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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of General Sessions
The Honorable R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2023-000743

THE STATE,

Respondent,

v.

SAMUEL TERRELL RISER,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF THE ISSUE ON APPEAL

Whether the trial court abused its discretion by admitting crime scene photographs showing trajectory rods inserted into bullet impressions and corresponding testimony explaining what trajectory rods are without first qualifying the crime scene investigator as an expert witness.

STATEMENT OF THE CASE

A Spartanburg County grand jury indicted Appellant Samuel Riser for attempted murder. Riser proceeded to jury trial before the Honorable R. Scott Sprouse, Circuit Court Judge, on April 24–27, 2023. Riser was convicted and sentenced to imprisonment for life without parole. This direct appeal follows.

STATEMENT OF FACTS

Appellant and Shae Wilson were in a relationship between August and December 2021. R. 170, ln. 18–25. On December 21, 2021, a couple of weeks after they broke up, Appellant went over to Shae’s apartment to talk. R.172, ln. 6–21. While there, Appellant and Shae got into an argument, which caused Keanna Marks and Heaven Marks, Shae’s neighbors, to come over and check on her. R. 173, ln. 9–17. Keanna and Heaven saw Appellant break the TV in Shae’s living room. R. 115; 138–139. Appellant then left Shae’s apartment. R. 176, ln. 14.

Appellant returned about five minutes later with a gun, called Shae a “bitch,” and began shooting her. R. 177 ln. 19; 179, ln. 1–6. Shae had been standing by the laundry room packing a bag when she was shot the first couple of times, which caused her to fall to the ground. R. 180, ln. 15–22. Shae’s two kids ran out from the back bedroom and all three of them fled out the front door. R. 181 ln. 16–24. Shae and her daughters ran to Keanna’s apartment and Heaven called 911. R. 118, ln. 1–3. While waiting for the ambulance, Shae and her daughters told Heaven that Appellant shot her. R. 119, ln. 5–8; 122, ln. 6–10. Shae arrived at the hospital with life-threatening injuries. R. 285, ln. 3–10. She had been shot nine times, “two wounds to the right arm, two wounds to the right thigh, two wounds to the right breast, two wounds to the right hand, and then a graze wound to the right shoulder.” R. 283.

Appellant’s own cousin, Dorian Riser, testified that on the night of the shooting Appellant showed up at his grandmother’s apartment, said nothing to his cousin, and then left after only a minute. R. 272, ln. 8–23. His grandmother’s apartment was in the same complex as Shae’s. R. 270. Later that evening, Appellant called Dorian and said “Cuz, I fucked up and I’ll call you back.” Dorian did not hear from Appellant again. R. 275, ln. 25–276, ln. 1–7.

The altercation was first reported to 911 as a disturbance at 9:23 p.m. R. 46, ln. 2–5. By 9:28 p.m., another 911 call came in which upgraded the initial report to a shooting. R. 46, ln. 14–17. Deputy Kevin Bowen had already responded to the initial disturbance call and was pulling into the apartment complex when the call was upgraded to a shooting. R. 48, ln. 24–25. After clearing the scene with another deputy, Bowen secured the crime scene until investigators arrived to begin collecting evidence. R. 52, ln. 11–12; 54, ln. 14–22.

Crime scene testimony.

Officer Jeffrey Dail arrived on scene and began his investigation by taking photographs and marking and collecting evidence. His direct supervisor Sergeant Nix trained him on how to process crime scenes, and he took a seven-day course on crime scenes, photographing, and collecting evidence. R. 62, ln. 16–19. When asked about the crime scene, he testified his initial observation was that it was extremely bloody, noting projectile holes in the door. Dail took numerous photos of the scene and the State introduced exhibits 18-57 as photographs taken by Dail. R. 65, ln. 12–15. The State had Dail identify the pictures in groups then admitted them to evidence starting with exhibits 18-28, which depict the apartment as soon as he got there. R. 65, ln. 22–24. Next the State asked Dail to identify exhibits 29-57 which depict the apartment with evidence placards and projectile trajectory rods. R. 70, ln. 21–23. The State asked Dail to explain what a trajectory rod is. Dail responded by saying “I’ve got 2-, 3-, and 5-foot fiberglass rods. We place them in areas that we believe are projectile holes. We – if it is a – a single hole, we do not put it in because the rod will not sit and show a true trajectory because it only has one balance point.” R. 70, ln. 25–71, ln. 1–4. At this point defense counsel objected stating that the State had not laid foundation for the witness to provide expert testimony. The court told the State that foundation needed to be laid if it plans to get into technical issues. R. 71, ln. 6–17. The State then

asked Dail if he had received training on trajectory rods to which he answered yes, through the Sheriff's office. R. 71, ln. 19–21. However, Dail agreed with the assistant solicitor that he is not an expert, he was just explaining what the rod is itself. R. 71, ln. 22–24.

