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Aug 22 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from State Grand Jury County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NICHOLAS GRACELY,

APPELLANT

APPELLATE CASE NO. 2024-001879

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Interim Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in allowing the jury to hear conspiracy evidence involving other parties connected to the drugs found at appellant's residence because this was irrelevant and inadmissible character information that prejudiced his defense at trial.

STATEMENT OF THE CASE

Appellant Nicholas Vincent Gracely was found guilty of possession of a weapon during the commission of a violent crime, unlawful conduct toward a child, manufacturing methamphetamine, and two counts of trafficking in methamphetamine during the October 2024 term of the Greenville County General Sessions Court before Judge R. Scott Sprouse. Appellant was sentenced to imprisonment for an aggregate twenty-eight-year term. Assistant Solicitor Savanna Morgan Goude prosecuted the case, and Attorney James Zachary Farr represented appellant at trial.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). State v. Wilson, 345 S.C. 1, 6, 545 S.E.2d 827, 829 (2001); State v. Wood, 362 S.C. 520, 525, 608 S.E.2d 435, 438 (Ct. App. 2004). Appellate courts are bound by the trial court's factual findings unless they are clearly erroneous. State v. Quattlebaum, 338 S.C. 441, 454, 527 S.E.2d 105, 111 (2000). The admissibility of evidence is within the sound discretion of the trial judge. State v. Mansfield, 343 S.C. 66, 538 S.E.2d 257 (Ct. App. 2000). An evidentiary ruling of the trial court will not be reversed on appeal absent an abuse of discretion of the commission of a legal error that results in prejudice to the defendant. Mansfield, 343 S.C. at 77, 538 S.E. 2d 263.

ARGUMENT

The trial judge erred in allowing the jury to hear conspiracy evidence involving other parties connected to the drugs found at appellant's residence because this was irrelevant and inadmissible character information that prejudiced his defense at trial.

Police Officers Tyron Moore and Tyler Sexton testified that they executed a search warrant at appellant's apartment on May 3, 2022, and found methamphetamine inside the kitchen area and in the detached garage. The officers found guns in that garage also. Appellant and his wife and child were inside the apartment during the police search. R. 207, l. 11 – p. 210, l. 22; R. 218, l. 18 – p. 224, l. 24. Prior to trial, a Jackson v. Denno¹ hearing was held wherein Officer Moore testified that appellant confessed while he was detained at the crime scene. At that time, appellant admitted his involvement in the drug business and explained that he would travel to Atlanta, Georgia, per instructions from his supplier to obtain the drugs and then bring the same back to his residence. Officer Sexton was called in when appellant began mentioning the names of his drug suppliers because said individuals were under police investigation for drug crimes. R. 114, l.4-21. Officer Sexton stated that appellant gave him the following information:

Q: And what did the defendant tell you specifically relating to this investigation?

A: The defendant explained that he was—he, in the last couple years, had gotten into the meth trade. He was introduced to the supplier, Nicole Burns, by his uncle, Anthony Gracely, who was in prison for meth trafficking. Anthony Nicholas Gracely introduced Nicholas Gracely to Nicole Burns, and he began sourcing methamphetamine from her. He explained that she's in Mexico and that she would give him directions on where to go in Atlanta and pick up large quantities of methamphetamine which he would bring back to his apartment in Greenville. Once it was there, he stated that he would be directed on how to break down the methamphetamine into quantities for sale. He would leave them in

¹Jackson v. Denno, 378 U.S. 368 (1964).

his car which is parked in front of his apartment. Customers would come and get in his car, retrieve the meth and then leave the payment behind.

Regarding—he stated that he had just recently returned from a run to Atlanta a few days prior to the search warrant to pick up a large quantity of meth.

And then regarding the meth lab in the garage, he stated that he was directed to go to Spartanburg by his uncle Anthony Nicholas Gracely to retrieve the meth lab from someone referred to as Taz. They said that that meth lab was a conversion that had been botched and he was asked to bring it back and try to salvage it. So he brought the meth lab back to Garage G-10.

He explained how he had made some attempts to salvage it and it was still there because they hadn't been successful yet. R. 127, 1.9-p. 128, 1.14.

After the close of the hearing, defense counsel moved to exclude any testimony regarding “conspiracy” evidence on behalf of others involved in these drug matters that surfaced during the police interrogation of appellant. R. 131, lines 22-25. The trial judge ruled only on the Miranda² issue. R. 133, 1.7-p. 134, 1.13. Nonetheless, at trial, Officer Sexton gave the following testimony regarding the case:

Q: Can you tell us about any admission he made pertaining to this incident?

A: Yes, Ma'am. So obviously, in these narcotics investigation, our goal is to work up the supply chain to try to get as close to the source as we can or to the source. So we would like to know where. And when we find quantities of meth like a trafficking amount that we find on scene, we'd like to know where it came from. Mr. Gracely explained to me that his uncle Anthony Gracely---

Mr. Farr: Your Honor, I'm going to make the same objection that I made with Ms. Powers which is under relevancy, 404(b) and 403.

The Court: Noted for the record. Overruled.

² Miranda v. Arizona, 384,U.S. 436 (1966).

The Witness: He explained that he was introduced by his uncle to his uncle's source of supply. His uncle was in prison for trafficking meth as well.

He explained that he would contact that source who would direct him to go to Atlanta where he would pick up quantities of methamphetamine to bring back to Greenville. He said that the last trip that he made was a few days before the search warrant.

