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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM RIVERS,

APPELLANT

APPELLATE CASE NO. 2023-001349

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying appellant's motion for a mistrial after the complainant violated the trial court's order keeping out a prior altercation?

STATEMENT OF THE CASE

A Richland County grand jury indicted appellant William Rivers, Jr. for first-degree burglary and two counts of first-degree assault and battery and on August 14, 2023, appellant was tried before the Honorable Robert E. Hood and a jury. R. 1. Christopher Dale Scott and Michael T. Bradbury represented the State. R. 1. Jack B. Swerling and Alissa L. Wilson represented appellant. R. 1. The jury convicted appellant of first-degree burglary. The jury convicted appellant of first-degree assault and battery for the count related to complainant Erica Raine, but acquitted appellant of all counts related to complainant Maynard Bartlett. R. 426. Judge Hood sentenced appellant to concurrent terms of ten years' imprisonment for assault and battery and twenty-five years' imprisonment for burglary. R. 444. This appeal follows.

STANDARD OF REVIEW

A trial judge's decision denying a mistrial will be reversed on appeal if the denial amounts to an abuse of discretion. State v. Rowlands, 343 S.C. 454, 458, 539 S.E.2d 717, 719 (Ct. App. 2000). “Whether a mistrial is manifestly necessary is a fact specific inquiry. It is not a mechanically applied standard, but rather is a determination that must be made in the context of the specific difficulty facing the trial judge.” Id. at 457–58, 539 S.E.2d at 719 (internal quotations and citations omitted).

ARGUMENT

The trial court erred in denying appellant's motion for a mistrial after the complainant violated the trial court's order keeping out a prior altercation.

During pre-trial motions, the parties agreed that Rule 404(b) barred any testimony about a prior altercation between appellant and complainant Erica Raine ("Raine"). R. 81-82. The solicitor addressed the matter with Judge Hood. R. 81-82. He told the court that Raine and appellant had a two-year relationship that Raine broke off shortly before the incident from which appellant's charges stemmed. R. 81-82. The solicitor mentioned a "June incident" that he did not plan to discuss after conferring with defense counsel. R. 81-82. Judge Hood presciently warned the solicitor to make sure Raine "knows not to go into that" because some "people get on the witness stand and never stop talking." R. 81-82. Judge Hood directed the solicitor to "lead her around that stuff just a little bit to avoid her saying something that isn't directly related to what he's asking to keep from coming in." R. 81-82.

Raine was the State's first witness. During the solicitor's questioning about Raine and appellant's relationship, he asked when the relationship ended. R. 113. Raine, non-responsively, answered, "So, we'd had an incident that took place back in June." R. 113. The solicitor tried to move Raine past discussing the June incident, but Raine kept trying to talk about it and appellant eventually objected. R. 113-15. Judge Hood told the solicitor, "Lead her around it," and then told Raine, "You need to answer the question asked, ma'am." R. 115. When Raine began describing the charged conduct, she said, "Because of what happened previously, I—" and defense counsel's objection was sustained. R. 125.

During cross-examination, Raine was evasive on when the relationship actually ended. R. 160-63. The charged conduct happened on November 7, but defense counsel questioned

Raine about looking for engagement rings in October. R. 163. Raine would not answer defense counsel's question about whether they planned to get married. R. 163-64. Defense counsel asked, "Right. You'll argue with me about the words?" R. 164. Raine responded, "No, but, I mean there are cycles of abuse and when somebody says you—" and defense counsel's objection and motion to strike were granted. R. 164.

Defense counsel continued to ask about looking for engagement rings and Raine again responded, "It was a cycle of abuse." R. 165. Defense counsel again objected and moved to strike. R. 165. Once the jury was out of the courtroom, Judge Hood said to Raine, "Okay say what it is you've been trying to say all yesterday afternoon and now this morning." R. 165. Raine began describing an incident in June when she claimed appellant rammed her car twice in a parking lot. R. 165-66. Judge Hood had to tell Raine to calm down and to tell him "in a calm manner what it is you want to say." R. 166. Raine continued to talk about the altercation in June and again asserted it was "a cycle of abuse." R. 166-67.

The solicitor argued defense counsel opened the door to the prior incident with his "plowing the same ground about the ring and why would you continue to communicate." R. 167-68. Citing Rules 404 and 403, defense counsel moved for a mistrial. R. 169. Defense counsel argued that Raine had been instructed not to get into these matters but persisted in doing so. R. 169. The trial judge agreed that "multiple times" Raine "went off on her own rabbit trails." R. 169. The court ultimately denied the motion for a mistrial, ruling it did not rise "to the level of manifest necessity" and cautioned defense counsel about opening the door. R. 171-72.

The trial judge erred in refusing to grant a mistrial because the "cycle of abuse" comment went directly to the heart of appellant's defense to this burglary—that he had no intention of

committing a crime when he broke into Raine's home. R. 384. Raine lived in a gated community. R. 112. She and appellant dated for approximately two years. R. 112. On direct-examination, Raine said the relationship ended in October 2019 and she clearly communicated the termination to appellant. R. 113-14.

