RECEIVED
Jul 18 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

---

APPEAL FROM LEXINGTON COUNTY
Walton J. McCleod, IV, Circuit Court Judge

---

Appellate Case No. 2024-001430

The State, .....Respondent,

v.

Clint Arthur Walker, .....Appellant.

---

# FINAL BRIEF OF RESPONDENT

---

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General
S.C. Bar No. 8729
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit
205 East Main Street, Suite 309
Lexington, South Carolina 29072
(803) 785-8352

ATTORNEYS FOR RESPONDENT

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Page(s)**

**Federal Cases:**



**State Cases:**

**State Constitution & Statutes:**



**State Rules:**

## RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

1. Whether the trial court properly excluded evidence of third-party guilt pursuant to Rule 403, SCRE, and neither abused its discretion nor violated Appellant's constitutional right to present a complete defense where the proffered evidence had no other effect than to cast a bare suspicion upon another, and was neither inconsistent with Appellant's own guilt nor raised a reasonable inference or presumption as to Appellant's innocence. Furthermore, whether any possible error was harmless in this case where, beyond a reasonable doubt, it did not contribute to the jury's verdict given the overwhelming evidence of guilt.

## STATEMENT OF THE CASE

Clint Arthur Walker (Appellant) was indicted at the May, 2023 term of the Lexington County Grand Jury for trafficking methamphetamine - 400 grams or more (2023-GS-32-01924) and possession of a pistol during a violent crime (2023-GS-32-01925). On February 20-21, 2024, Appellant proceeded to a trial by jury before the Honorable Walton J. McCleod, IV. He was represented by Benjamin Stitely, Esquire of the Lexington County Bar.[1] Respondent (the State) was represented by Assistant Solicitors Luke Pincelli and Player Long of the Eleventh Circuit Solicitor's Office. (R.p.64). At the conclusion of trial, the jury found Appellant guilty as indicted. Because Appellant was not present, the sentence imposed by Judge McCleod was sealed. On August 19, 2024, after Appellant was located and returned to court, the sentence was unsealed, revealing he had been sentenced to twenty-five (25) years' imprisonment and fined $200,000 for trafficking methamphetamine and five (5) years' concurrent imprisonment for possession of a weapon during a violent crime. (R.p.1-p.8; R.p.240-p.247). Appellant timely filed a notice of intent to appeal his convictions and sentence, and a brief was submitted in support of his appeal by C. Rauch Wise, Esquire. This Brief of Respondent now follows.

## STATEMENT OF FACTS

As briefly summarized by the State during its opening statement, the charges against Appellant stemmed from the January 27, 2022 execution of a search warrant at the Lexington County house where Appellant lived. During the search, law enforcement officers discovered nearly 2,000 grams of methamphetamine hidden in a safe behind a "trap door" with a locking

[1] Although Appellant was present at a pretrial hearing on February 16, 2024, he did not appear the following week for the trial itself, which proceeded without his direct participation but with continued representation by Mr. Stitely.

mechanism, inside a kitchen cabinet. They also found a card key in Appellants' wallet which opened that locked door. (R.p.99-p.103).

**Pretrial Motions**

On February 9, 2024, before the case was called for trial, the State filed a "Motion *in limine* to Exclude any Alleged Evidence of Third-Party Guilt." The motion sought a pretrial ruling which would prohibit Appellant from making any references to third-party guilt during trial and it requested an *in camera* review by the trial court of any such evidence before any ruling on admissibility. (R.p.248-p.249).

On February 16, 2024, the trial court conducted a pretrial hearing to address a variety of motions raised by the parties, including the State's motion to exclude evidence of third-party guilt. (R.p.9-p.13). At the outset of the discussion, the trial court indicated it did not feel like there was really an issue of third-party guilt if Appellant simply wished to cross-examine the State's witnesses about what they did or did not do in the course of their investigation *at the scene*. However, after hearing: (1) Appellant's proffer of testimony from Investigator Tyler Kennedy, which was offered under the guise of a motion to suppress evidence obtained during the search and (2) further arguments from the parties, the trial court recognized Appellant was not actually seeking to suppress, but instead was "really asking for . . . leeway to go into it [third-party guilt] on cross-examination." Appellant had previously explained the reason he wished to question Kennedy about the two controlled buys from the residence was because they had been made from Michael Sharpe – an individual also present at the house when the search was conducted. The solicitor argued evidence of the prior controlled buys was not relevant to the case-in-chief where proof of trafficking did not require any discussion of the basis of the underlying search warrant. The State further argued allowing such testimony could potentially

open the door to problematic Rule 404(b) evidence about Appellant himself and his involvement in the larger drug dealing conspiracy. Finally, the solicitor argued the evidence should be excluded because it would create confusion about the issues the jury needed to decide. The trial court initially indicated it was inclined to allow cross-examination so that Appellant could confirm the address that was searched and why, but the judge requested any additional caselaw from the State on the issue and took the matter under advisement. (R.p.26-p.42).

