

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Aug 12 2025

SC Court of Appeals

Appeal from Charleston County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL TYRUS JETER,

APPELLANT

APPELLATE CASE NO. 2025-000056

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY
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STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion by admitting Facebook posts allegedly made by Appellant concerning his arrest in this case when the evidence was not properly authenticated pursuant to Rule 901, SCRE?

STATEMENT OF THE CASE

A Charleston County grand jury indicted Appellant on April 9, 2024, for failure to stop for a blue light. R. 231-232. His case was called to trial on January 6, 2025, before the Honorable J. Derham Cole, Jr., and a jury. R. 1. Assistant Solicitors Tyra Roberts and Jordan Norvell represented the state. Kaitlin Cornwell-Goulooze and Patrick Goodwyn represented Appellant. R. 1.

On January 7, 2025, the jury found Appellant guilty as indicted. R. 207, ll. 3-9. He was sentenced to three years suspended upon the service of one year imprisonment and two years' probation. R. 220, ll. 20-24.

This appeal follows.

STATEMENT OF FACTS

During the early morning hours of December 30, 2023, Officer Troy Aratan with the North Charleston Police Department noticed a car that “appeared to be traveling at a high rate of speed.” Aratan “got behind the vehicle” and discovered the license plate had a tinted cover obscuring the tag. He decided to stop the car for improperly displaying the license plate. After the car turned into a 7 Eleven gas station, Aratan activated his blue lights. The driver, later identified as Appellant, stopped his car beside a gas pump in a well lit area. R. 76, l. 12 – 80, l. 25. Aratan parked his patrol vehicle directly behind Appellant and approached the passenger side of Appellant’s car. He provided dispatch with the license plate information and asked Appellant to roll down his window. Appellant complied. R. 83, l. 18 – 84, l. 21.

Appellant was the sole occupant of the car. He immediately handed Aratan his driver’s license and vehicle registration. R. 84, ll. 17-24. Aratan confirmed the photograph on the license matched Appellant’s appearance. R. 85, ll. 3-8.

While Appellant and Aratan were talking, Officer Hattie Perry, also with the North Charleston Police Department, arrived as backup. She approached the driver’s side window and began talking with Appellant while Aratan went back to his patrol car to verify Appellant’s license and registration information. R. 86, l. 18 – 87, l. 4. Perry immediately asked Appellant whether he had any guns or drugs in the car. After Appellant said no, Perry asked Appellant for consent to search his car. Appellant refused to give consent. Perry told Appellant to get out of the car because she was going to “run [her] dog” around the vehicle “to sniff.” She then pulled on Appellant’s door handle in an attempt to open the door, but the door was locked. Appellant again denied that he had any drugs in the car and told Perry she was “racially profiling” him.

Perry continued to order Appellant to get out of the car and again told him she was going to “run [her] dog” around his car because Appellant “said no to searching.” R. 139, ll. 3-20.

Seconds later, before Aratan was able to complete the traffic stop, Appellant drove away. R. 87, ll. 5-24. While Aratan and Perry attempted to follow Appellant with their lights and sirens activated, they eventually lost sight of his car and did not locate him again that morning. R. 90, l. 19 – 94, l. 11; R. 143, l. 4 – 144, l. 10. Appellant turned himself in about two weeks later and was charged with failure to stop for a blue light. R. 148, ll. 10-12.

Perry told the jury that she had a K9 trained to detect narcotics and intended to conduct a “free air sniff” around Appellant’s car, which would have taken roughly thirty seconds to a minute, while Aratan was verifying Appellant’s license and registration. R. 140, l. 1-19.

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. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006). An abuse of discretion occurs when the decision of the trial court is based upon an error of law or upon factual findings that are without evidentiary support. Id.

ARGUMENT

The trial court abused its discretion by admitting Facebook posts allegedly made by Appellant concerning his arrest in this case when the evidence was not properly authenticated pursuant to Rule 901, SCRE.

