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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions

R. Ferrell Cothran, Circuit Court Judge

Appellate Case No. 2023-001595

THE STATE,

Respondent,

v.

TY LEIC DAE JHON CHANEYFIELD,

Appellant.

FINAL BRIEF OF RESPONDENT

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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?

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I. Whether the trial court abused its discretion by admitting into evidence exhibits depicting Appellant wearing a bandana and flipping off the camera, which the State used to corroborate testimony regarding Appellant's location and company prior to the incident, where the probative value of the exhibits was not substantially outweighed by the danger of unfair prejudice under Rule 403 of the South Carolina Rules of Evidence.

II. Whether the trial court abused its discretion by admitting into evidence exhibits depicting Appellant wearing a bandana and flipping off the camera where the exhibits were not admitted to show Appellant acted in conformity therewith when committing the violent crimes for which he was charged, and the exhibits were therefore not precluded from evidence under Rule 404(a) of the South Carolina Rules of Evidence.

III. Whether the trial court erred in imposing a sentence for Appellant's conviction of possession of a weapon during the commission of a violent crime when the trial court sentenced Appellant to life without parole for murder, given that section 16-23-490(A) of the South Carolina Code prohibits a court from imposing a sentence for possession of a weapon during the commission of a violent crime when the defendant also receives a life without parole sentence for the violent crime itself.

STATEMENT OF THE CASE

In August 2022, a Beaufort County grand jury indicted Appellant for murder, two counts of attempted murder, possession of a weapon during the commission of a violent crime, first-degree assault and battery by a mob, second-degree assault and battery by a mob, and third-degree assault and battery by a mob. (R. 984-97). On September 25-29, 2023, and October 2, 2023, Appellant proceeded to a jury trial before the Honorable R. Ferrell Cothran. (R. 1).

At trial, Allyson Moreira, a 911 audio clerk with the Beaufort County Sheriff's Office, testified that on March 5, 2021, a 911 call came in at 11:28 pm. (R. 153-55).

Jason Rodrigez, a sergeant with the Bluffton Police Department, testified that he responded to the 911 call after being dispatched for a traffic incident. (R. 156, 161). When he arrived on scene, he noticed bullet holes on the driver's side and back of a crashed vehicle. (R. 161). Sergeant Rodrigez testified that when he arrived, he observed Kylan Simmons talking to a first responder and EMS working on the two other occupants of the crashed vehicle. (R. 162).

Andrew de la Cruze, a firefighter and paramedic with the Bluffton Fire Department, testified that he responded to the incident and rendered care to the driver of the crashed vehicle, D.J. Fields. (R. 164-67). When he approached the crashed vehicle with another firefighter, he saw that Fields was slumped against the door. (R. 168-69). However, De la Cruze and the other firefighters were initially unable to gain access to the vehicle because of the positioning of the vehicle in a ditch. (R. 168-69). On first impression of Fields, De la Cruze thought that Fields was neither conscious nor breathing and noticed blood coming from Fields' nose and mouth. (R. 169). After getting Fields out of the vehicle, De la Cruze observed that Fields had gunshot wounds to his upper thorax and lower left abdomen. (R. 170). De la Cruze testified that after connecting Fields to an EKG machine, he observed that Fields did not have a heartbeat. (R. 170). He stated

that Fields was dead by the time he was able to get an EKG reading. (R. 170-71).

Jesse Clemens, a paramedic with Beaufort County EMS, testified that she responded to the incident and treated E.J. Graham, who was a passenger in the crashed vehicle, at the scene. (R. 171-72). She initially checked on Fields but found that he did not have a pulse and believed he was deceased. (R. 172). Upon moving from Fields to Graham, she noticed that Graham's wounds were severe, with "a lot" of bleeding and "a lot" of airway problems. (R. 173). She stated that Graham was not conscious but was flailing about. (R. 173). Clemens helped load Graham onto a stretcher, carried him out of the ditch that the crashed vehicle was in, and then left for the hospital with Graham in an ambulance. (R. 173). Clemens testified that while she was treating Graham, she "knew" he had a gunshot wound but was not initially sure of where it was located. (R. 174). She initially thought Graham had been shot in the head because there was "a lot of pink spongy matter" but later found that Graham had been shot in the neck. (R. 174). Clemens confirmed that Graham's airway was "very bloody" and that she had difficulty maintaining Graham's airway on the way to the hospital. (R. 174).