**Ruling on Evidence of Third-Party Guilt**

On February 20, 2024, the case was called for trial. Following jury selection but prior to the jury being sworn, the trial court announced its ruling on the State's motion to exclude evidence of third-party guilt. Specifically, the trial court held:

> The only other pretrial matter, I know we talked about the search warrant stuff. I was trying to find the balance medium between both arguments. But just for the purposes of, Mr. Stitely, on cross you certainly may, the fact that there are multiple people in the house at the time of the search. I have already found the search warrant was proper. Okay. And *I don't want a direct reference to Mr. Sharpe being someone who purchased from a confidential informant at this time.*

(R.p.83, lines 14-23) (emphasis added). Appellant was then given an opportunity to further explain his position. He argued that where the jury was going to hear the house was searched pursuant to a valid search warrant, they were likely to infer something prejudicial about Appellant in regard to probable cause. Consequently, he believed he should be able to elicit testimony showing the probable cause was instead based on two controlled buys from Sharpe, another resident of the house. The State continued to argue the evidence would confuse the jury and opined that the claim of prejudice was overstated where the jury would already infer something bad about Appellant where they would know Appellant was on trial for trafficking

meth based only on what was discovered as a result of the search. (R.p.84-p.86). Ultimately, the trial court ruled as follows:

> Okay. Alright. Well, I have heard from both sides. My ruling is that, Mr. Stitely can make reference, there were other people there on cross-examination. But I rule it is a lawful search for it and the specifics of probable cause, I don't believe are necessary for the jury. You have made a good record of your opinions but that is my ruling. *Also, I would like to be clear, I do believe that there is an issue of confusion here should the jury hear the specifics about probable cause.* We will move on, otherwise are we ready to proceed?

(R.p.87, lines 2-12) (emphasis added).

**Trial**

Following the ruling, the jury was sworn and the trial court gave preliminary instructions to the jurors. (R.p.93-p.99). The parties then gave brief opening statements. The State explained the charges against Appellant stemmed from the January 27, 2022 execution of a search warrant at Appellant's house. During the search, the police discovered nearly 2,000 grams of methamphetamine (meth) hidden in a safe behind a "trap door" with a locking mechanism, inside a kitchen cabinet. They also found a card key in Appellants' wallet which opened that locked door. (R.p.99-p.103). In response, Appellant focused on the State's burden of proof and argued that where there were three other people in the house, one who knew where the drugs were hidden and another one who had drugs on her person, the State could not prove his guilt beyond a reasonable doubt. (R.p.103-p.105).

After opening statements, the State began presenting its case-in-chief. First, the State called Lexington County Sheriff's Department (LCSD) Investigator Tyler Kennedy to the stand. Kennedy first described his overall duties as a member of the Lexington County Narcotics Enforcement Team (NET). He then described executing the search warrant on January 27, 2022,

at a residence in Pelion, during which he acted as the lead investigator. Kennedy testified that when the search team arrived at the house, they directed any occupants to come outside. Three people exited, including Appellant, Carmen Cruz, and Michael Sharpe, each of whom was detained during the search. Kennedy set up the kitchen as his "home base" and had other officers bring any items of interest they found, so he could see it and possibly collect it as evidence. Kennedy then identified various photographs that were taken at the scene and described what they showed. He identified a meth pipe and a pistol that were found in Appellant's bedroom. (R.p.105-p.113).

Kennedy next explained law enforcement determined Cruz was staying in the same bedroom with Appellant because it appeared two people had been sleeping in the bed and because her purse was in the room. He testified that a wallet with Cruz's driver's license and some meth were discovered in the purse. Kennedy explained that though the amount of meth technically qualified as a "distribution amount" based on its weight, he believed it was only really a "user amount" because it was only slightly over a gram. Appellant objected to this opinion; however, after Kennedy was qualified and admitted as an expert in the field of narcotics investigation, it was allowed. He explained the meth pipe found on the nightstand supported his opinion that Cruz only had a user amount of meth in her purse. (R.p.113-p.124). Next, Kennedy described the evidence discovered in a separate bedroom belonging to Michael Sharpe. He testified a safe was found under Sharpe's bed which contained a key, a car title, and a substantial sum of money, but no drugs. (R.p.124-p.126).