Relevant Facts

The assistant solicitor discussed pretrial the state's intent to admit posts Appellant allegedly made on Facebook regarding his arrest. She maintained Appellant used a Facebook account named "Bamma Yo" and posted "material directly related to this case." She argued the state would be able to properly authenticate the posts pursuant to Rule 901, SCRE. Citing to State v. Green, 427 S.C. 223, 830 S.E.2d 711 (Ct. App. 2019), and State v. Benton, 435 S.C. 250, 865 S.E.2d 919 (Ct. App. 2021), the solicitor explained that circumstantial evidence, such as the content, tenor, and timing of the posts, is sufficient to authenticate the evidence. She then vaguely described the various posts allegedly made by Appellant that the state sought to admit. R. 38, l. 16 – 44, l. 1. When questioned by the judge, the solicitor stated that she intended to authenticate the posts through the law enforcement officer who located them on Facebook. R. 44, ll. 2-7.

Defense counsel argued that only the account user or a Facebook representative could properly authenticate the posts. She further asserted that since the defense was not contesting identity, the evidence was cumulative and would be confusing to the jury. R. 44, l. 9 – 45, l. 12.

The trial judge took the authentication matter under advisement. R. 46, ll. 23-25. The solicitor then stated she wished to address an anticipated hearsay objection to the admission of comments made on the Facebook posts that the state intended to admit if the trial judge found the evidence was properly authenticated. She explained that on January 12, 2024, Appellant

allegedly posted a Live 5 news article about his arrest. Someone commented on the post: “I’ll take the high speed charge before the dope and gun.” The solicitor claimed Appellant allegedly responded to this comment: “Word. Any day.” She argued that Appellant’s response to the comment “goes to his state of mind, his motive, his reasoning, his intent for leaving that traffic stop.” R. 48, l. 18 – 50, l. 18.

The trial judge interrupted the solicitor and stated he was “not inclined to admit” the comment and the alleged response by Appellant because “the mention of the dope and the gun seems to be unduly prejudicial.” R. 50, l. 19 – 51, l. 5. After further argument by the parties, the trial judge stated he was going to exclude evidence of the comment and alleged response by Appellant pursuant to Rule 403, SCRE, because Appellant was “not charged with any offenses related to drugs or guns.” R. 54, ll. 9-13.

After reading State v. Green, 427 S.C. 223, 830 S.E.2d 711 (Ct. App. 2019), the judge said the state would “have the opportunity to make a prima facie showing that the authentication burden has been met.” R. 57, l. 22 – 58, l. 9.

Before Officer Hattie Perry testified before the jury, the state proffered her testimony in an attempt to authenticate the Facebook posts the state sought to admit. During the proffer, Perry testified that another officer contacted her after that officer observed a post on Facebook that contained footage from Perry’s body worn camera. Perry viewed the Facebook post, which was not privacy protected. She also viewed the profile picture as well as other posts made by the account named “Bamma Yo.” She suspected the account user was Appellant because the posts regarded Appellant’s arrest for failure to stop for a blue light. R. 118, l. 18 – 119, l. 7.

State’s Exhibit No. 15 is a post containing a screen shot from Perry’s body worn camera showing Appellant sitting in his vehicle during the stop. The post stated, “Saying NO To

Searching, Is Only Gonna Get You Searched in North Charleston.....I Was Just Tryna Get Home So I Could Take My Insulin.” R. 119, ll. 16-23. It was posted on December 17, 2024. R. 223. State’s Exhibit No. 17 is a post sharing the Live 5 News article about Appellant’s arrest on January 12, 2024. R. 224. The post stated, “I Guess They Ain’t Got Nothing Else Better To Do.” R. 119, l. 24 – 120, l. 2.

Perry testified that she watched “live videos” posted by “Bamma Yo” which depicted Appellant. She also said on January 6, 2025, the day before her testimony, the account posted a “selfie” of Appellant in court wearing the same clothing Appellant wore that day. R. 120, l. 11 – 121, l. 13. Lastly, Perry maintained that only limited law enforcement personnel and attorneys associated with the case had access to her body camera footage. She suspected Appellant obtained the footage from his attorney. R. 121, ll. 14-25.

