STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MELANIE CROMER MCCLAIN,

APPELLANT

APPELLATE CASE NO. 2024-000472

FINAL BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Senior 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

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

Constitutional Provisions

STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge err in refusing to allow cross-examination of a co-defendant about his pending charges in another county?

2. Did the trial judge err in refusing to allow cross-examination of a co-defendant about counterfeit bills he had at the time of arrest and then prohibiting counsel from referencing the counterfeit bills in closing argument?

STATEMENT OF THE CASE

On July 25, 2023, the Pickens County Grand Jury indicted Appellant, Melanie Cromer McClain, for trafficking methamphetamine, indictment #2022-GS-39-0624.[1] (R. p. 367-368). On January 8, 2024, Appellant appeared before the Honorable Daniel M. Coble on a motion to dismiss based on the State's failure to timely provide a copy of one of the officer's body camera video from the arrest. J. Maxwell Gravlee represented Appellant. Jacob Q. Hofferth represented the State. After hearing argument, Judge Coble took the motion under advisement.[2]

On February 5, 2024, Appellant proceeded to jury trial before the Honorable Perry H. Gravely. J. Maxwell Gravlee and William R. Hellams represented Appellant. Jacob Q. Hofferth prosecuted the case. The jury found Appellant guilty as indicted. Judge Gravely sentenced Appellant to twenty-five (25) years in prison. A timely motion for a new trial was filed on February 16, 2024. (R. p. 371). In a written order filed March 11, 2024, Judge Gravely denied the motion for new trial. A timely notice of intent to appeal was served on March 19, 2024. This appeal follows.

---

[1] It is unclear why the indictment number shows the year as 2022.

[2] Judge Coble denied the motion to dismiss but suppressed the body camera video that was not timely disclosed. (R. p. 20, line 9 – p. 21 – 23, lines 1-17).

STANDARDS OF REVIEW

Limitation on cross-examiantion

" 'As a general rule, a trial court's ruling on the proper scope of cross-examination will not be disturbed absent a manifest abuse of discretion.' State v. Quattlebaum, 338 S.C. 441, 450, 527 S.E.2d 105, 109 (2000). '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. Douglas, 369 S.C. 424, 429–30, 632 S.E.2d 845, 848 (2006). Additionally, the circuit court's decision will not be reversed on appeal absent a showing of prejudice. State v. Colf, 337 S.C. 622, 625, 525 S.E.2d 246, 247–48 (2000)." State v. Williams, 432 S.C. 515, 521–22, 854 S.E.2d 166, 169 (Ct. App. 2021).

Closing argument

"A trial court is vested with broad discretion in dealing with the range of propriety of closing argument, and ordinarily its rulings on such matters will not be disturbed. State v. Condrey, 349 S.C. 184, 195–96, 562 S.E.2d 320, 325–26 (Ct.App.2002). This court will not disturb a trial court's ruling regarding closing argument unless the trial court commits an abuse of discretion. State v. Copeland, 321 S.C. 318, 324, 468 S.E.2d 620, 624 (1996); State v. Jernigan, 156 S.C. 509, 524, 153 S.E. 480, 486 (1930). An appellate court must review the argument in the context of the entire record. State v. Patterson, 324 S.C. 5, 17, 482 S.E.2d 760, 766 (1997)." State v. Rice, 375 S.C. 302, 315, 652 S.E.2d 409, 415 (Ct. App. 2007), overruled on other grounds by State v. Byers, 392 S.C. 438, 710 S.E.2d 55 (2011).

FACTS

On October 20, 2021, at approximately 8:00 PM Officer Devin Daw with the Pickens County Sheriff's Office stopped a minivan, driven by Appellant, for crossing the double yellow line. (R. p. 69, line 8 – 25). Albert Dustin Pace, a co-defendant, was in the front passenger seat. (R. p. 70, lines 5-6). Shawna Marie Johnston, another co-defendant, was seated on the floor behind Pace. (R. p. 70, lines 7-8). Appellant was taking Pace and his friend Shawna to get something to eat. (R. p. 239, lines 1-23). The traffic stop was recorded on Officer Daw's body camera and admitted in evidence as State's Exhibit #1 and played for the jury. (R. p. 71, lines 1-10). Two other officers, Officer Van Massingill and Officer Cassell, arrived at the scene to assist with the stop. After the officer asked Appellant to step out of the car, he found that she was holding a bag with a clear crystal substance that the officer identified as methamphetamine. (R. p. 73, lines 1-10). The substance was tested by the drug analyst from the South Carolina Law Enforcement Division [SLED] who testified that the substance tested positive as 1.26 grams of methamphetamine. (R. p. 207, lines 18-23; p. 225, line 23 – p. 226, lines 1-2).