Kennedy then described the large quantity of meth that was discovered in the kitchen, behind a "trap door" in a cabinet above and to the left of the sink. He explained the meth was in a compartment behind a door inside the cabinet that had a locking mechanism which could be

released with a key card; however, because they did not initially have that key, the police forced the door open and found the meth. Kennedy testified he brought Appellant back inside the residence to ask if he knew of any meth being in the house so he could observe Appellant's body language. He noted Appellant looked at him, then looked above the kitchen sink, and then back at him. Kennedy said that when he paired this behavior with how Appellant was breathing, it led him to believe Appellant knew about the meth hidden in the kitchen. (R.p.126-p.133). Kennedy then described exactly what was discovered in the safe and why he believed it was meth. He also described the search of Appellant incident to his arrest. During that search, the police found over $2,000 in cash in Appellant's pocket and a key card in Appellant's wallet—a key card which unlocked the locking mechanism inside the kitchen cabinet. They also found a digital scale in the kitchen which Kennedy believed would have been used to weigh narcotics. (R.p.133-p.141). Kennedy next gave a detailed description of the suspected meth found in the kitchen safe and how he secured it as evidence so it could be tested later. He then identified the gun found in Appellant's room and it was admitted into evidence. Finally, Kennedy confirmed the key card found in Appellant's wallet unlocked the locking mechanism on the trap door. He testified the police searched the entire house, the cars parked in front, the shed in back, and all of the people who were there, but no other cards or keys to the hidden kitchen safe were found. (R.p.141-p.150).

On cross-examination, Kennedy acknowledged that several minutes elapsed between the time Appellant and Cruz exited the house and the time Sharpe then exited and noted this was because Sharpe was in the restroom. He also acknowledged speaking to a fourth individual who had left the house just before the police arrived—Tommy Noell—who told them where to look for the hidden compartment in the kitchen. Kennedy also acknowledged approximately $10,000

in cash was found in the safe under Sharpe's bed and that no drugs or drug paraphernalia were found in the search of Appellant's car. (R.p.150-p.166). On redirect, Kennedy testified that after Appellant's arrest, when they found the key card in his wallet that could open the hidden safe in the kitchen, Appellant said: "obviously you knew the fucking card was in there." (R.p.166-p.168).

Next, the State called LCSD Investigator Austin Sanner to the stand. Sanner is a member of the NET and was one of the officers who assisted in the search. He confirmed he made a traffic stop of a vehicle that left the house just before the execution of the search warrant, and that based on what he learned during that stop, he advised other officers at the scene that there was a potential hiding spot in the kitchen of the home. Sanner testified he was on the scene when the key card found in Appellant's wallet was used to operate the locking mechanism on the door to the hidden safe. He described the hidden compartment in detail, and then explained he also searched the basement of the house and Appellant's bedroom and was the person who found the pistol. Sanner confirmed no other keys were found in the basement or anywhere else at the scene which could open the kitchen safe. (R.p.169-p.175).

Next, LCSD Evidence Sergeant Sandra Black explained the procedure for receiving and securing evidence collected from a crime scene. She then described receiving the box of evidence in Appellant's case and later transporting it to SLED for analysis on April 11, 2023. (R.p.181-p.185). Finally, SLED forensic chemist Maribeth McCormack was qualified and admitted as an expert in the field of drug analysis. She confirmed receiving the evidence from Black on April 11, 2023, and then described both the process used for analyzing it to determine whether it was methamphetamine and to determine its quantity. McCormack testified there were four bags in the box, each of which contained meth, based on spot testing. She then used a gas

chromatograph/mass spectrometer testing on samples from two of the four bags to confirm they indeed contained meth. They had a combined weight of 1,624 grams, while the two additional bags she did not specifically test but which looked the same, weighed 135 grams and 136 grams, respectively. (R.p.191-p.201).