On November 7, 2019, Raine was on a date with another man she met at the gym, Phil Bartlett ("Bartlett"). R. 115-16. Bartlett's background included experience in law enforcement. R. 220. When they returned to Raine's neighborhood after the date, they saw an elderly gentleman in a pickup truck trying unsuccessfully to enter a code into the automated gate. R. 120. Bartlett got out to help the man. R. 224. When he looked into the truck, he saw appellant. R. 224. Bartlett went back to the car, told Raine he had seen appellant, and they left the neighborhood. R. 228.

After ten minutes of waiting a mile away, Raine and Bartlett returned to the neighborhood. R. 228. They went through the gate and to Raine's house with no trouble. R. 228-29. It was approximately 11:00 PM and Raine logged into her remote job and began making coffee. R. 123. Bartlett was at her kitchen table. R. 123.

They heard "a really loud crash" coming from Raine's garage. R. 124. They both called 911. R. 124-25. Loud banging started on the metal door from Raine's house to the garage, then suddenly ceased. R. 125. Then Raine and Bartlett saw appellant crash through a glass door at the back of the house holding two hammers. R. 126. R. 232.

Appellant ran toward them with the hammers and Bartlett told Raine to "go." R. 232. Raine ran up the stairs and appellant followed. R. 233. Bartlett "engaged" appellant on the second-floor balcony and wrestled one of the hammers from him. R. 233-34.

Raine went into her bedroom and locked the door. R. 129. She said appellant broke through the door with the hammer. R. 131. She continued retreating through a bathroom and closet, locking and closing doors behind her. R. 129-132. Raine claimed appellant eventually cornered her in a closet, holding a hammer over her and screaming. R. 132-34.

Bartlett grabbed appellant around the neck and struggled with him over the hammer. R. 236. Raine also grabbed the hammer. R. 237. Bartlett continued to choke appellant until he passed out for a few seconds and Bartlett got control of the hammer. R. 237. When appellant came to, Bartlett claimed appellant threatened to kill him and Raine when he got out of jail. R. 237. The jury acquitted appellant of all charges related to Bartlett. R. 426.

State's Exhibit 30, a bodycam, shows appellant calmly walking down the stairs with his hands up. (State's Ex. 30). He calmly surrenders to the police. They take appellant into custody with no trouble or resistance. (State's Ex. 30).

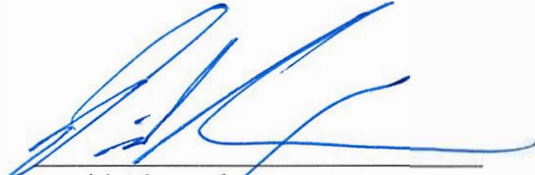
Cross-examination of Raine exposed that she had not been clear about the ending of the relationship. Defense counsel argued to the jury that while appellant had gone about things the wrong way, he just wanted to know the status of the relationship and had no intent to commit a crime when he entered Raine's house. R. 384. First-degree burglary requires a nonconsensual entry into a dwelling "with intent to commit a crime in the dwelling." S.C. Code Ann. § 16-11-311(A).

Raine's repeated comments to the jury in violation of the judge's ruling about the "cycle of abuse" bore directly on whether appellant had the requisite intent for first-degree burglary. The intent must exist at the time the offender enters the dwelling. State v. Gilliland, 402 S.C. 389, 741 S.E.2d 521 (Ct. App. 2012). But for hearing about the supposed "cycle of abuse," the jury could have concluded that appellant lacked any intent to commit a crime and acquitted him

of burglary. Appellant never hit Raine with the hammers and she suffered no injuries. Appellant was acquitted of assaulting Bartlett. The trial judge erred in not granting a mistrial and appellant's convictions should be reversed.

CONCLUSION

For the foregoing reasons, appellant's convictions should be reversed and this case remanded for a new trial.



David Alexander
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR APPELLANT

This 11th day of September, 2024.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for William Rivers states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Robert E. Hood, which was held on August 14-15, 2023, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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, he asks the Court to relieve him as counsel for William Rivers.

Respectfully Submitted,

David Alexander
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR APPELLANT

This 11th day of September, 2024.

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

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

- (1) Trial transcript dated August 14-15, 2023
- (2) Trial transcript dated August 16, 2023
- (3) True-billed indictments
- (4) Sentencing Sheets
- (5) State's Exhibit #30 (Body Camera Video)

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


David Alexander
Deputy Chief Attorney for Capital Appeals

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ATTORNEY FOR APPELLANT

This 11th day of September, 2024.

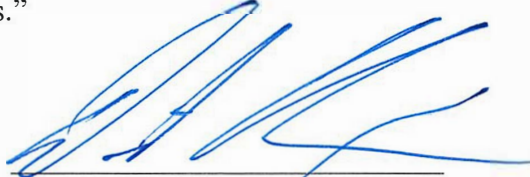
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CERTIFICATE OF COUNSEL

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."



David Alexander
Appellate Defender

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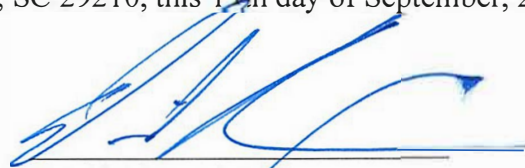
WILLIAM RIVERS,

APPELLANT

APPELLATE CASE NO. 2023-001349

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 Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on William Rivers, #391782, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 11th day of September, 2024.



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