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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM HORRY COUNTY
Court of General Sessions
The Honorable Benjamin H. Culbertson, Circuit Court Judge

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THE STATE, RESPONDENT

v.

CHE LEON RANSOM, APPELLANT

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**FINAL BRIEF OF RESPONDENT**
Appellant No. 2023-001348

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ATTORNEYS FOR RESPONDENT

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### Rule

## APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge abuse his discretion by admitting the statement of Appellant's nontestifying codefendant, Travontae Mitchell which referred to and implicated Appellant, since the statement violated Appellant's Sixth Amendment right to confrontation as interpreted by *Bruton v. United States,* 391 U.S. 123 (1968) and its progeny, and by later denying Appellant's motion for a mistrial when the improper evidence was admitted over Appellant's objection since the evidence was unduly prejudicial to Appellant in this hand of one, hand of all case and its erroneous admission required a mistrial be granted?

2. Did the trial judge abuse his discretion by admitting booking photographs of Appellant and his codefendants through the jail records custodian when the evidence was not relevant pursuant to Rule 402 SCRE?

## RESPONDENT'S COUNTER-STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge abuse his discretion by allowing the statement of codefendant Travontae Mitchell into evidence after the jury heard the confession of the Appellant? Because the jury had already heard the confession of the Appellant there is overwhelming evidence of guilt, making any violation of *Bruton v. United States* harmless error?

2. Did the trial judge err in allowing the booking photos into evidence in order to establish identity when it was told to the jury that none of the defendant's had a prior record; therefore, there exists no prejudice to any defendant?

## STATEMENT OF THE CASE

On December 8, 2021, a Horry County Grand Jury indicted Appellant for the offenses of murder and three counts of attempted murder. (R. pp. 605-612). Appellant was accused of being involved in the murder of Jamie Johnson (victim) and the attempted murder of Jacob Hill (Jacob), Britney Milam (Britney), and Orlin Lopez (Orlin). These accusations stem from a September 12, 2020, shooting occurring in Conway, South Carolina.

On May 22, 2023, the Appellant appeared with his counsel Jarrett Bouchette before the Honorable Benjamin H. Culbertson for trial. Appellant's trial was held simultaneously with his co-defendants Travontae J. Mitchell and Don Leequin Brown. Representing the State of South Carolina were Assistant Solicitors, Nancy Livesay and Christopher Helms of the Fifteenth Circuit Solicitor's Office. After four days of testimony, a jury of his peers found all three men guilty of each of these charges. (R. p. 595 l. 21 – p. 597 l. 20).

After the reciting of the verdict, the Appellant along with his other co-defendants appeared before the trial judge for sentencing. The trial judge came to the conclusion that nothing during this trial led him to believe that these defendant's sentences should be more or less than their co-defendant Tronahz Whittington (Tronahz) whose case was tried earlier. The trial court sentenced each defendant to a forty-five (45) year period of incarceration for the offense of murder; and, thirty (30) years for each count of attempted murder. The trial court ordered that each of these sentences was to be served concurrently. (R. p. 604 l. 1-12).

Appellant has timely filed a notice of appeal; the brief of Respondent follows.

## STATEMENT OF FACTS

On September 12, 2020, Jamie Johnson (victim) along with Jacob Hill (Jacob), Orlin Lopez (Orlin) and Britney Milam (Britney) were traveling down a back road in Conway, South Carolina. Following them were the defendants Che Leon Ransom (Appellant), Don Leequin Brown (Don), Travontae Mitchell (Travontae), Shamonte Graham (Shamonte), Mikkie McLeod (Mikkie), and Tronahz Whittington (Tronahz). Once they arrived at a stop sign defendants blocked them off so they could not drive forward. Then the defendants got out of their vehicle and were shooting at the car being driven by the victim. They shot the engine making the car unmovable, then while the victim was attempting to back up he was shot in the head. (R. p. 83 l. 8-10; p. 113 l. 17-21). After the shooting each defendant got into their vehicle and sped away.