Defense counsel objected again and argued Dail could testify to taking the pictures but not more. The Court overruled the objection and stated the witness could testify based on his training of what he used the rods for without getting into expertise areas. R. 72, ln. 1–12. Dail explained that the rods are used to show them the belief path of the projectile when it hits something. Dail stated the rods gave them an idea of the projection and even called it an estimation. R. 72, ln. 16–25. The State then moved to enter exhibits 29-57 into evidence, but the defense objected to the photos depicting the trajectory rods.

At this point, the court heard both sides' arguments outside the presence of the jury. R. 73, ln. 11–16. The court ruled that the State needed to lay more foundation and have the witness explain his training in placing the rods. R. 78. Thereafter, the jury was brought back into the courtroom and examination of Dail continued. R. 78.

Dail testified more about his training and experience with trajectory rod placement and stated that when he first began in the forensics unit, he observed Sergeant Nix for a couple of weeks and learned firsthand how to place the rods. He also testified that he has placed trajectory rods in numerous other cases, but he does not conduct an analysis and make conclusions on the trajectory after placement. R. 79. The purpose of the rods is to show the investigators a believed path for the projectile. R. 80. Dail continued explaining the types of surfaces that trajectory rods are used on and as he explained that the bullet hole sizes are usually true to size, defense counsel objected again on the grounds that Dail was moving beyond his experience. R. 81. The court overruled the objection allowing the witness to continue. R. 81. The State then moved to have

exhibits 29-57 entered into evidence, which defense objected to but was ultimately overruled again. R. 82. From there the State walked Dail through each exhibit and had him describe what was depicted in the photos.

When shown exhibit 41, Dail testified that there were multiple projectile holes in the front door, and the holes were confusing to him at first until he placed the trajectory rods. R. 86. When the State asked Deputy Dail to explain what was important about the rods placed in the door, defense counsel objected again arguing that the witness was asked to give opinions and conclusions. The court sustained the objection. R. 87. Defense objected yet again when Dail testified that he believed the door might have been open during the shooting. The State conceded that the testimony was not important and would move on. R. 87. From there, Deputy Dail only testified to the placement and presence of the trajectory rods in the rest of the exhibits.

STANDARD OF REVIEW

The appellate court reviews the trial court's rulings on admissibility of evidence pursuant to an abuse of discretion standard. State v. Herrera, 425 S.C. 558, 562, 823 S.E.2d 923, 924 (2019). 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.

ARGUMENT

The police crime scene investigator was not required to be qualified as an expert in order to explain his use of trajectory rods to mark the location of bullet impacts because his testimony did not require scientific or technical knowledge, he did not offer an opinion, and his testimony was comprehensible to the average juror.

The trial court correctly admitted testimony and photographs regarding trajectory rods placed into bullet impressions at the scene of a shooting. The subject of the testimony was comprehensible to the average juror and did not require expertise. The crime scene investigator did not offer an opinion about how the shooting occurred; he only explained that he used to rods to mark the bullet impressions. In any case, Riser was not prejudiced because the investigator was in fact qualified, and the testimony did not affect the outcome of the case. This Court should affirm.

Rule 702, SCRE provides: “If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.” Thus the rule is applicable only when a witness offers “scientific, technical, or other specialized knowledge.”

As discussed above, the crime scene investigator used trajectory rods to mark bullet impressions at the scene of this shooting. Riser objected, arguing the officer must first be qualified as an expert. Officer Dail candidly agreed he was not claiming to be an expert. R. 71. But the investigative technique he performed did

not require expertise. The jury did not need an expert to explain that a straight rod inserted into a wall with entry and exit bullet holes will show the trajectory of a projectile. Qualifying Dail as an expert would have lent his testimony the unwarranted “imprimatur of an expert,” and would not have benefitted Riser. See State v. Chavis, 412 S.C. 101, 109, 771 S.E.2d 336, 340 (2015).

Officer Dail did not offer an opinion about the significance of the trajectory of the bullets. The State made clear Dail was not offering any opinion about where Riser was standing when he fired the shots or the position of the gun. R. 72, 75. He again clarified that he was not making any “conclusions about the height of the shooter or where they were or anything like that[.]” R. 79–80.

Even if the testimony regarding the trajectory rods showed “specialized knowledge,” it was still very basic knowledge, and the officer was qualified to share it. He explained the procedure thus:

[I]n a wall or in an area you try to put the trajectory rod into the hole easy and smooth . . . and softly so you don't puncture a new hole through and then turn around and be able to find the hole on the opposite, if there is a hole on the opposite side. And at that time, you secure the rod in there by having it in two areas, so that it's not dangling and loose. And from there, just be able to photograph at different angles, so that way you can get [an] overall idea of the projectile trajectory that may or may not have hit that area.