Zatch Pouchprom, a sergeant and detective with the Bluffton Police Department, testified that when he arrived on scene, his supervisor tasked him with photographing the scene. (R. 183-86). He took photos of a deceased body and canvased the surrounding area looking for other evidence. (R. 186-87). He discovered, photographed, and collected multiple shell casings near the crashed vehicle. (R. 187). Sergeant Pouchprom found .223 caliber rifle shells and .45 caliber pistol shells. (R. 192-93).

Kylan Simmons, one of the passengers in the crashed vehicle, testified that he had spent the day of the incident with Fields and Graham, with Fields driving them around. (R. 221). Simmons had been the front seat passenger all day, while Graham was in the back seat. (R. 221).

At approximately 10 pm on the day of the incident, he, Graham, and Fields went to a Parker's gas station. (R. 221). Simmons and Fields went into the store to buy fountain drinks while Graham stayed in Fields' car. (R. 224). After getting their drinks, Fields drove them to a nearby neighborhood. (R. 225). They drove around for a while before seeing some friends at a Wendy's near the Parker's they previously visited. (R. 227). They went over to the Wendy's parking lot to talk to their friends and stayed there for almost an hour. (R. 227-28). They left the Wendy's at 11:20 pm directly after their friends left. (R. 230).

Simmons did not know anything about a car that passed them shortly after they left the Wendy's parking lot. (R. 236). They were heading home on Bluffton Parkway when the incident occurred. (R. 237). Simmons described the incident as follows:

> We was driving, talking, music going on my phone. Then all of a sudden, I just hear the noises, but I'm not paying attention to it really, because the music is on. And then I feel the car going off the road, so I start calling [Fields'] name, but I don't hear nothing, as we went off the road, so that's when I put my left hand on the brake, and my right hand on the wheel and then I'd seen the flash, so I covered up. And after we got out—tried but I couldn't get the doors open.

(R. 238). Simmons initially thought that the "sounds" were from Fields going off the road because the music was too loud for him to identify the sounds. (R. 238). After the car came to a stop, Simmons looked at Fields, who was "laid back, like coughing up blood or whatever like that." (R. 239). Simmons saw Graham laid across the back seat with blood "everywhere." (R. 239). Simmons testified that he never got a response from Fields after the shooting. (R. 240). The vehicle hit a neighborhood sign before coming to a stop. (R. 240).

When Simmons got out of the car, he tried to open the driver's door but was unable. (R. 241). He then called 911 and was at the scene when EMS arrived. (R. 241-42). Simmons was not shot. (R. 243). Simmons stated that he knew Appellant from playing AA basketball. (R. 243).

Edwin "E.J." Graham, the other passenger in the crashed vehicle, testified that he was with Simmons and Fields on the night of the incident. (R. 245). He rode to and from the Wendy's in the backseat of Fields' black Acura. (R. 246). Graham said that he, Fields, and Simmons were at the Wendy's for approximately an hour before leaving to go home right after the friends they met at the Wendy's left. (R. 246). When Fields turned onto Bluffton Parkway, Graham turned around and saw a darker car speeding up and going past them in the left lane, on the driver's side of Fields' car. (R. 248). Graham saw muzzle flashes from the front passenger seat of the darker vehicle, which were followed by more muzzle flashes from the rear passenger seat. (R. 248). Graham recalled that Fields' head slumped and then the car hit something. (R. 249). The next thing Graham remembered was waking up in the hospital. (R. 249). He sustained two gunshot wounds to the face and endured several surgeries, including two nasal procedures to remove shrapnel from around his brain and eyes. (R. 251). Graham knew of Appellant but did not know him personally. (R. 252).

Jayden Void testified that at the time of the incident, he lived with his father near Bluffton Parkway. (R. 263-64). On the day of the incident, his sister, Shayniah Void,[1] stopped by the house to visit him and their father. (R. 264). After Shayniah arrived, Jayden, Shayniah, their older sister, Stacy Void, and Stacy's infant son went to Station 300 for dinner. (R. 264-65). They also went to Station 300 so Shayniah could purchase marijuana from Jimmie Green. (R. 265-66). Jayden identified Shayniah's car as a distinctive bluish color. (R. 267).