At the conclusion of McCormack's testimony, the State rested. Appellant moved for a directed verdict and that motion was denied. The trial court then noted it could not give Appellant an on-the-record advisory regarding his right to testify because Appellant was not present. Following a brief charge conference, Appellant rested and renewed his motion for a directed verdict. The motion was again denied and the parties proceeded to closing arguments. (R.p.205-p.220). The trial judge then charged the jury on the roles of the judge and jury, direct and circumstantial evidence, credibility of witnesses, expert witnesses, the defendant's right to not testify, the voluntariness of any statements made by the defendant, the State's burden of proof, the presumption of innocence, reasonable doubt, criminal intent, the elements of each offense, and the verdict forms. (R.p.220-p.232). The jury began deliberating and after several questions were asked and answered, it reached a verdict, finding Appellant guilty as indicted. He was sentenced by Judge McCleod to twenty-five (25) years' imprisonment and fined $200,000 for trafficking methamphetamine and five (5) years' concurrent imprisonment for possession of a weapon during a violent crime. (R.p.1-p.8; p.240-p.247).

## STANDARD OF REVIEW

In criminal cases, an appellate court sits to review only errors of law, and it is bound by the trial court's factual findings unless they are clearly erroneous. *State v. Brown*, 401 S.C. 82, 87, 736 S.E.2d 263, 265 (2012), *cert. denied*, 569 U.S. 1023 (2013); *State v. Wilson*, 345 S.C. 1, 6, 545 S.E.2d 827, 829 (2001). Our appellate courts give great deference when reviewing the evidentiary ruling of the trial court. *State v. Cross*, 427 S.C. 465, 473, 832 S.E.2d 281, 285 (2019); *State v. Davis*, 437 S.C. 93, 96, 876 S.E.2d 321, 322 (Ct. App. 2022). Indeed, the admission or exclusion of evidence is left to the sound discretion of the trial judge. *State v. Commander*, 396 S.C. 254, 262-63, 721 S.E.2d 413, 417 (2011); *State v. Edwards*, 373 S.C. 230, 234, 644 S.E.2d 66, 68 (Ct. App. 2007). The trial court's ruling on the admissibility of evidence will not be reversed on appeal absent abuse of discretion or the commission of legal error which results in prejudice to the defendant. *State v. McDonald*, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000); *State v. Adams,* 354 S.C. 361, 377, 580 S.E.2d 785, 793 (Ct. App. 2003). An abuse of discretion occurs when the ruling lacks evidentiary support or is controlled by an error of law. *Brown*, 401 S.C. at 87, 736 S.E.2d at 265; *State v. Jennings*, 394 S.C. 473, 477-78, 716 S.E.2d 91, 93 (2011); *State v. Morris*, 376 S.C. 189, 205-06, 656 S.E.2d 359, 368 (2008); *McDonald*, 343 S.C. at 325, 540 S.E.2d at 467.

## ARGUMENT

### I.

**The trial court properly excluded evidence of third-party guilt pursuant to Rule 403, SCRE, and neither abused its discretion nor violated Appellant's constitutional right to present a complete defense because the proffered evidence had no other effect than to cast a bare suspicion upon another, and was neither inconsistent with Appellant's own guilt nor raised a reasonable inference or presumption as to Appellant's innocence. Furthermore, any possible error was harmless in this case because, beyond a reasonable doubt, it did not contribute to the jury's verdict given the overwhelming evidence of guilt.**

Appellant argues the trial judge erred in refusing to permit him to question the investigating officer about two drug transactions that formed the basis of the search warrant for his residence, where the individual who made those drug sales—Michael Sharpe—did so within two weeks of the search. He suggests this refusal violated his constitutional right to present a complete defense. (Brief of Appellant, p.4-p.11). The State disagrees and submits Appellant's argument should be denied and dismissed for two reasons. First, it is without merit because the trial court exercised proper discretion in excluding the purported evidence of third-party guilt pursuant to Rule 403, SCRE, where at best it had no effect but to cast a bare suspicion upon Sharpe and was neither inconsistent with Appellant's own guilt nor raised a reasonable inference or presumption as to Appellant's innocence. Furthermore, any error in excluding the evidence of third-party guilt was harmless beyond a reasonable doubt given the overwhelming evidence of Appellant's guilt. Appellant's convictions and sentence should be affirmed.

The United States Constitution guarantees a criminal defendant a meaningful opportunity to present a complete defense. *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006); *Crane v. Kentucky*, 476 U.S. 683, 690 (1986). This right is also guaranteed by our State constitution: "Any person charged with an offense shall enjoy the right . . . to be fully heard in his defense . . .

." S.C. Const. art. I, § 14. However, the right to introduce even relevant evidence "is not unlimited, but rather is subject to reasonable restrictions." *U.S. v. Scheffer*, 523 U.S. 303, 308 (1998); *State v. Burgess*, 391 S.C. 15, 22, 703 S.E.2d 512, 516 (Ct. App. 2010). The exclusion of witness testimony does not violate a defendant's constitutional right to present evidence so long as the evidence rules are "not 'arbitrary' or 'disproportionate to the purposes they are designed to serve.'" *Scheffer*, 523 U.S. at 308 (quoting *Rock v. Arkansas,* 483 U.S. 44, 56 (1987)).