During trial the surviving victims testified as to what occurred during the incident. Jacob testified that once they were cut off one person got out of the driver's seat and three or four got out of the back seat. (R. p. 111 l. 16-21). Jacob stated that each of the individuals shooting looked like teenagers or early 20s (R. p. 112 l. 1-2). Jacob also testified that when the victim looked behind him to back up he was shot in the back of the head. The rest of the passengers in this car ducked for cover. (R. p. 113 l. 17-21).

Britney testified that Tronahz was in the passenger seat of the defendant's car, as he got out of the passenger seat, three others got out of the back seat. (R. p. 173 l. 13-18). Britney also stated that all of the shooters were standing in a row while shooting. (R. p. 176 l. 7-13).

Shamontae and Mikkie both testified. Shamontae testified that Tronahz called someone to borrow their car. (R. p. 229 l. 16-18). The defendants ended up driving behind the victim when Tronahz stated that he knew the victim and that he should have some weed so he wanted to rob him. (R. p. 229 l. 24 – p. 230 l. 1). As the victim stopped at a stop sign, Tronahz told the driver to

pull in front of him. (R. p. 230 l. 9-10). Shamontae testified that he, Appellant, and Tronahz had guns. (R. p. 245 l. 18-21). He stated that Tronahz, Appellant, and Mikkie got out the car. (R. p. 252 l. 6-10). Shamontae also testified that the Appellant was shooting. (R. p. 292 l. 15-23).

Mikkie also testified that he was sixteen at the time the crime occurred. (R. p. 450 l. 7-9). He testified that Appellant was wearing white pants. (R. p. 458 l. 10-11). Mikkie testified that when they saw the victim, Tronahz told them "There goes Jamie. He owes me money." (R. p. 460 l. 20). Mikkie also testified during the trial of Appellant, and in Tronahz's trial Mikkie stated that Tronahz, Travontae, and Appellant got out shooting. (R. p. 464 l. 20 – p. 465 l. 10). Mikkie testified that the Appellant first had a .45 caliber weapon on him, however, Appellant asked Mikkie for his gun which was a 9mm. That is the gun Appellant used to shoot at the victims. (R. p. 469 l. 10-22; p. 470 l. 21-24).

Detective Drew Edwards testified during trial about his questioning of co-defendant Che Ransom. After being informed of his *Miranda* rights Che did speak to Detective Edwards. (R. p. 328 l. 9-11). During questioning Che told Detective Edwards that he had a KelTec 9mm handgun when the incident occurred. (R. p. 334 l. 24-25). He told Detective Edwards that when the incident occurred he attempted to shoot, however the gun jammed, so he got back into the car. He racked the slide and fired shots as they were pulling off. (R. p. 335 l. 6-8).

Crime Scene Investigator Dennis Lewis also testified. Investigator Lewis was called to the scene to collect evidence. (R. p. 403 l. 25 – p. 404 l. 2). At the scene Investigator Lewis collected nine spent shell casings. (R. p. 413 l. 18-20). Agent Jana Weaver of the South Carolina Law Enforcement Division (SLED) also testified. Agent Weaver was found qualified as an expert in the field of firearm identification. (R. p. 504 l. 20-21). Agent Weaver testified that she received nine shell casings from the Horry County Police Department. (R. p. 505 l. 13-16). Through her

identification she was able to determine that three guns were fired at the scene. (R. p. 508 l. 8-11). Six of the 9mm bullets found were fired by the same gun. (R. p. 508 l. 21-23). Two of the bullets were fired from a .223. (R. p. 508 l. 24 – p. 509 l. 4). And one bullet was fired from a different 9mm. (R. p. 509 l. 5-7).

Patty Bellamy, assistant coroner for Horry County also testified. Ms. Bellamy testified that an autopsy was ordered through the Coroner's office. This autopsy revealed that the cause of death was a single gunshot wound to the head. (R. p. 446 l. 10-17).