When the Voids arrived at Station 300, Green was already there with Appellant. (R. 267-68). Jayden overheard Green tell Shayniah to "look for his people" or his "ops," which

[1] Shayniah Void's first name is alternatively spelled Shayna and Sheniah throughout the transcript. (R. 436).

meant his enemies or opposition. (R. 269-70). Jayden testified he was aware that Green's "ops" had previously shot at Green's house. (R. 270). Jayden stated that in addition to Appellant, Green had another person with him at Station 300. (R. 271). Jayden confirmed that State's Exhibit 40 was a short video that contained both Green and Appellant as they appeared on the day of the incident at Station 300. (R. 272). State's Exhibits 41 and 42 were still images from the video. (R. 271-72). Before the three exhibits were shown to the jury, Appellant objected to their admission. (R. 273).

After the trial court sent the jury out of the courtroom, Appellant argued that the three exhibits portrayed him and a minor making "obscene gestures" toward the camera while wearing bandanas around their faces. (R. 274). Appellant contended that the probative value of the exhibits was substantially outweighed by the potential for prejudicial effect because the exhibits were "kind of gratuitous" and showed that Appellant and the minor were "obviously" bad guys because they were flipping off the camera. (R. 274). Appellant asserted that the exhibits were unnecessary and prejudicial under Rule 403 of the South Carolina Rules of Evidence. (R. 274). He also argued that the exhibits "can certainly maybe go into some type of character issues." (R. 275). Appellant asserted that the State had other ways of establishing Appellant's presence at Station 300 with Green before the shooting happened. (R. 275). Appellant offered to stipulate that he was at Station 300 with Green. (R. 275).

The State argued that the exhibits corroborated Jayden's testimony because the exhibits place Appellant at Station 300 at the time Jayden indicated Appellant was there and also place Appellant in proximity to Green and the minor. (R. 275). The State asserted that Jayden did not know all three of the individuals depicted in the exhibits, so the exhibits place Appellant, Green, and the minor together and is an accurate representation of how they appeared that night.

(R. 275-76). The State contended that the exhibits were not overly prejudicial in the grand scheme of the case even though Appellant was flipping off the camera. (R. 276). The State emphasized that the exhibits showed Appellant, Green, and the minor together and because some of the charges against Appellant related to assault and battery by mob, the State had to show these three acting in concert, which these exhibits demonstrated. (R. 276).

Appellant then argued that the State was attempting to use the exhibits to bolster Jayden's testimony because there was no dispute that Appellant was at Station 300 on the night of the incident. (R. 276). Appellant argued that the way he was dressed and the "obscene" gesture he presented to the camera painted a "dark picture" of him and that the State wanted to use the exhibits to paint an impermissible picture of him as the kind of person who would commit murder because he flipped off the camera and wore a bandana over his face. (R. 276-77).

The State informed the trial court that another witness would testify later in the trial that Appellant told him that Appellant, Green, and the minor were at Station 300 with masks on and flipping the bird. (R. 277). The State asserted that the exhibits would support that witness's credibility, which the State suspected could be in question. (R. 277).

The trial court initially stated that the exhibits were the only evidence the State had that would show that Appellant was at Station 300, which would also be corroborated by a subsequent witness; therefore, the probative value was not outweighed by unfair prejudice. (R. 281). The State confirmed that the exhibits were the only photographic evidence of Appellant at Station 300. (R. 282). After taking a short recess, the trial court made its ruling as follows:

> Okay, I have tried to weigh the analysis under 403 and 404.
>
> What was presented to me is that this is the only photograph the State has that was taken that night at Station 300, which also leads up, I assume, to this crime.
>
> And so—and they also have another witness that will testify that

> [Appellant] told him that this is how he was dressed, and this is what they did.
>
> I think the probative value outweighs the prejudicial value. Now, if it was just the photograph of [Appellant] and [a] co-defendant flipping the bird, then I wouldn't allow it in, because it would show no probative value.
>
> But in this situation under the facts of this case, even though it is somewhat prejudicial, I think the probative value outweighs the prejudicial value, and I'm going to allow it in.

(R. 285). The trial court subsequently clarified that its ruling was not based solely on the fact that the exhibits would assist the later witness. (R. 285-86). The trial court stated that Jayden reviewed State's Exhibit 40 (the short video, from which State's Exhibits 41 and 42 were pulled) and that Jayden testified that he was there along with Appellant when the video was taken. (R. 286).