In South Carolina, the admissibility of evidence of third-party guilt is governed by the rule set forth by our supreme court in *State v. Gregory,* 198 S.C. 98, 16 S.E.2d 532 (1941). *See State v. Cope,* 385 S.C. 274, 292-93, 684 S.E.2d 177, 186-87 (Ct. App. 2009) (quoting *State v. Gregory* as the rule governing admissibility of evidence of third-party guilt); *State v. Swafford,* 375 S.C. 637, 641–43, 654 S.E.2d 297, 299–300 (Ct. App. 2007) (affirming application of *State v. Gregory*). In *Holmes*, the United States Supreme Court articulated its approval of the rule adopted in *Gregory* for the admission of evidence of third-party guilt. *Holmes*, 547 U.S. at 328. In *Gregory*, our supreme court explained:

> [T]he evidence offered by accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible. . . . [B]efore such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as *tends clearly to point out such other person as the guilty party.* Remote acts, disconnected and outside the crime itself, cannot be separately proved for such a purpose.

*Gregory*, 198 S.C. at 104-105, 16 S.E.2d 532 at 534-35 (internal citations omitted) (emphasis added).

Thus, it is well-established that a criminal defendant's offer of evidence concerning a third party's commission of the charged crime "must be limited to such facts as are inconsistent with his own guilt[ ] and to such facts as raise a reasonable inference or presumption as to his own innocence." *Gregory*, 198 S.C. at 104, 16 S.E.2d at 534. *Gregory* requires the trial judge to consider the probative value or the potential adverse effects of admitting proffered evidence of third-party guilt. *State v. Brooks*, 428 S.C. 618, 635, 837 S.E.2d 326, 245 (Ct. App. 2019); *State v. Swafford*, 375 S.C. 637, 641, 654 S.E.2d 297, 299 (Ct. App. 2007) (citing *Holmes*, 547 U.S. at 329). In *Holmes*, the United States Supreme Court characterized the *Gregory* rule's purpose as focusing "the trial on the central issues by excluding evidence that has only a very weak logical connection to the central issues." 547 U.S. at 330.

The *Holmes* court recognized that evidence of third-party guilt is appropriately managed by evidentiary rules such as Rule 403, SCRE. 547 U.S. at 327. Rule 403 states, "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, *confusion of the issues*, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Rule 403, SCRE (emphasis added). A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. *State v. Collins*, 409 S.C. 524, 534, 763 S.E.2d 22, 28 (2014); *Brooks*, 428 S.C. at 635, 837 S.E.2d at 245. The appellate court reviews the circuit court's Rule 403 ruling pursuant to the abuse of discretion standard and [is] obligated to give great deference to the [circuit] court's judgment. *Id.*

In the present case, the trial judge properly denied Appellant's request to elicit testimony about the prior sales. That evidence offered no reliable proof that Sharpe was the sole possessor of the meth found in the search. Instead, the testimony could only serve to "cast a bare

suspicion" as to Sharpe's guilt as opposed to Appellant's guilt. Even if Sharpe *also* possessed the meth, this would not be inconsistent with Appellant's guilt and would not raise a reasonable inference of Appellant's innocence. Thus, it was clear to the trial court that Appellant had not presented the requisite "train of facts or circumstances" tending "clearly to point out [the] other person as the guilty party." *Gregory*, 198 S.C. at 105, 16 S.E.2d at 535. Therefore, there are no exceptional circumstances warranting a reversal of the circuit court's exclusion of the prior drug sales from evidence. *See Collins*, 409 S.C. at 534, 763 S.E.2d at 28 ("A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances.").

