor had been sexually assaulted and no eyewitness, her credibility was crucial. See State v. Chavis, 412 S.C. 101, 110, 771 S.E.2d 336, 341 (2015) ("The determination whether a bolstering error is harmless depends on whether the case turns on the credibility of the victim."). While there was evidence that the profile developed during Y-STR testing on the vaginal swabs collected from Minor and the cutting from her feminine hygiene pad "matched the profile of Marvic Smith [Appellant] and any of his paternal male relatives," this included Minor's one year one brother, M.S., who is Appellant's son. M.S. lived in the family home with Minor and Minor often cared for the child meaning the DNA could have easily belonged to M.S.

In State v. Barrett, 299 S.C. 485, 486, 386 S.E.2d 242, 243 (1989), a DSS social worker was improperly allowed to testify to the details of the sexual abuse reported to her by the alleged victim. The state relied solely upon the alleged victim's testimony to establish the details of the crime and the identity of the perpetrator. Id. at 487, 386 S.E.2d at 243. The state asserted that any error was harmless because the inadmissible testimony was "merely cumulative" to the alleged victim's testimony. Id. Our Supreme Court held, "It is precisely this cumulative effect which enhances the devastating impact of improper corroboration. Accordingly, admission of the evidence mandates reversal of the conviction." Id.

The Supreme Court's holding in Barrett was recently reaffirmed in Thompson v. State, 423 S.C. 235, 814 S.E.2d 487 (2018). In Thompson, the Court held trial counsel was ineffective for failing to object to inadmissible hearsay testimony given by a DSS caseworker and a clinical

psychologist who conducted a forensic interview of the minor child. The DSS caseworker testified without objection that she spoke with the alleged victim about each allegation against Thompson and that the victim "revealed to me that she was being sexually abused by [Thompson]." Id. at 240, 814 S.E.2d at 489. The clinical psychologist, who was qualified as an expert, testified the alleged victim disclosed chronic sexual abuse by Thompson in the form of vaginal penetration, anal penetration, and oral sex. Id. Thompson's counsel did not object to any of this inadmissible hearsay. Id. Our Supreme Court held counsel was deficient because the witnesses' accounts of their conversations with the alleged victim met the definition of hearsay under Rule 801(c), and the accounts provided information outside the time and place restrictions set forth in Rule 801(d)(1)(D). Id. at 241, 814 S.E.2d at 490. Citing to Barrett, discussed above, the Court held there was no evidence to support the PCR court's conclusion that Thompson was not prejudiced by trial counsel's errors because there was not overwhelming evidence of guilt and "the cumulative effect of the hearsay testimony undeniably enhanced its devasting impact." Id. at 248-249, 814 S.E.2d at 494.

Not only did Clune's testimony bolster Minor's credibility, it was also damaging because it was cumulative to Minor's testimony and put Minor's statements and specific allegations before the jury again, this time through an expert witness. The cumulative effect of Clune's testimony mandates reversal of Appellant's convictions.

CONCLUSION

Based on the foregoing argument, this Court should reverse Appellant's convictions and sentence and remand for a new trial.

Respectfully submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of August, 2024.

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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."

August 21, 2024.

Lara M. Caudy
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STATE OF SOUTH CAROLINA

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Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

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V.

MAVRIC JORDAN SMITH,

APPELLANT

APPELLATE CASE NO. 2023-000832

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above referenced case has been served upon Andrew D. Powell, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 21st day of August, 2024.

Lara M. Caudy

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

From: Mcinnis, Sara
To: Andrew Powell
Cc: Grace Sommer; Caudy, Lara
Subject: 2023-000832 The State v. Mavric J. Smith Final Brief of Appellant
Date: Wednesday, August 21, 2024 4:04:00 PM
Attachments: 2023-000832 - State v. Mavric Smith - Final Brief of Appellant.pdf

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Good Afternoon Mr. Powell,

Please find attached for service in the above-referenced case the final brief of appellant, which will be filed with the Court of Appeals today, August 21, 2024, via email filing.

Thank you!

Sara McInnis
Administrative Assistant
South Carolina Commission on Indigent Defense
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