After ruling on the admissibility of the exhibits, Jayden's testimony resumed. (R. 288). Jayden testified that Appellant was the person on the left in the exhibits and that he did not know the other person shown next to Appellant. (R. 288). Jayden stated that Green was briefly shown in the short four second video. (R. 289; State's Exhibit 40). According to Jayden, Green was looking for Memphis Daniels and Jaliel Hooper. (R. 291-92). Jayden and his sisters left Station 300 at approximately 11:03 pm and went to Wendy's. (R. 293). At Wendy's, Jayden's sister, Shayniah, saw a car that Green described to her, which was a black car. (R. 293). Jayden thought Green's "ops" were in the black car. (R. 294). Shayniah called Green, and Green's car appeared at the Parker's next to the Wendy's shortly thereafter. (R. 296). Jayden said that Green's car did a U-turn in the Parker's parking lot because the black car pulled out of the Wendy's parking lot at the same time Green arrived in the Parker's parking lot. (R. 296-97).

Jayden testified that Green's car sped up to catch up to the black car and that he and his sisters fell in behind Green's car. (R. 297). When the black car turned onto Bluffton Parkway, Green sped up behind the black car and then got into the left lane. (R. 299). Jayden testified that

he saw more than one muzzle flash from the passenger side of Green's car and that the shots were aimed at the black car. (R. 299). Shayniah was driving and drove past the wreck of the black car before calling Green to tell him what she observed. (R. 300). Jayden and his sisters went back to Station 300 before returning to their father's house. (R. 300).

Jayden could not definitively state whether Appellant left Station 300 with Green. (R. 314). According to Jayden, one of his sisters took the video of Appellant flipping the bird. (R. 315). He stated that Appellant and the minor were merely "posing." (R. 315). Jayden testified that he had taken pictures of himself flipping off the camera in the past and that "it doesn't really mean anything, other than whatever." (R. 316).

Stacy Void, Jayden's older sister, testified that on the day of the incident, she was with her younger sister, Shayniah, and that she and Shayniah went to visit their father. (R. 317). Stacy took her infant son with her that day. (R. 318). After spending time at her father's house, Stacy, Shayniah, Jayden, and Stacy's infant son left in Shayniah's car to go to Station 300 because Shayniah wanted to purchase marijuana from Green. (R. 318-19). Green was already at Station 300 when they arrived. (R. 319). Green had other people with him, but Stacy did not know who they were. (R. 320). Stacy testified that Green told Shayniah about the "ops" he was looking for and that the two men with Green were present for Green's conversation with Shayniah. (R. 321-22).

When the Voids left Station 300, they first went to McDonalds, which was closed, and then went to Wendy's, where they saw a black car. (R. 324). Stacy testified that Green told Shayniah that his "ops" were in a black car. (R. 325). According to Stacy, when Shayniah saw the black car, she pulled into the Parker's parking lot and called Green. (R. 325). About a minute later, Green turned around in front of the Parker's parking lot and Shayniah, who was driving her car,

pulled out behind Green's car. (R. 327). The Voids followed Green's car to Bluffton Parkway. (R. 327). According to Stacy, when Green's car got beside the black car, she saw muzzle flashes from the passenger side of Green's car. (R. 327-28). After the shots were fired, Stacy saw the black car roll off the road and crash through a neighborhood sign. (R. 328). She then overheard Shayniah make a call and was able to identify the voices on the call as Green and Appellant. (R. 329). Stacy recalled Appellant having a gun under his jacket when they were at Station 300 prior to the shooting. (R. 330). After the shooting, the Voids went back to Station 300 before going back to their father's house. (R. 330-31). The day after the shooting, Stacy overheard Shayniah talking on the phone to Green, during which Green told Shayniah, "you know we shot the wrong people." (R. 343).

Dylan Hightower, an investigator with the Fourteenth Circuit Solicitor's Office and an expert in forensic cell phone analysis, testified about cell phone data from the day of the incident from the cell phones of Appellant, Green, and Shayniah. (R. 420, 427). The cell phone data showed that all three phones utilized a cell tower near Station 300 prior to the shooting. (R. 447-52). The cell phone data also confirmed that Shayniah called Green after leaving Station 300 and shortly after the shooting occurred. (R. 451-53).