And then I further asked about the suspected conversion lab in the garage, and he explained that he came into position of that conversion lab through an introduction of his uncle as well, Anthony Gracely. He said that Gracely directed the defendant to travel to Spartanburg to meet someone named Taz to collect that meth conversion lab.

The initial attempt at conversion from liquid to crystal, they had botched it or messed it up which is why it was in kind of a mid-state conversion. So he had to finish the conversion into a more sellable, finished product. R. 222, 1.9-p. 223, 1.17.

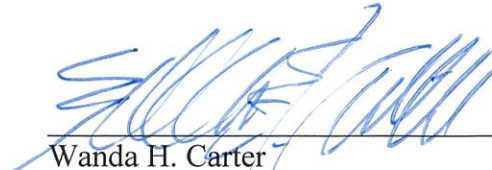
Clearly, the information regarding the names of multiple people appellant had been involved with in order to procure the drugs found at his residence painted a negative and guilt stained picture of appellant based on his association with the members of a broad and well-functioning drug enterprise group that police were surveilling at the time. The details appellant gave regarding the modus operandi of this group of people who were directing and supervising appellant's drug transports suggested that he was a voluntary and intentional participant in this drug ring. Note that the state's case against appellant was straight forward, i.e., the presence of drugs found at his residence per the execution of a search warrant on the premises; however, the expansion of the case based on this background "conspiracy" account that included a wide circle of players in these drug ventures ultimately prejudiced appellant's defense as his participation within such large scale web of drug activities meant that the jury could infer guilt on the charges for which appellant was on trial based on the inadmissible propensity character evidence. Thus,

the “conspiracy” evidence at issue regarding the actions of additional people who directly supervised appellant in connection with obtaining drugs constituted inadmissible irrelevant and prejudicial propensity character evidence that should not have been presented to the jury at trial. The inadmissible evidence in question surely impacted the jurors’ verdicts issued in the case.

Rule 403, SCRE, states that evidence of other crimes is inadmissible if its probative value is outweighed by the danger of unfair prejudice to the defendant, i.e., when the prejudicial value of the evidence outweighs the probative value. Evidence is unfairly prejudicial if it has an undue tendency to suggest decision on an improper basis. State v. Wilson, 345 S.C. 1, 545 S.E.2d 827. Furthermore, evidence is relevant if it tends to establish or make more or less probable some matter in issue upon which it directly or indirectly bears. State v. Hamilton, 344 S.C. 344, 543 S.E.2d 586 (2001). Rule 401, SCRE, defines relevant evidence as any evidence having a tendency to make the existence of any consequential fact more or less probable. Moreover, Rule 404(a), SCRE, states that evidence of a person’s character or a trait of character is not admissible for the purpose of proving action in conformity therewith. Finally, Rule 404(b), SCRE, states that evidence of a crime, wrongs, or acts is not admissible to prove the character of the person in order to show action in conformity therewith. The source and details of the origin of the drugs appellant possessed constituted irrelevant evidence that should not have been presented to the jury at trial. Additionally, the source of the drugs constituted inadmissible character evidence that should not have been presented to the jury at trial. Clearly, the trial judge erred in allowing the jury to hear the “conspiracy” evidence at issue in the case at bar.

CONCLUSION

Based on the foregoing argument, the undersigned counsel would request that this Court reverse appellant's convictions and sentences and remand the case for a new trial.



Wanda H. Carter
Interim Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of August, 2025.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Nicholas Gracely states:

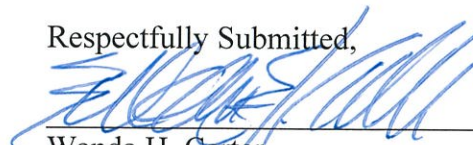
(1) She is Interim Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.

(2) She has reviewed the record of appellant's trial before Judge R. Scott Sprouse, which was held on October 21-22, 2024, 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, 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 Nicholas Gracely.

Respectfully Submitted,



Wanda H. Carter

Interim Chief Appellate Defender

ATTORNEY FOR APPELLANT

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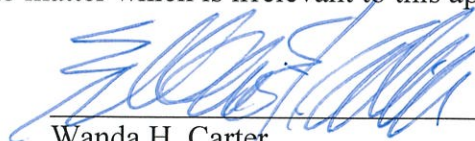
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (4) Entire Trial Transcript dated October 21-22, 2024
- (5) Indictments
- (6) Sentence Sheets

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



Wanda H. Carter
Interim Chief Appellate Defender

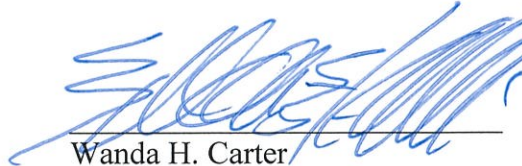
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PO Box 11589
Columbia, SC 29211-1589
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This 22nd day of August, 2025.

ATTORNEY FOR APPELLANT

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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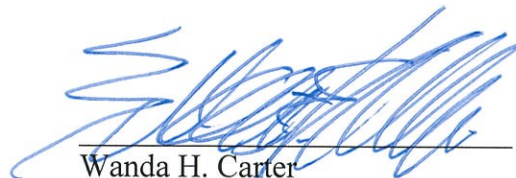
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APPELLATE CASE NO. 2024-001879

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 Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and on Nicholas Gracely, #271261, at Allendale Correctional Institution, 1057 Revolutionary Trail, Fairfax, SC 29827, this 22nd day of August, 2025.



Wanda H. Carter
Interim Chief Appellate Defender

ATTORNEY FOR APPELLANT