## ARGUMENTS

1. **The trial judge did not abuse discretion in allowing the statement of co-defendant Travontae Mitchell into evidence due to the fact the confession of the Appellant was already in evidence there was no violation of the United States Supreme Court opinion of *Bruton v. United States.***

*Relevant Facts*

During trial Detective Ken Marcus of the Horry County Police Department testified. Detective Marcus interviewed Travontae Mitchell regarding this incident. After being informed of his *Miranda* rights Travontae told Detective Marcus that he was in the vehicle during the time of the shooting. (R. p. 359 l. 5-6). Travontae also told Detective Marcus that he got out of the car and got back in. (R. p. 359 l. 14-18). He also told Detective Marcus that he did not have a gun when this occurred. (R. p. 359 l. 19-22).

The Appellant argues that certain statements made by Travontae to Detective Marcus implicated Appellant in this case. The Appellant argues, that since Detective Marcus testified that Travontae told him that he was sitting in the middle "between two people," and that Travontae also told Detective Marcus that he was in the backseat, "between two people," Travontae's statement implicated the Appellant in this crime. So, Appellant argues that this violates the United States Supreme Court decision of *Bruton v. United States.*

*Standard of Review*

The admission of evidence in a criminal prosecution is within the discretion of the trial judge and his ruling will not be disturbed on appeal unless an abuse of discretion is shown. *State v. Wyatt,* 317 S.C. 370, 375, 453 S.E.2d 890, 892 (1995).

In some cases, the properly admitted evidence of guilt is so overwhelming, and the prejudicial effect of codefendant's admission is so insignificant by comparison, that it is clear beyond a reasonable doubt that the improper use of the admission was harmless error. *State v. Miller,* 266 S.C. 409, 411, 412, 223 S.E.2d 774, 775 (1976).

*Discussion*

The United States Supreme Court in *Bruton v. United States* decided that where a codefendant's confession was admitted at a joint trial and the codefendant did not take the stand defendant was denied his constitutional right of confrontation. *Bruton v. United States,* 391 U.S. 123, 88 S.Ct. 1620 (1968). However, in *State v. McDonald,* the South Carolina Supreme Court decided the following:

> The mere finding of a violation of the Confrontation Clause in the course of the trial, however, does not automatically require reversal of the ensuing criminal conviction. In some cases, the properly admitted evidence of guilt is so overwhelming, and the prejudicial effect of the codefendant's admission is so insignificant by comparison, that it is clear beyond a reasonable doubt that that the improper use of the admission was harmless error.

*State v. McDonald,* 412 S.C. 133, 142, 771 S.E.2d 840, 844 (2015), *quoting, Schneble v. Florida,* 405 U.S. 427, 430, 92 S.Ct. 1056, (1972).

When looking at the evidence as a whole the Court should agree that the prior confession made by the Appellant so overwhelmingly proved his guilt that any mere statement regarding the positioning of individuals in a car was not sufficient on its own to cause the jury to find the Appellant guilty: therefore, it should be considered harmless.

Prior to the testimony of Detective Marcus, Detective Drew Edwards, also of the Horry County Police Department, testified that he had interviewed Appellant regarding his involvement in the crime. After Appellant was given his *Miranda* rights Appellant informed Detective Edwards that he knew the victim from Snapchat and had seen that the victim had weed money, and the plan was to rob the victim for his money or weed. (R. p. 336 l. 12-15). The Appellant also told Detective Edwards that the plan was originated by Tronahz Whittington. (R. p. 341 l. 1-3)

Appellant informed Detective Edwards that when the defendants were following the victim's vehicle Appellant had in his possession a KelTec 9mm handgun. (R. p. 334 l. 24-25). Appellant told Detective Edwards that when the event occurred he got out of the vehicle and attempted to fire at the victims; however, his gun jammed. The Appellant then informed Detective Edwards that he got back into his car "racked the slide" and fired a shot at the victims while they were pulling off. (R. p. 335 l. 6-8). All of this testimony was given to the jury before Detective Marcus testified concerning the confession of codefendant Travontae Mitchell.

It is obvious through his confession the Appellant was involved in this case. He admitted that he planned with Tronahz to rob the victim of his marijuana or money, he also admitted to getting out of the car and attempting to fire at the victim's vehicle, and then once he repaired his gun he fired his weapon at the victims as they were driving off. This clearly constitutes criminal liability under the doctrine of the "hand of one is the hand of all." Under the "hand of one is the hand of all" doctrine of accomplice liability one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose. *State v. Thompson,* 374 S.C. 257, 261-62, 647 S.E.2d 702, 704-05 (Ct. App. 2017). It is obvious that sufficient evidence to convict the Appellant of murder exists due to this confession. The law of accomplice liability provides that a person may be guilty of a

crime even though he did not personally commit the criminal act. *State v. Johnson,* 444 S.C. 442, 449, 908 S.E.2d 102, 106 (2024).