Harold Rogers testified that he met Appellant while both were in custody at the Beaufort County Detention Center. (R. 519). He testified that Appellant went by the nickname "30." (R. 520). Rogers testified that after he got to know Appellant, Appellant confided in him that Appellant and his co-defendant killed a football player over some weed after his co-defendant's house was shot at. (R. 521). Appellant told Rogers that the shooting was in retaliation against the people Appellant and his co-defendant thought were in the car that night in Bluffton. (R. 521). Rogers identified Green as Appellant's co-defendant and stated that Appellant told him that he was

in the front passenger seat of Green's car during the shooting. (R. 522).

According to Rogers, Appellant was in the cell next door to him for a while when they were at the detention center so they spoke every day between April and December 2022. (R. 523-24). Rogers stated that Appellant told him that Appellant, Green, and others went to Shelton's house on the day of the incident where they met up with the minor. (R. 526). While at Shelton's house, Green received a call from Shayniah, who wanted to purchase marijuana from Green for herself and for Jayden. (R. 526). Appellant, Green, and the minor went to a bowling alley or arcade in Bluffton. (R. 526). Shelton did not go because he had an ankle monitor. (R. 527). Appellant, Green, and the minor hung out at the arcade for a while but did not go inside the arcade. (R. 527-28). The minor kept a bandana around his face. (R. 527). When the Voids arrived, Shayniah saw some guns in the backseat of Green's car. (R. 528). After meeting up with the Voids at the arcade, Appellant, Green, and the minor went somewhere else in Bluffton, likely a neighborhood called Edgefield or Edgeview, but whoever they went to meet was not there. (R. 528).

Shortly after arriving in the neighborhood, Green received a call from Shayniah, who told him that she was at Parker's and Wendy's somewhere in Bluffton and was looking at the people who shot at his house. (R. 528-29). Appellant told Rogers he could hear this conversation because it was on speakerphone. (R. 529). After receiving Shayniah's call, Green, who was driving, took off for the Parker's and did not even have to pull in because the people they were looking for pulled out onto the street with the Voids right behind as Green arrived. (R. 529). Appellant was in the front passenger seat and the minor was in the backseat. (R. 529). Appellant told Rogers that Green drove past the Voids and pulled up next to the football player. (R. 530). Appellant had a .45 caliber pistol, and the minor had a mini-assault rifle. (R. 530). Green and Shayniah were talking

throughout the shooting. (R. 531). Appellant told Rogers that he and the minor shot into the football player's car, which veered off to the right. (R. 531). The football player died, and Graham was shot. (R. 531). Appellant told Rogers that none of the occupants of the football player's vehicle looked like any of the men that shot at Green's house. (R. 531). After the shooting, Green dropped the minor off at the minor's house and dropped Appellant off at Appellant's car before going home himself. (R. 532-33).

John Donahue, who worked in DNA analysis at the Beaufort County Sheriff's Office and was an expert in forensic science-DNA testing and analysis, testified that a DNA sample from the front passenger door of Green's car was a match for Appellant. (R. 623, 625, 631). Donahue also confirmed that a DNA sample from the front passenger seatbelt was a match for Appellant and that a DNA sample from the back passenger side seatbelt was a match for the minor. (R. 631-32).

After the State rested, Appellant renewed his objections, including his objection to State's Exhibits 40, 41, and 42. (R. 676-77). He again argued that the exhibits were duplicative and unnecessary, and also asserted that due to the "obscene" gesture, the exhibits were "clearly" prejudicial. (R. 677). The trial court affirmed its earlier ruling, stating that the exhibits corroborated witness testimony that Appellant was at Station 300 on the night of the shooting. (R. 677-78).

Appellant testified that on the day of the incident, he left his mother's house in Ridgeland and headed to a friend's house in Hardeeville, where he stayed for about an hour. (R. 694, 699). When he left, he drove to Bluffton to see a friend, Shakira, who lived in the Edgefield neighborhood in Bluffton. (R. 700). When he got to Shakira's house, she stood him up. (R. 702). While he was sitting in Shakira's driveway, he heard from Green. (R. 703). Green picked Appellant up from Shakira's driveway, where Appellant left his car. (R. 704). Green had the minor

with him when he picked up Appellant. (R. 705). Green drove to Station 300 to meet with Shayniah, whom he was dating at the time. (R. 705-06). The Voids were already at Station 300 when Green and Appellant arrived. (R. 706). Appellant testified that he saw Green talk to Shayniah and give her marijuana but did not hear their conversation. (R. 707). At one point while they were still at Station 300, he saw Shayniah on Snapchat as he walked toward her car. (R. 708). According to Appellant, Shayniah recorded the short video (State's Exhibit 40) where he flipped off the camera, which he described as "just joking around." (R. 708). Appellant claimed he was not flipping the bird at anyone in particular. (R. 709). Appellant, Green, and the minor left Station 300 shortly after the Voids. (R. 709).