Perry admitted she did not create the “Bamma Yo” Facebook account and only had public access to it. She also did not obtain a search warrant to get access to the “Bamma Yo” account or its posts. Finally, Perry conceded that she is not a records custodian for Facebook. R. 123, l. 16 – 124, l. 7.

At the conclusion of the proffer, defense counsel argued the posts marked as State’s Exhibit No. 15 and State’s Exhibit No. 17 were not properly authenticated pursuant to Rule 901, SCRE, since only the account user or a representative of Facebook could authenticate the posts. R. 128, l. 17 – 129, l. 5.

The trial judge ruled the evidence was adequately authenticated pursuant to Rule 901(b)(4), SCRE. He stated his ruling was consistent with the holding in State v. Green, 427 S.C. 223, 830 S.E.2d 711 (Ct. App. 2019), and that the state had made a prima facie showing that the true author of the posts was who the state claimed it to be (Appellant). R. 130, l. 7 – 131, l. 1.

Discussion

The trial judge abused his discretion by admitting State's Exhibit No. 15 and State's Exhibit No. 17, Facebook posts allegedly made by Appellant concerning his arrest, when the evidence was not adequately authenticated pursuant to Rule 901, SCRE.

The proponent of evidence must satisfy "the requirement of authentication or identification as a condition precedent to admissibility." Rule 901(a), SCRE; See also State v. Brown, 424 S.C. 479, 488, 818 S.E.2d 735, 740 (2018) ("It is black letter law that evidence must be authenticated or identified in order to be admissible"). This requirement "is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Id. While the burden is not high, the proponent must offer a satisfactory foundation to permit the jury to conclude the evidence is authentic. Deep Keel, LLC v. Atlantic Private Equity Group, LLC, 413 S.C. 58, 64-65, 773 S.E.2d 607, 610 (Ct. App. 2015) (citing United States v. Hassan, 742 F.3d 104, 133 (4th Cir. 2014)).

"The court decides whether a reasonable jury could find the evidence authentic; therefore, the proponent need only make a prima facie showing that the true author is who the proponent claims it to be." State v. Green, 427 S.C. 223, 230, 830 S.E.2d 711, 714 (Ct. App. 2019) (quoting United States v. Davis, 918 F.3d 397, 402 (4th Cir. 2019)) (internal quotation marks omitted). "Once the trial court determines the prima facie showing has been met, the evidence is admitted, and the jury decides whether to accept the evidence as genuine and, if so, what weight it carries." Id. (citing Rule 104(b), SCRE; United States v. Branch, 970 F.2d 1368, 1370-72 (4th Cir. 1992); 5 Weinstein et al., Weinstein's Federal Evidence § 901.02[3] (2d ed. 2019)).

One way to authenticate evidence is by showing the evidence contains “distinctive characteristics and the like.” Rule 901(b)(4), SCRE. “Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances” may serve to authenticate evidence. Id.; See also State v. Anderson, 386 S.C. 120, 129, 687 S.E.2d 35, 39-40 (2009) (finding a master fingerprint card authenticated where an expert explained the prints on the master card were taken at a correctional facility on a specific date, and assigned a unique state identifying number).

In State v. Green, 427 S.C. 223, 830 S.E.2d 711 (Ct. App. 2019), this Court held the state adequately authenticated direct messages obtained from the decedent’s Facebook account by the decedent’s father pursuant to Rule 901(b)(4), SCRE. The messages were exchanged the day of and the day before the decedent went missing and appeared to be between the decedent and a user named “Ruby Rina.” Id. at 227, 830 S.E.2d at 712. The messages revealed Ruby Rina invited the decedent to her home for a “sexual rendezvous” the day the decedent disappeared. The state alleged the messages were exchanged between the decedent and Karina Galarza, Green’s “sometime girlfriend.” Id. at 227, 830 S.E.2d at 712-13. Forensic testing conducted on a blood stain found at Galarza’s residence matched the decedent’s blood and bedding found where the decedent’s remains were located appeared to be identical to bedding collected from Galarza’s home. Id. at 228, 830 S.E.2d at 713.