To the contrary, our appellate courts have repeatedly addressed the *Gregory* standard in analyzing and affirming the exclusion of evidence of third-party guilt. *See, e.g., State v. Brown*, 437 S.C. 550, 569-70, 878 S.E.2d 364, 375 (Ct. App. 2022) (affirming the exclusion of evidence of third-party guilt in a robbery and murder case where: (1) "Brown presented no witnesses suggesting Felder claimed responsibility for the crimes nor otherwise offered evidence of Felder's guilt to the exclusion of Brown," and (2) "[o]ther than 'bare suspicion' and the close proximity of his home, there is simply no evidence to suggest Felder was the perpetrator here."); *Brooks*, 428 S.C. at 637, 873 S.E.2d at 246 (affirming the exclusion of evidence of third-party guilt in a shooting case where Brooks "has not presented the requisite 'train of facts or circumstances' tending 'clearly to point out [the] other person as the guilty party'"); *Burgess*, 391 S.C. at 23, 703 S.E.2d at 516 (affirming the exclusion of evidence of third-party guilt in a murder case where the testimony was remote and was not inconsistent with Burgess' guilt); *State v. Rice*, 375 S.C. 302, 322, 652 S.E.2d 409, 419 (Ct. App. 2007) (affirming the exclusion of evidence of third-party guilt in a robbery and murder case where: (1) "[t]he record is void of

facts or circumstances, other than Bryant's inconsistent statements, linking anyone other than Rice to Brennan's murder" and (2) "[t]he proffered evidence casts a mere 'bare suspicion' on Nikki or Tiki and fails to connect either to the murder by way of the facts and circumstances surrounding the crime."), overruled on other grounds by *State v. Byers*, 392 S.C. 438, 710 S.E.2d 55 (2011). Here, as in the cited cases, the trial court properly utilized and applied the *Gregory* standard in determining whether to allow the testimony about Sharpe's prior drug sales as evidence of third-party guilt. After allowing a proffer of the testimony, the trial court found the evidence was sufficiently disconnected to the trafficking charge so that admission would confuse the jury. Although not explicitly articulated, the trial court properly concluded the evidence would not show a reasonable inference of Sharpe's guilt, to the exclusion of Appellant, and therefore would not show a reasonable inference of Appellant's innocence. *See State v. Mansfield,* 343 S.C. 66, 86, 538 S.E.2d 257, 267 (Ct. App. 2000) ("Because the evidence was not inconsistent with [the defendant's] own guilt, the trial court exercised sound discretion in excluding it."). Therefore, the trial judge did not abuse his discretion in denying Appellant's request to question Kennedy about Sharpe's two drug transactions.

The evidence, though arguably relevant, did nothing to solely implicate Sharpe or demonstrate Appellant's innocence. Indeed, no evidence was produced that Sharpe possessed the meth seized during the search, to the exclusion of Appellant. As the Supreme Court stated in *Gregory*: "An orderly and unbiased judicial inquiry as to the guilt or innocence of a defendant on trial does not contemplate that such defendant be permitted, by way of defense, to indulge in conjectural inferences that some other person might have committed the offense for which he is on trial, or by fanciful analogy to say to the jury that someone other than he is more probably guilty." *Gregory,* 198 S.C. at 105, 16 S.E.2d at 535. The evidence of prior incidents involving

the sale of entirely different meth by Sharpe would be the epitome of "conjecture or surmise" if allowed into evidence to stand as a basis for third-party guilt related to the independent trafficking charge for which Appellant was on trial. As a result, the trial court properly excluded the evidence of third-party guilt, and that decision should be affirmed.

In his brief, Appellant argues that because "the two sales were both within two weeks of the search" and that proof of those sales "is not left to speculation," it leads to "a reasonable inference that Mr. Sharpe possessed the drugs in question and not [Appellant]." He argues that regardless of the theory behind admitting the evidence, it would tend to exonerate him. (Brief of Appellant, p.5-p.6). However, as noted above, where the drugs found hidden in Appellant's kitchen were **not** the same drugs possessed and sold by Sharpe on a completely separate occasion, the suggested inference is both weak and unreasonable. Indeed, this is precisely the kind of conjectural inference prohibited by *Gregory*. It is simply not proper to argue Sharpe could have been the person in sole possession of the meth unless there was a specific chain of facts and circumstances to satisfy the standards for third-party guilt. While Sharpe's drug sales certainly linked Sharpe to the drugs sold on those dates, the record is void of facts or circumstances linking Sharpe—to the exclusion of Appellant—to the meth subsequently discovered in the kitchen safe. At best it could be construed as evidence that both Sharpe and Appellant possessed the meth, but not as evidence inconsistent with Appellant's guilt.

Appellant next seems to rely on the definition of "relevant evidence" in the South Carolina Rules of Evidence in arguing the evidence of Sharpe's drug sales could have: "[a tendency] to make the possession of the methamphetamine by [Appellant] less likely." (Brief of Appellant, p.7). But, as recognized in *Holmes*, 547 U.S. at 327, and *Brooks*, 428 S.C. at 635, 837 S.E.2d at 245, relevance is only the initial hurdle to admission of evidence of third-party guilt.