When they left Station 300, Appellant told Green that he needed to get back to Hardeeville and wanted to go back to his car. (R. 710). According to Appellant, Green dropped him off at his car in Shakira's driveway and did not see Green again that night. (R. 712-14). After returning to his car, Appellant claimed he drove to Hardeeville and then on to Ridgeland before driving to Beaufort. (R. 715-16). Appellant testified that he did not know about the shooting in this case until two days afterward and that he turned himself in to authorities shortly after he heard about the warrant out for his arrest and retained a lawyer. (R. 721-23).

Appellant knew Simmons from playing sports while they were growing up. (R. 718-19). He also knew that Green's mother's house had been shot at before the incident in this case. (R. 720). Appellant testified that he knew Rogers from the Beaufort County Detention Center but claimed he never talked to Rogers about the specifics of his case. (R. 724-25). Appellant confirmed that State's Exhibits 40, 41, and 42 show him and the minor at Station 300. (R. 738-39).

The jury found Appellant guilty as indicted. (R. 921-22). The trial court sentenced him to: (1) life imprisonment for murder; (2) thirty concurrent years' imprisonment for each of the two

counts of attempted murder; (3) five concurrent years' imprisonment for possession of a weapon during the commission of a violent crime; (4) thirty concurrent years' imprisonment for first-degree assault and battery by a mob; (5) twenty-five concurrent years' imprisonment for second-degree assault and battery by a mob; and (6) one concurrent years' imprisonment for third degree assault and battery by a mob. (R. 955-56).

This appeal followed.

STANDARD OF REVIEW

The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. *State v. Gaster*, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002). "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). 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. McDonald*, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000).

ARGUMENT

I. The trial court properly allowed the admission of State's Exhibits 40, 41, and 42 because the probative value of the exhibits—to assist the jury in understanding witness testimony about Appellant's location and company prior to the shooting—was not substantially outweighed by the danger of unfair prejudice under Rule 403 of the South Carolina Rules of Evidence.

The State has the right to prove every element of the crime charged. *State v. Johnson*, 338 S.C. 114, 122, 525 S.E.2d 519, 523 (2000). Here, State's Exhibits 40, 41, and 42 were relevant to show that Appellant was with Green and the minor at Station 300 prior to the shooting. Because assault and battery by mob requires an "assemblage of two or more persons, without the color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another," the State had to show that Appellant was with Green and the minor on the night of the incident. S.C. Code Ann. § 16-3-210(A); *see State v. Haselden*, 353 S.C. 190, 199, 577 S.E.2d 445, 450 (2003) (holding that the relevance, materiality, and admissibility of photographs are matters within the sound discretion of the trial court and a ruling will be disturbed only upon a showing of an abuse of discretion).

The trial court balanced the probative value of the exhibits against their prejudicial effect and determined that the exhibits were admissible despite Appellant flipping the bird at the camera. (R. 285). The trial court further clarified that its ruling was not based solely on a later witness's testimony, which ultimately was not given, and emphasized that Jayden reviewed the exhibits, testified that he was present when they were recorded, and stated that the exhibits were an accurate representation of Appellant at Station 300 on the day of the incident. (R. 285-86). *See State v. Vang*, 353 S.C. 78, 87, 577 S.E.2d 225, 229 (Ct. App. 2003) (holding that a trial court must balance the prejudicial effect of graphic photographs against their probative value); *State v. Martucci*, 380 S.C. 232, 250, 669 S.E.2d 598, 607 (Ct. App. 2008) ("A trial [court's] decision regarding the

comparative probative value and prejudicial effect of relevant evidence should be reversed only in exceptional circumstances.").

Here, while the exhibits undoubtedly show Appellant flipping the bird at the camera, the exhibits are still relevant to show Appellant's location and company immediately prior to the incident and to show Appellant as he was on the day of the incident. Further, as noted by the trial court, the exhibits corroborate Jayden's testimony because the exhibits place Appellant at Station 300 at the time Jayden indicated Appellant was present at Station 300. Because Jayden did not know all three individuals depicted in the exhibits (Appellant, Green, and the minor), the exhibits put all three together in one place prior to the incident and is an accurate representation of how the three men appeared that night. *See State v. Rosemond*, 335 S.C. 593, 597, 518 S.E.2d 588, 590 (1999) (admitting photographs which serve to corroborate testimony is not an abuse of discretion); *State v. Brazell*, 325 S.C. 65, 78, 480 S.E.2d 64, 72 (1997) (holding that photographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are irrelevant or not necessary to substantiate material facts or conditions).

Moreover, while the exhibits admittedly have prejudicial value due to Appellant flipping the bird at the camera, the prejudicial effect is minimal, especially given Appellant's own testimony that when he flipped off the camera, he was "just joking around" and his gesture was not directed at anyone in particular. (R. 708-09). Jayden, who admitted he had made similar gestures himself, testified shortly after the exhibits were admitted that Appellant was merely "posing" and the gesture "doesn't really mean anything, other than whatever." (R. 315-16). Appellant's gesture—one seen commonly on our state's roadways—toward the camera and his wearing a bandana across his face did not suggest a decision to the jury on an improper basis because these things did not suggest to the jury that Appellant was guilty of the violent crimes for which he was indicted. *See*

State v. Kelley, 319 S.C. 173, 178, 460 S.E.2d 368, 370-71 (1995) ("To constitute unfair prejudice, the photographs must create a 'tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.'" (quoting *State v. Alexander*, 303 S.C. 377, 382, 401 S.E.2d 146, 149 (1991))); *State v. Haselden*, 353 S.C. at 196, 577 S.E.2d at 448 ("Evidence [that the defendant] had a tendency to golf, fish, or go to his mother's house is simply not evidence which would tend to prove he had a tendency toward abusing and murdering his two-year old son."). If anything, both Appellant and Jayden's testimony indicate that Appellant and the others depicted in the exhibits were goofing around while hanging out with friends, something that is not indicative of a propensity for murder or assault and battery by mob.

Merely because the exhibits could be described as unpleasant or depicting an untoward gesture does not reduce their relevance to Appellant's charges. *See Davis v. Traylor*, 340 S.C. 150, 530 S.E.2d 385, 387 (Ct. App. 2000) (holding that a trial court is not required to exclude relevant evidence merely because it is unpleasant or offensive). Therefore, because State's Exhibits 40, 41, and 42 substantiate material fact and corroborate witness testimony, the trial court did not abuse its discretion by allowing their admission.

II. The trial court properly allowed the admission of State's Exhibits 40, 41, and 42 because the exhibits were not admitted to prove action in conformity with the behavior displayed in the exhibits as flipping off a camera and wearing a bandana do not suggest that Appellant had the propensity to commit murder or assault and battery by mob.

Rule 404(a) of the South Carolina Rules of Evidence provides, in relevant part, that "[e]vidence 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 . . . ." Appellant failed to show that State's Exhibits 40, 41, and 42, which show Appellant and others flipping off the camera and wearing bandanas, constituted inadmissible character evidence of "dangerousness, lawlessness, and vulgarity." (App. Br. 12).

Regarding the exhibits depicting Appellant and others wearing bandanas, nothing in the record supports Appellant's contention that the use or wearing of bandanas indicates gang affiliation. No witness testified that bandanas were an identifying mark of gang affiliation. *Cf. State v. Khingratsaiphon*, 352 S.C. 62, 67, 572 S.E.2d 456, 458 (2002) (including in the facts section that a witness testified that wearing bandanas, among other specific clothing, was consistent with gang attire); *State v. Liverman*, 286 S.C. 223, 227, 687 S.E.2d 70, 71 (Ct. App. 2009) (including in the fact section that a witness testified before the jury that wearing a black bandana around the head signified affiliation with a specific gang), *affirmed but criticized on other grounds*, 398 S.C. 130, 727 S.E.2d 422 (2012).

Further, mentions of bandanas in the record are limited to witnesses testifying that one or more of the individuals depicted in the exhibits are wearing bandanas over their faces without mention as to what a bandana could mean. (R. 527). Moreover, given that the incident occurred in March 2021 during the midst of the Covid-19 pandemic, the use of a bandana as a face covering could be viewed as a makeshift mask during a time of mask mandates. *See generally United States v. Rodriguez*, 2020 WL 3051443, *2 n.5 (S.D.N.Y. 2020) (noting that the Center for Disease Control and Prevention attempted to address mask shortages during the pandemic by recommending the use of bandanas where personal protective equipment was in short supply).