The evidence in this case against the Appellant is overwhelming. He admitted to planning the robbery which eventually led to the murder of the victim. Appellant also admitted to attempting to fire at the victim and eventually firing his gun at all the victims. Although the confession of Travontae might have vaguely implicated Appellant, the evidence of the Appellant's confession clearly overwhelms any prejudice Travontae's confession might have caused. If there was any error on the behalf of the trial court it is definitely harmless. As the United States Supreme Court determined in *Schneble v. Florida,*

> Mere finding of a violation of the *Bruton* rule against admission of codefendant's confession in course of a trial does not automatically require reversal of ensuing criminal conviction, even though *Bruton* is retroactive, the reversal will not be required where properly admitted evidence of guilt is so overwhelming and prejudicial effects of codefendant's admission is so insignificant by comparison that it is clear beyond a reasonable doubt that improper use of the codefendant's admission was harmless error.

*Schneble v. Florida,* 405 U.S. 427, 92 S.Ct. 1056 (1972).

The Respondent is not relinquishing the argument that the statement of Travontae Mitchell has not implicated the Appellant in anyway. However, if this court believes that the trial court was in error in allowing the statements of Travontae it did not change the outcome of this trial, so it should be considered harmless. Error is harmless when it could not reasonably have affected the result of the trial. *State v. Simmons,* 423 S.C. 552, 566, 816 S.E.2d 566, 573 (2018).

**2. The trial court announced to the jury that the Appellant did not have any prior record, so there exists no prejudice, the photographs were relevant to identify each defendant that was involved in this case so no violation of Rule 402 exists.**

*Relevant Facts*

During the trial the State called Sandy Love, an employee of the Horry County Detention Center, to testify. This witness was called in order to get into evidence booking photographs of the three defendants. This was done to reveal how the defendant's looked at the time of the offense and to verify the identification given by the surviving victims. When the State attempted to enter these photographs Appellant's counsel objected stating that these photographs are irrelevant and prejudicial due to the fact they raise the speculation regarding any prior record that these defendants might have.

Arguments were held outside the presence of the jury. It was then determined that none of the Defendants had a prior record; therefore, the photographs were not "mugshots" but booking photos from when they were arrested. The court decided to inform the jury that the State stipulates that none of the defendants have a rap sheet.

*Standard of Review*

The admission or exclusion of evidence is a matter within the trial court's sound discretion, and an appellate court may disturb a ruling admitting or excluding evidence only upon the showing of a manifest abuse of discretion accompanied by probable prejudice. *State v. Gillian,* 373 S.C. 601, 613, 646 S.E.2d 872, 878 (2007). 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. Pagan,* 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006). To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and resulting prejudice, *i.e.* there is a reasonable probability the jury's verdict was influenced by the wrongly admitted or excluded evidence. *Conner v. City of Forest Acres,* 363 S.C. 460, 467, 611 S.E.2d 905, 908 (2005).

*Discussion*

The Appellant argues that the trial court erred in allowing the booking photos into evidence because they were irrelevant to the matter at issue and prejudicial because they argue that it invited speculation as to any prior criminal conduct. The Respondent argues that these photos were relevant to identification, and they did not prejudice the Appellant due to the fact the trial court informed the jury that neither the Appellant nor his co-defendant's information came from a rap sheet.

Relevant evidence is defined as, "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. The State sought to introduce these photos in order to match the description given by the surviving victims of the defendants at the time the event occurred, since none of the surviving victims knew any of the defendants. These identifications were necessary and relevant. These photographs were booking photos not "mug shots," taken at the time of arrest and not after any convictions.