The rules allow even relevant evidence to be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. Rule 403, SCRE. *See also*, *Commonwealth v. Rodriguez*, 321 A.3d 981, 982 (Pa. Super. Ct. 2024) (recognizing that even where third person guilt evidence is relevant, the proper inquiry is whether the probative value of that evidence is outweighed by any danger of 'confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.").

Here, the trial court clearly concluded that admitting the drug sale testimony would lead to confusion of the issues. Appellant seeks to equate the "unfair prejudice" standard in Rule 403 [an undue tendency to suggest decision on an improper basis] with the "confusion of the issues" standard, but these are two different parts of the Rule. A trial court's discretionary ruling regarding "confusion of the issues" may be more akin to exclusion due to undue delay, waste of time, or needless presentation of cumulative evidence, or perhaps more similar to a case where there is sufficient confusion to create *any tendency* to suggest a decision on an improper basis. Regardless, evidence which confuses the issues for the jury could certainly have an undue tendency to permit a decision on an improper basis. No matter the technicalities of the standard applied, the trial court was well within its wide discretion to exclude the evidence of third-party guilt under the circumstances of this case. Appellant argues that even if he knew the drugs were in the house it would not be sufficient to convict because: "without the right to control the drugs, mere knowledge is not sufficient." (Brief of Appellant, p.9). The problem with that claim, however, it that the evidence at trial showed Appellant was the *only* person who had access to, and therefore the right to control, the drugs in question.

Also in his brief, Appellant relies on an opinion from the Supreme Court of Pennsylvania for support, noting that court "discussed the issue of third-party guilt in a somewhat similar case" which resulted in "reversing the conviction." (Brief of Appellant, p.9-p.10). *Commonwealth v. Yale*, 249 A.3d 1001 (Pa. 2021). Yet in *Yale*, although the trial court *did* prohibit Yale from introducing third person guilt evidence upon finding it was irrelevant and would confuse the jury, that finding was based on cases which had announced a two-part admissibility test that includes a "signature crime" prong. *Id.* at 1005-06. Indeed, the trial court concluded the evidence would have confused the jury "by permitting the inference that being charged with a crime was itself suggestive of guilt" and by requiring "the holding of a trial within a trial." *Id.* at 1006. Consequently, the appellate court's discussion focused *entirely* on whether the third-party guilt evidence was improperly excluded by the trial court under a Rule 404(b) analysis—*not* a Rule 403 analysis. Indeed, the conviction was not simply reversed on grounds the evidence should have been admitted. Instead, the Pennsylvania Supreme Court held: "We therefore reverse the order of the Superior Court affirming the trial court's exclusion of Yale's third person guilt evidence with instruction to remand to the trial court for a ruling on the admissibility of the third person guilt evidence pursuant to Pa.R.E. 401-403." *Id.* at 1025. Here, the trial court made a ruling on the admissibility of Appellant's third-party guilt evidence—finding "there is an issue of confusion here should the jury hear the specifics about probable cause." Unlike in *Yale*, that ruling was *not* based on Rule 404(b), and instead falls clearly within the parameters established in *Gregory* and its progeny.

Furthermore, the relevant facts in *Yale*, which arguably weighed in favor of admitting third person guilt evidence under Yale's own theory of defense, are simply not present here. As argued by Yale in support of admission, there was "no prior evidence linking him to drug

manufacture, and no fingerprint or other forensic evidence linking [him] to the contraband." *Yale*, 249 A.3d at 1008. Here, there was a key card in Appellant's possession which opened the hidden, locked safe, which directly linked him to the meth found in that safe, while no similar key card linked Sharpe to the meth. As also asserted by Yale, "he did not display a consciousness of guilt during the search," whereas Thompson "displayed a consciousness of guilt by hiding in the closet during the search." *Id.* at 1010. Here, the opposite circumstances were present. When Investigator Kennedy brought Appellant back inside the residence to ask if he knew of any meth being in the house, Appellant looked at Kennedy, then looked above the kitchen sink, and then back at Kennedy, all while breathing in a way indicating to Kennedy that Appellant knew the meth was present. (R.p.126-p.133). Also, after Appellant's arrest, when the police found the key card in his wallet that could open the hidden safe in the kitchen, Appellant said: "obviously you knew the fucking card was in there." (R.p.166-p.168). These behaviors displayed Appellant's consciousness of guilt. There was no evidence of similar behaviors by Sharpe during or after the search. Thus, both the facts and the analysis in *Yale* fail to support Appellant's position. As noted by the Pennsylvania Supreme Court: "Ultimately, the question is whether the evidence supports an inference that the defendant did not commit the crime and someone else did." *Yale*, 249 A.3d at 1024. In Appellant's case, the trial court's decision to exclude the proposed third-party guilt evidence was proper where the facts did not support the inference that Appellant did not commit the crime and someone else did. Sharpe's prior drug sales provide no evidence he possessed the meth found during the search, to the exclusion of Appellant. There was no error in the exclusion of the evidence of third-party guilt; therefore the convictions and sentence should be affirmed.