Regarding the exhibits depicting Appellant and others flipping off the camera, while this gesture can be viewed as untoward, testimony from Appellant himself, as well as from Jayden, indicate that Appellant and the others depicted in the exhibits were "posing" and goofing around, much in the way that teenagers and young adults are want to do, and the gesture did not mean anything "other than whatever." (R. 315-16, 708-09).

Moreover, the State did not present these exhibits "for the purpose of proving action in conformity therewith" because flipping off the camera and wearing a bandana—without further context such as witness testimony that these actions represent gang behavior or affiliation or that these behaviors indicate violent tendencies—do not by or of themselves suggest a propensity to commit the violent crimes of murder and assault and battery by mob. *See State v. Nelson*, 331 S.C. 1, 7, 501 S.E.2d 716, 719 (1998) ("The term '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.'" (quoting *State v. Smith*, 617 N.E.2d 1160, 1169 (Ohio 1992))). At best, these actions and behaviors show nothing more than a propensity to utilize untoward gestures in public and an affinity for specific clothing items, neither of which are crimes, much less violent crimes.

The State presented these exhibits to show that Appellant was at Station 300 on the night in question with Green and the minor. The behavior portrayed in the exhibits merely show what Appellant and Jayden testified to: that the behavior was the posing and goofing around of teenage boys and young adult men that did not mean anything. Therefore, the trial court did not abuse its discretion in admitting the exhibits under Rule 404(a) of the South Carolina Rules of Evidence.

III. Because Appellant received a life without parole sentence for murder, the State concedes that Appellant's sentence for possession of a weapon during the commission of a violent crime was in error pursuant to *State v. Plumer*.

Appellant was found guilty of murder and possession of a weapon during the commission of a violent crime, among other crimes. (R. 921-22). The trial court sentenced Appellant to a concurrent five years' imprisonment on the possession of a weapon during the commission of a violent crime charge while also sentencing him to life without parole for murder. (R. 955-56, 998-999, 1004-1005).

Appellant failed to object to his sentence for possession of a weapon during the commission of a violent crime.

The State concedes that the trial court erred in sentencing Appellant for his conviction of possession of a weapon during the commission of a violent crime because section 16-23-490(A) of the South Carolina Code provides that the five-year sentence for such a crime is inapplicable when a trial court imposes a life without parole sentence. Further, our Supreme Court has held:

> that when a trial court imposes what the State concedes is an illegal sentence, the appellate court *may* correct that sentence on direct appeal . . . 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.

State v. Plumer, 439 S.C. 346, 351, 887 S.E.2d 134, 137 (2023) (emphasis added).

Therefore, this Court may vacate Appellant's five-year sentence for possession of a weapon during the commission of a violent crime. Alternatively, this Court can allow the matter to be addressed in a post-conviction relief setting. Given that Appellant is serving a life sentence for murder, there should be no prejudice in allowing his possession of a weapon during the commission of a violent crime sentence to be addressed in a collateral review.

[*conclusion and signature block on following page*]

CONCLUSION

Based on the foregoing, the State requests that this Court affirm Appellant's convictions, as well as his associated sentences, except for Appellant's sentence for possession of a weapon during the commission of a violent crime, which the State concedes could be vacated.

Respectfully submitted,

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January 27, 2025
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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

R. Ferrell Cothran, Circuit Court Judge

Appellate Case No. 2023-001595

THE STATE,

Respondent,

v.

TY LEIC DAE JHON CHANEYFIELD,

Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify that I have served this Final Brief of Respondent on Joanna K. Delany, 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 27th day of January, 2025.

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From: Grace Sommer
Sent: Monday, January 27, 2025 4:23 PM
To: Delany, Joanna
Cc: Brian Gibbs; Mcinnis, Sara
Subject: The State v. Ty Leic Dae Jhon Chaneyfield (2023-001595)
Attachments: CHANEYFIELD Ty - FBOR.pdf

Good Afternoon Ms. Delany,

Attached please find a Final Brief of Respondent in The State v. Ty Leic Dae Jhon Chaneyfield (2023-001595). This brief will be filed today with the South Carolina Court of Appeals via the AIS OneDrive System.

If you will, please confirm receipt of this email.

Thank you!

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