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Mar 04 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE CLARENDON COUNTY
COURT OF COMMON PLEAS

THE HONORABLE R. KIRK GRIFFIN, CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2024-001439

In the Matter of the Care and Treatment of Michael Terrance Lawyer, Appellant

ANDERS BRIEF OF APPELLANT

Respectfully Submitted,

s/Kindle K. Johnson

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March 3, 2025

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STATEMENT OF ISSUES

- I. The trial court committed abuse of discretion by denying Appellant's motion to strike a juror for cause when the juror was identifiably dressed as law enforcement, thereby indicating bias.

STATEMENT OF THE CASE

On August 19, 2024, in Clarendon County, Appellant was tried by jury pursuant to the South Carolina Sexually Violent Predator Act. The Honorable R. Kirk Griffin presided. Christopher S. Runyan represented the State and Kindle K. Johnson represented Appellant. (TT 1.)

On August 21, 2024, the jury found beyond a reasonable doubt that Appellant was a sexual violent predator. The same day, Judge Griffin signed an order committing Appellant to the South Carolina Department of Mental Health for long-term control, care, and treatment. (TT 359, 1. 18-360, 1. 1.)

This appeal follows.

STANDARD OF REVIEW

Matters of the jury, much like the admission of evidence, are within the sound discretion of the trial court, and its ruling will not be reversed absent an abuse of discretion. State v. Spann, 279 S.C. 399, 402, 308 S.E.2d 518, 520 (1983); State v. Nelson, 440 S.C. 413, 891 S.E.2d 508 (2023); In the Matter of Ettel, 377 S.C. 558, 561, 660 S.E.2d 285, 287 (Ct. App. 2008) (citing In the Matter of Corley, 353 S.C. 202, 205, 577 S.E.2d 451, 453 (2003)). Such discretion is subject to review where it is wholly unsupported by the evidence (Spann at 402, 308 S.E.2d 518, 520 (1983)). Otherwise, the court's rulings will be affirmed.

ARGUMENT

I. THE TRIAL COURT COMMITTED ABUSE OF DISCRETION BY DENYING APPELLANT'S MOTION TO STRIKE A JUROR FOR CAUSE WHEN THE JUROR WAS IDENTIFIABLY DRESSED AS LAW ENFORCEMENT, THEREBY INDICATING BIAS.

At the trial in this case, Appellant was represented by Attorney Kindle Johnson. During jury selection, counsel for Appellant moved to set aside Juror 182 for cause because the juror was dressed in clothing indicating he had an affiliation with law enforcement. (TT 25, l. 9-26, l. 2.) The court questioned Juror 182 about his background and ability to serve impartially. The juror confirmed that he had worked as a security officer at Morris College for 11 years and had the power of arrest. He assured the court that he could remain fair and unbiased toward both the State and Appellant. Counsel for Appellant renewed the objection to Juror 182, arguing that the juror inherently lacked impartiality and would improperly influence the other jurors in the case. Having been satisfied with the Juror 182's responses, the court denied Appellant's motion. Appellant used a peremptory strike to exclude Juror 182 and the trial commenced. (TT 25, l. 9-26, l. 2; 27, ll. 22-23; 35, l. 12-36, l. 24.).

“A litigant's right to an impartial jury is a fundamental principle of our legal system.” Burke v. AnMed Health, 393 S.C. 48, 52, 710 S.E.2d 84, 86 (Ct. App. 2011). A trial judge has the duty to ensure that every juror is unbiased, fair, and impartial. State v. Holland, 261 S.C. 488, 495, 201 S.E.2d 118, 122 (1973). A trial court must strike jurors for cause when impartiality is in question or if the juror exhibits bias. S.C. Code Ann. § 14-7-1020; Winthrop Univ. Trs. ex rel. State v. Pickens Roofing & Sheet Metals, Inc., 418 S.C. 142, 159, 791 S.E.2d 152, 161 (Ct. App. 2016) (quoting Burke v. AnMed Health, 393 S.C. 48, 52, 710 S.E.2d 84, 86 (Ct. App. 2011)). Ultimately, matters of the jury are within the sound discretion of the trial court, and its ruling will not be

reversed absent an abuse of discretion. State v. Spann, 279 S.C. 399, 402, 308 S.E.2d 518, 520 (1983). However, such discretion is subject to review where it is wholly unsupported by the evidence. Id.

In this case, the trial court committed abuse of discretion by failing to grant Appellant's motion to strike Juror 182 for cause. A juror's relationship to law enforcement does not automatically disqualify the person. State v. Cook, 204 S.C. 295, 28 S.E.2d 842 (1944); State v. Pitts, 256 S.C. 420, 182 S.E.2d 738 (1971). However, it does not automatically negate the risk of bias either, especially when the professional role inherently aligns the person with one side of the legal system. Such bias warrants juror exclusion because it has the significant potential to influence other jurors and prevent a fair and impartial jury trial.

Ultimately, Juror 182's law enforcement affiliation created a substantial risk of bias and an appearance of partiality that warranted his removal for cause. The trial court's failure to strike him forced Appellant to expend a peremptory strike unnecessarily, impairing his ability to receive a fair jury trial. This decision constituted an abuse of discretion, undermined the jury selection process, and compromised Appellant's fundamental right to an impartial jury. As such, the trial court's ruling should be reversed and the case should be remanded for a new trial.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse his commitment and remand the case for a new trial.

Respectfully Submitted,

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Michael Terrence Lawyer states:

- 1) She was been appointed to represent Appellant in this appeal, and the underlying trial, pursuant to Rule 608, SCACR because the Appellant was determined to be indigent.
- 2) She has reviewed the record of Appellant's trial before The Honorable R. Kirk Griffin, Presiding Circuit Court Judge, which was held on August 19-21, 2024; 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 Michael Terrence Lawyer.

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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(s):
- 2) Trial transcript

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

Respectfully Submitted,

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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of her 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.”

March 3, 2025

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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 the below-listed parties at their stated email addresses (or postal addresses if specifically indicated below), by attaching a copy of the same on March 3, 2025, addressed as follows:

VIA EMAIL

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