R. 79.

When expert testimony is based on less complex knowledge, the trial court may find that the degree of qualification to satisfy Rule 702 is not as high. State v. Wallace, 440 S.C. 537, 545, 892 S.E.2d 310, 314 (2023). Placing rods in bullet holes

to gain an estimated projectile path does not require complex knowledge and understanding. Officer Dail testified that he received training on the use of trajectory rods through the sheriff's office and that he had performed the procedure multiple times. R. 71, 79. Thus even if he should have been qualified as an expert, Riser was not prejudiced because Dail was in fact qualified.

Riser cites Hamrick v. State, 426 S.C. 647, 828 S.E.2d 601 (2019), to support his argument that the trial court erred by allowing the testimony. However, this case is nothing like Hamrick, which concerned testimony about automobile accident reconstruction. The Wallace court cited Hamrick as an example of “more complex technical or specialized knowledge,” noting the accident reconstruction at issue in Hamrick was “a highly technical and specialized field in which experts employ principles of engineering, physics, and other knowledge” Wallace, 440 S.C. at 544, 892 S.E.2d at 314. Riser also cites Smith v. Phillips, 430 S.C. 319, 844 S.E.2d 651 (2020), which concerned the admission of DNA evidence. Needless to say, DNA analysis is based on scientific principles exponentially more complex than the simple testimony in this case about trajectory rods.

Riser further argues the evidence should have been excluded under Rule 403, SCRE, and that the trial court failed to conduct an on-the-record balancing test. Contrary to Riser's argument, the photographs of the crime scene were highly probative because they corroborated the victim's story that Riser shot her in the laundry room and continued shooting at her as she fled the apartment. See State v. Collins, 409 S.C. 524, 534, 763 S.E.2d 22, 27 (2014) (explaining if a photograph

corroborates other testimony, it is not an abuse of discretion to admit it). There was nothing confusing or misleading about the pictures or Dail's testimony.

The trial court was not required to make specific findings on the record regarding his balancing of prejudice and probative value. All that is required is that "the trial court—when ruling on the admission or exclusion of evidence—must think through the objection that has been made, the arguments of the attorneys, and the law—particularly the applicable evidentiary rules—and must thoughtfully apply the correct law to the information and evidence before it." Wallace, 440 S.C. at 543, 892 S.E.2d at 313. If "the record reflects the trial court 'exercis[ed] its discretion according to law,' [the appellate court] will almost always affirm the ruling." Id. (quoting Morris v. BB&T Corp., 438 S.C. 582, 587, 885 S.E.2d 394, 397 (2023)).

Finally, any error was harmless. The testimony was not prejudicial when viewed in the context of the record as a whole. See State v. Byers, 392 S.C. 438, 448, 710 S.E.2d 55, 60 (2011) ("No definite rule of law governs [a finding of harmless error]; rather the materiality and prejudicial character of the error must be determined from its relationship to the entire case. Error is harmless when it could not reasonably have affected the result of the trial."). The trajectory rods proved very little in terms of contested facts. After Dail testified about his placement of the projectile rods, it was never mentioned again by other witnesses or in the closing arguments. While the photographs of the rods were helpful for the jury to understand the crime scene, they did not go to the ultimate question: the identity of

the person who fired the bullets. As defense counsel conceded, somebody shot the victim. R. 356. Riser's defense was essentially a general denial and an argument that the State had not met its burden of proof. Riser argued in closing that the victim was "an admitted liar," and disputed her testimony. R. 354. But he did not claim self-defense or offer any alternate version of events. The case still came down to whether the jury believed Shae's testimony and the other substantial evidence conclusively showing Riser was the shooter. See State v. Phillips, 430 S.C. 319, 341, 844 S.E.2d 651, 662-663 (2020) ("An insubstantial error not affecting the result of a trial is harmless when guilt has been conclusively proven by evidence that no other rational conclusion can be made."). The exact trajectory of the bullets was not important to the case and could not reasonably have affected the result of trial. This Court should affirm.

CONCLUSION

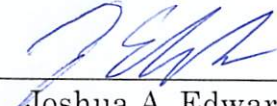
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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THE STATE,

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PROOF OF SERVICE

I, Susan Spencer, certify that I have served the within Final Brief of Respondent on Sarah Elizabeth Shipe, Esquire, counsel of record for the Appellant, by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.

This 19th day of September, 2024.



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From: Susan Spencer
Sent: Thursday, September 19, 2024 11:22 AM
To: sshipe@sccid.sc.gov
Cc: Josh Edwards; Mcinnis, Sara
Subject: The State v. Samuel Terrell Riser (2023-000743)
Attachments: RISER Samuel - Final Brief of Respondent.pdf

Good Morning Ms. Shipe,

Attached please find the Final Brief of Respondent in The State v. Samuel Terrell Riser (2023-000743). This document will be filed today to the Court of Appeals via the AIS OneDrive system. If you will, please confirm receipt.

Thank you.

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