However, "mug shots" are admissible if (1) the state has a demonstrable need to introduce the photograph; (2) the photograph shown to the jury does not suggest the defendant has a criminal record; and (3) the photograph is not introduced in such a way as to draw attention to its origin or implication. *State v. Ford,* 334 S.C. 444, 450, 513 S.E.2d 385, 388 (Ct. App. 1999), *citing, State v. Tate,* 288 S.C. 104, 341 S.E.2d 380 (1986). The photographs had a demonstrable meaning as to identification. They did not suggest any criminal records because they were made at the time of booking, for this particular offense, and the court cured any speculation that might have existed with the jury when he informed them that the State stipulates that the photos or aliases did not come from any rap sheet. The attention was not drawn from its origin as they were from the time

the Defendants were booked in the County Detention Center for this offense for which the jury already knew they were arrested.

In *State v. Ford* the Court of Appeals found mug shots in a lineup to be admissible because, "the state had a demonstrable need to introduce the photos and because there was nothing about the photographs or the way they were introduced that suggested Ford had a prior criminal record. *Id.* This is identical to the present case. The photos that were introduced had a demonstrable need for the identification of the defendants, and nothing in these photos suggested that any of the defendant's had a prior record.

If looking at the entire record this Court should find that these photographs were needed for identification but not prejudicial because they never suggested any prior criminal history of any defendant.

As the Court of Appeals decided in *Stephens,*

> A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in "exceptional circumstances." We review a trial court's decision regarding Rule 403 pursuant to the abuse of discretion standard and are obligated to give great deference to the trial court's judgment. A trial judge's balancing decision under Rule 403 should not be reversed simply because an appellate court believes it would have decided the matter otherwise because of a differing view of highly subjective factors of the probative value or the prejudice presented by evidence. If judicial self-restraint is ever desirable it is when a Rule 403 analysis of a trial court is reviewed by an appellate tribunal.

*State v. Stephens,*398 S.C. 314, 320, 321, 728 S.E.2d 68, 71 (Ct. App. 2012)

To make a determination as to a violation of Rule 403 this court is obligated to look at the entire record to make a fair observation as to what prejudice exists in the allowing of a particular piece of evidence, and whether or not the probative value outweighs any prejudice that may occur. It is obvious that the probative value outweighs any prejudice because there was no prejudice in the introduction of these photographs. They were just booking photos from an arrest for which they

were currently on trial, so the jury was well aware that they were arrested and booked, because they were on trial for these exact crimes. There was no mention of any prior offenses, the trial court even informed the jury that the State stipulated that there was no rap sheet for any defendant in this case.

It is clear by the record that there exists no prejudice in the introduction of these photographs; however, they were needed in matching the descriptions given by the surviving victims to law enforcement. This was necessary since none of the victims knew any of the defendants. It was made clear through a State stipulation that none of the defendant's had a rap sheet so the jury knew that no defendant had any prior criminal offenses. Allowing these photos was not error and the decision of the trial court should be upheld.

## CONCLUSION

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

Respectfully submitted,

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February 18, 2025
Columbia, South Carolina

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STATE OF SOUTH CAROLINA
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Appeal from Horry County
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THE STATE,

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v.

CHE LEON RANSOM, JR.,

APPELLANT.

Appellate Case No. 2023-001348

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**PROOF OF SERVICE**

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I, **Tommy Evans, Jr.**, attorney for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Final Brief of Respondent has been forwarded to Appellant's counsel, Lara Caudy, Esq., via email today, February 18, 2025 to lcaudy@sccid.sc.gov and to her assistant at smcinnis@sccid.sc.gov.

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

This is the 18th day of February 2025.

*s/ Brandy Rankin*
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## Brandy Rankin

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**Cc:** smcinnis@sccid.sc.gov; Tommy Evans, Jr.
**Subject:** Final Brief of Respondent - The State v. Che Leon Ransom - Appellate Case No. 2023-001348
**Attachments:** FINAL Brief of Respondent and COS.pdf

Dear Ms. Caudy,

Please find attached the Respondent's Final Brief in the above-captioned case. The brief will be filed with the South Carolina Court of Appeals today, February 18, 2025, along with the Proof of Service and a copy of this email. Have a great day!

Sincerely,

*Brandy Rankin*

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