**Harmless Error**

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. *State v. Sherard*, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). Only errors so substantial that they result in a verdict which would not otherwise have been rendered require reversal. *State v. Jolly,* 304 S.C. 34, 39, 402 S.E.2d 895, 898 (Ct. App. 1991). "A harmless error analysis is contextual and specific to the circumstances of the case." *State v. Byers*, 392 S.C. 438, 447, 447–48, 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." *Id.* at 447–48, 710 S.E.2d at 60 (quoting *State v. Reeves*, 301 S.C. 191, 193–94, 391 S.E.2d 241, 243 (1990) ). A defendant seeking reversal based on error in admission or exclusion of evidence has the burden of showing that evidence or lack thereof was prejudicial. *State v. McElveen,* 280 S.C. 325, 327, 313 S.E.2d 298, 299 (1984).

The State submits any error in the exclusion of the testimony was harmless because admitting the third-party guilt evidence would have been insubstantial in view of the evidence presented of Appellant's guilt, such that it could not reasonably have affected the result of the trial. *See State v. Watts*, 321 S.C. 158, 467 S.E.2d 272 (Ct. App. 1996) (stating that error is harmless beyond a reasonable doubt if it does not contribute to the verdict). The State presented overwhelming evidence of Appellant's guilt including the fact that the sole key card that accessed the meth discovered at the crime scene was in Appellant's wallet, on his person. Although other people were in the house when the search was executed, none of them could access the meth. Given the overwhelming evidence of guilt, the State submits the absence of the speculative evidence of third-party guilt could not reasonably have affected the result of the trial,

and any error was harmless. *Byers*, 392 S.C. at 447-48, 710 S.E.2d at 243; *See State v. Watts*, 321 S.C. 158, 467 S.E.2d 272 (Ct. App. 1996) (stating that error is harmless beyond a reasonable doubt if it does not contribute to the verdict). Indeed, Appellant has not shown the requisite prejudice to support reversal of the convictions. *McElveen*, 280 S.C. at 327, 313 S.E.2d at 299. In view of the evidence adduced at trial, any possible errors arising from the exclusion of evidence of third-party guilt was harmless, and did not have an impact on the verdict. Therefore, Appellant's convictions should be affirmed.

## CONCLUSION

For all of the foregoing reasons, the State respectfully requests that Appellant's convictions and sentence be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

BY: 
J. Benjamin Aplin
S.C. Bar No. 8729

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
July 18, 2025

RECEIVED
Jul 18 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

---

APPEAL FROM LEXINGTON COUNTY
Walton J. McCleod, IV, Circuit Court Judge

---

Appellate Case No. 2024-001430

The State, .....Respondent,

v.

Clint Arthur Walker, .....Appellant.

---

**PROOF OF SERVICE**

---

I, Susan Spencer, Legal Assistant, hereby certify that I have served the *Final Brief of Respondent*, dated July 18, 2025, on Appellant by sending an electronic copy via email to C. Rauch Wise, counsel of record for Appellant, at the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served. This 18th day of July, 2025.

Susan Spencer
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

## Susan Spencer

**From:** Susan Spencer
**Sent:** Friday, July 18, 2025 1:34 PM
**To:** rauchwise@gmail.com
**Cc:** Ben Aplin; straynham2@yahoo.com
**Subject:** The State v. Clint Arthur Walker (2024-001430)
**Attachments:** WALKER Clint - Final Brief of Respondent.pdf

Good afternoon Mr. Wise,

Attached please find the Final Brief of Respondent in The State v. Clint Arthur Walker (2024-001430). This brief will be filed today with the Court of Appeals via the AIS OneDrive system. If you will, please confirm receipt.

Thank you.

**SUSAN SPENCER**, Legal Assistant
South Carolina Attorney General's Office
Criminal Appeals | Office 803-734-3219 | susanspencer@scag.gov
P.O. Box 11549 | Columbia, SC 29211
scag.gov