Green argued on appeal that the Facebook messages were not properly authenticated and the trial court abused its discretion by admitting them. He contended “that social media can be manipulated” and a hacker could easily access another’s account or create a fictitious account. Moreover, Green noted that there was evidence both accounts were not secure. Id. at 230, 830 S.E.2d at 714.

This Court held the Facebook messages were properly authenticated pursuant to Rule 901(b)(4), SCRE. The Court concluded “the content of the messages was distinctive enough that a reasonable jury could find Galarza wrote them.” Id. at 233, 830 S.E.2d at 715. The Court emphasized that numerous facts linked the Facebook messages to Galarza and, consequently, to Green. Id. Specifically, the use of the screen name Ruby Rina, which a witness testified belonged to Galarza; reference to “Julissa” on the messages, which testimony showed was Galarza’s sister’s name; Ruby Rina’s invitation to her home, which was the address where the decedent’s blood was later found; the decedent’s reference to Ruby Rina as “Karina,” Galarza’s real first name; comments throughout the messages about Ruby Rina’s former boyfriend that were consistent with her relationship with Green; the timing of the messages; and the fact that the decedent disappeared shortly after Ruby Rina invited him to her home. Id. at 233, 830 S.E.2d at 715-16. “Taken together,” this Court found “these circumstances served as sufficient authentication to meet the low bar Rule 901(b)(4), SCRE, sets.” Id. at 233, 830 S.E.2d at 716.

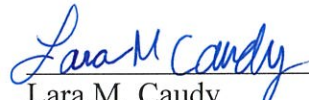
In this case, the state failed to adequately authenticate the Facebook posts admitted as State’s Exhibit No. 15 and State’s Exhibit No. 17. Unlike in Green, the content of the posts was not distinctive enough that a reasonable jury could find Appellant wrote them. While the content suggested someone who knew Appellant authored the posts, the circumstances were insufficient to conclude Appellant was the likely author. Moreover, Appellant did not testify that he was the author of the posts and the state failed to call a records custodian from Facebook to properly authenticate the posts. Accordingly, the trial judge abused his discretion by admitting the posts over Appellant’s objection.

Respectfully, this Court should reverse Appellant’s conviction and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his conviction and remand for a new trial.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 12th day of August, 2025.

STATE OF SOUTH CAROLINA
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APPELLATE CASE NO. 2025-000056

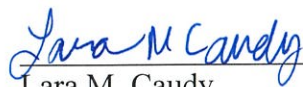
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Michael Tyrus Jeter states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense and was appointed to represent Appellant.
2. She has reviewed the record of Appellant's trial, which was held on January 6-7, 2025 before the Honorable J. Derham Cole, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738 (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 Tyrus Jeter.

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 12th day of August, 2025.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

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APPELLANT

APPELLATE CASE NO. 2025-000056

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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SC Court of Appeals

Appellant proposes the following be included in the Record on Appeal:

- (1) Complete Trial Transcript dated January 6-7, 2025;
- (2) State's Exhibit No. 15 (Facebook Post);
- (3) State's Exhibit No. 17 (Facebook Post);
- (4) Motion to Dismiss filed December 13, 2024;
- (5) Memo in Support of Motion to Suppress filed January 3, 2025;
- (6) Indictment;
- (7) Sentence Sheet.

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



Lara M. Caudy
Senior Appellate Defender

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PO Box 11589
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ATTORNEY FOR APPELLANT

This 12th day of August, 2025.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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Aug 12 2025

SC Court of Appeals



Lara M. Caudy
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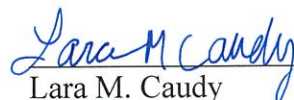
MICHAEL TYRUS JETER,

APPELLANT

APPELLATE CASE NO. 2025-000056

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Mark R. Farthing, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on Michael Tyrus Jeter at 3730 Ingleside Blvd, Apt. 10302, Ladson, SC 29456, this 12th day of August, 2025.


Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT