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Dec 12 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Fairfield County

Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYSHAWN CORNELIUS ROBINSON,

APPELLANT

APPELLATE CASE NO. 2023-001894

ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Senior Appellate Defender

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in limiting the cross-examination of an officer about another officer's interaction with Appellant's brother when that interaction led to the arrest of Appellant?

STATEMENT OF THE CASE

In November of 2021, the Fairfield County Grand Jury indicted Appellant, Tyshawn Cornelius Robinson, for threatening the life of a public official and assault on a law enforcement officer, indictments #2021-GS-20-518, 529. (R. p. 219). In November of 2023, the Fairfield County Grand Jury indicted Appellant for hindering an officer, indictment #2023-GS-2679. On December 4, 2023, Appellant proceeded to jury trial before the Honorable Brian M. Gibbons. Kay Boulware represented Appellant at trial. Julie Hall prosecuted the case. At the close of the State's case Judge Gibbons granted the motion for a directed verdict of acquittal for the hindering charge. (R. pp. 136-142, lines 1-19). The jury found Appellant not guilty of threatening the life of a public official but guilty of assault on a law enforcement officer. Judge Gibbons sentenced Appellant to seven (7) years. A timely notice of intent to appeal was served on December 7, 2023. This appeal follows.

STANDARD OF REVIEW

“As a general rule, a trial court's ruling on the proper scope of cross-examination will not be disturbed absent a manifest abuse of discretion.” State v. Quattlebaum, 338 S.C. 441, 450, 527 S.E.2d 105, 109 (2000). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” State v. Douglas, 369 S.C. 424, 429–30, 632 S.E.2d 845, 848 (2006).

ARGUMENT

The trial judge erred in limiting the cross-examination of an officer about another officer's interaction with Appellant's brother when that interaction led to the arrest of Appellant.

On September 26, 2021, Deputy Bryant Goodwin with the Fairfield County Sheriff's Office responded to a domestic disturbance between Tykavis Sampson, Appellant's brother, and the mother of Sampson's children, Ms. Mobley. (R. p. 62, line 22 – p. 63, lines 1-15). Deputy Christopher Mills responded as the backup officer. (R. p. 63, lines 18-22; p. 101, line 21 – p. 102, lines 1-16). Mobley reported that Sampson refused to return her child and took her cell phone. (R. p. 64, lines 8-13). Sampson eventually gave the child, a baby in her carrier, to the deputy but denied having the phone. (R. p. 64, line 24 – p. 65, lines 1-8). The deputies were told by another child that Sampson had the cell phone in his pocket. (R. p. 66, lines 13-17; p. 71, lines 12-14). At that point the deputies approached Sampson to detain him. (R. p. 71, lines 15-18). Defense counsel described the actions by the deputies as rushing in to detain him. (R. p. 82, lines 16-21; p. 83, lines 3-5).

The events were captured on the body cameras of all three deputies involved and the videos were introduced in evidence without objection as State's exhibit #1. (R. p. 67, line 16 – p. 68, lines 1-16). Deputy Goodwin admitted that he can be heard on the video saying something that was not very nice before putting on gloves and detaining Sampson. (R. p. 70, lines 8 – p. 71, lines 1-16). The comment can be heard on the video and in closing argument counsel told the jury Deputy Goodwin said, "I got to get nasty with these folks." (R. p. 188, lines 24-25). Deputy Goodwin admitted that he was frustrated. (R. p. 70, lines 11-15).

According to Deputy Goodwin, as they were handcuffing Sampson Appellant came from around the house and threatened to kill him. (R. p. 72, line 16 – p. 73, lines 1-24). Deputy

Goodwin testified that he and Appellant were involved in physical altercation and Appellant pushed him to the ground. (R. p. 74, line 13 – p. 75, lines 1-6). Deputy Goodwin admitted that he said, “You jump in this, I’m going to tase the fuck out of you.” (R. p. 83, lines 14-16).

Deputy Mills testified, “While we were detaining him [Sampson], the defendant came around the corner aggressively yelling. And about the time we real – about time I realized that he was right there, where he was, he lunged at Officer Goodwin and they both went to the ground.” (R. p. 103, lines 18-22). Deputy Mills testified that he did not remember what Appellant was saying when he came around the corner. (R. p. 104, lines 1-3).

Deputy James McLamore became involved when he received a call requesting assistance for an officer involved in a fight. (R. p. 114, lines 15-23). Deputy McLamore’s body camera video was also included in State’s exhibit #1 and published for the jury. (R. p. 115, line 20 – p. 116, lines 1-13). Deputy McLamore testified that when he arrived Deputy Goodwin and Deputy Mills were walking Appellant up toward the roadway and he assisted them in gaining control of the arrest. (R. p. 114, line 25 – p. 115, lines 1-19).

During the cross-examination Deputy McLamore was asked about the officers’ interaction and detention of Sampson. (R. p. 123, line 12 – p. 124, lines 1-6). Defense counsel asked, “Would you have done that, approached Tykavis [Sampson] like that?” (R. p. 124, lines 11-12). The State objected. (R. p. 124, line 14). The judge sustained the question as an improper question. (R. p. 124, lines 15-16). Counsel noted that Deputy McLamore mentioned that he watched the video of the interaction. (R. p. 124, lines 17-18). The judge ruled, “It’s irrelevant. Just move on to something else.” (R. p. 124, lines 19-20). The judge abused his discretion in limiting the cross-examination of Deputy McLamore.

In State v. Grace, 350 S.C. 19, 27, 564 S.E.2d 331, 335 (Ct. App. 2002), the South Carolina Court of Appeals wrote:

Both the United States and South Carolina Constitutions provide that every criminal defendant has the right to cross examine the witnesses testifying against him. U.S. Const. amend. VI; S.C. Const. art. I § 14. South Carolina courts have discretion to limit the scope of cross-examination. See State v. Saltz, 346 S.C. 114, 131, 551 S.E.2d 240, 249 (2001). However, before the court may limit a criminal defendant's cross-examination of a witness, the record must show that the cross-examination is somehow improper. See State v. Graham, 314 S.C. 383, 385–86, 444 S.E.2d 525, 527 (1994). If not, then the circuit court abuses its discretion by limiting the cross-examination. Id. at 386, 444 S.E.2d at 527.

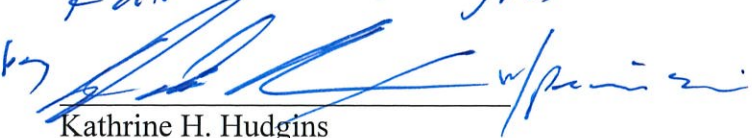
The record fails to show that the cross-examination was improper. Rule 611(b), SCRE, provides that, “A witness may be cross-examined on any matter relevant to any issue in the case, including credibility.” Deputy Goodwin’s interaction with Appellant’s brother was relevant to the case because that interaction led to the arrest of Appellant. Appellant should have been allowed to question Deputy McLamore about whether Deputy Goodwin’s interaction with Appellant’s brother followed standard procedure. The cross-examination was particularly important because the defense was based on Deputy Goodwin being the initial aggressor when Appellant approached as his brother was being handcuffed.

Additionally, it is important to note that the judge directed a verdict of acquittal for the hindering charge. (R. pp. 136-142). See State v. Kirven, 279 S.C. 541, 543, 309 S.E.2d 749, 750 (1983) (“A necessary element of the crime under the statute is that the arresting officer must be charged with the execution of a warrant or other process at the time of the interference. This requirement distinguishes the statutory crime from common law interference with a police officer in the performance of his duty, with which Appellant might have been charged. Here, the State concedes no warrant had been issued and there is no evidence that the officer was charged

with the execution of any other process.”). The trial judge abused his discretion in limiting the cross-examination of Deputy McLamore. The error was not harmless.

CONCLUSION

Based on the above argument this Court should reverse the conviction and remand for a new trial.

Kathrine H. Hudgins
by 
Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 12th day of December, 2024.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Tyshawn Cornelius Robinson states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Brian M. Gibbons, which was held on December 4-5, 2023, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She 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, she asks the Court to relieve her as counsel for Tyshawn Cornelius Robinson.

Respectfully Submitted,

Kathrine H. Hudgins
[Handwritten Signature]

Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 12th day of December, 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) True-billed indictment and sentencing sheet;
- (2) Entire trial transcript pp. 1-218;
- (3) State's Exhibit #1 - Videos from the body cameras - **TO BE TRANSPORTED.**

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


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ATTORNEY FOR APPELLANT

This 12th day of December, 2024.

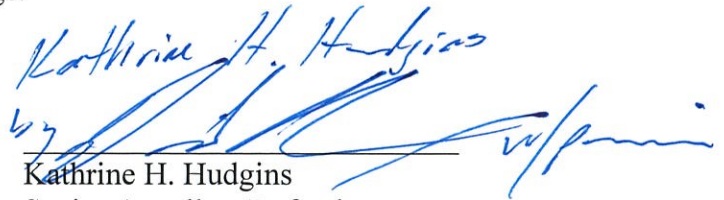
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CERTIFICATE OF COUNSEL

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."



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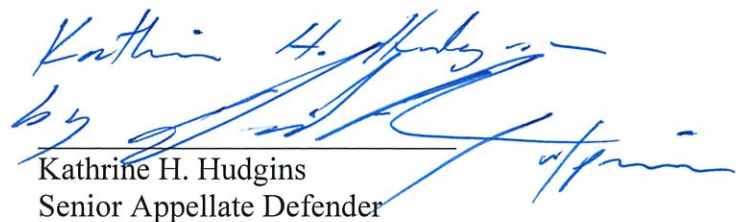
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CERTIFICATE OF SERVICE

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 Tyshawn Cornelius Robinson, #368616, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 12th day of December, 2024.


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