Officer Daw testified that he found a brown camo bag next to the driver's seat that contained five bags of individually packaged methamphetamine. (R. p. 75, line 5 – p. 76, lines 1-5). The SLED drug analyst tested substances in three of the five bags and substances tested positive as 10.38 grams of methamphetamine, with each baggie containing approximately 3.4 grams. (R. p. 209, lines 4-8; p. 225, lines 17-22). A scale and some cut straws were also found in the bag. (R. p. 79, lines 6-7). The officer testified that the van was missing the center console and the camo bag was on the floor between the driver's seat and Appellant's purse. (R. p. 83, lines 21-24). The officers found no drugs, no drug paraphernalia, no baggies, and no evidence in Appellant's purse. (R. p. 99, line 17 – p. 100, lines 1-10). The officer also testified about

additional individual baggies found inside the camo bag. (R. p. 77, lines 2-6). The officers found that the co-defendant, Pace, seated in the front passenger seat, had a black zipper pouch with marijuana, a smoking pipe, and more individual baggies. (R. p. 77, lines 10-20). Officer Van Massingill referred to the pipe as a meth pipe. (R. p. 141, lines 16-18). Officer Daw testified that he believed the knife seen in the video was taken from co-defendant Shawna Johnston's person. (R. p. 106, line 20 – p. 135, lines 1-5).

None of the three people in the van claimed ownership of the methamphetamine in the brown camo bag. All three were charged with trafficking and taken to the detention center. (R. p. 80, lines 5-7). Agent Dawson testified that an employee of the detention center found six hundred and sixty ($660.00) dollars of counterfeit twenty ($20.00) dollar bills in co-defendant Shawna Johnston's purse and sixty ($60.00) dollars in counterfeit bills in co-defendant Pace's wallet. (R. p. 101, lines 14-20; p. 110, lines 11-17). In addition to the counterfeit bills, the detention center also found a ledger/notebook in Shawna Johnston's purse that noted she paid eighty ($80.00) dollars for the counterfeit bills. (R. p. 101, line 24 – p. 102, lines 1-7; p. 102, line 18 – p. 103, lines 1-3; p. 111, lines 5-8). The detention center did not find any counterfeit bills or notebook/ledgers in Appellant's purse. (R. p. 110, lines 18-22). In addition to the counterfeit bills and notebook/ledger, the detention center also found a small quantity of methamphetamine in co-defendant Shawna Johnston's clothes. (R. p. 9, lines 12-16).

On March 30, 2023, co-defendant Shawna Johnston pled guilty to possession of methamphetamine. (R. p. 9, lines 17-22). Shawna Johnston did not appear at Appellant's trial in February of 2024. Co-defendant Pace was called as a witness by the State. (R. pp. 226-263). At the time of Appellant's trial, Pace's trafficking charge from the October 20, 2021, traffic stop with Appellant as well as a March 5, 2023, distribution of methamphetamine charge from

Anderson County were both pending. (R. p. 227, line 21 – p. 228, line 1). The trial judge prohibited Appellant from cross-examining Pace about the pending distribution of methamphetamine charge from Anderson County. (R. p. 259, lines 1-4). The trial judge additionally prohibited Appellant from cross-examining Pace about the counterfeit bills found in his possession on the night he was arrested with Appellant. (R. p. 240, line 25 – p. 241, lines 1-7). Finally, the trial judge prohibited Appellant from referencing the counterfeit bills in closing argument. (R. pp. 300-305).

ARGUMENTS

1. **The trial judge erred in refusing to allow cross-examination of a co-defendant about his pending charges in another county.**

At trial the State called co-defendant, Albert Dustin Pace, as a witness. (R. pp. 226-263). Prior to his testimony, while settling his record, the assistant solicitor advised the trial judge that Pace, in addition to the trafficking charge, also had a pending distribution of methamphetamine from March 5, 2023, in Anderson County. (R. p. 226, line 10 – p. 227, 228, line 1). The judge said, "It doesn't sound like there's anything subject to cross-examination as far as criminal record." (R. p. 228, lines 2-3). Counsel for Appellant replied, "I guess it depends on his testimony, and how he would testify, and any responses to questions about it. Because you can get into charges that may not necessarily be convictions for purposes of impeachment, especially on cross, especially because this case entirely hinges on constructive possession within these three being charged and the circumstantial evidence that's, also, with the other two co-defendants as well." (R. p. 228, lines 7-14). Defense counsel additionally cited State v. Whitner.[3] (R. p. 228, lines 15-16). The judge instructed defense counsel, "What you'll have to do is proffer. You're going to have to proffer – if you get to the point where you have to ask him questions about any of the records there, you're going to have to proffer testimony. And I'll hear at that time." (R. p. 228, lines 19-23).

During the cross-examination of Pace defense counsel asked, "So is -- is it just marijuana that's your thing? Is that just – is –you don't do meth?" (R. p. 251, lines 8-9). Pace answered, "I mean, I have before. But – I mean, in my younger days." (R. p. 251, lines 10-11). Pace then explained that he used marijuana because of posttraumatic brain injury headaches. (R. p. 251,

---

[3] State v. Whitner, 380 S.C. 513, 670 S.E.2d 655 (Ct. App. 2008).

lines 11-21). Defense counsel asked Pace, "You've – you know, you were saying it's just marijuana. You don't – you haven't been charged with any other kind of methamphetamine charge?" (R. p. 251, lines 23-25). The State objected and the judge sustained the objection. (R. p. 252, lines 1-2). Defense counsel asked to be heard outside of the presence of the jury. (R. p. 252, line 3).

The trial judge admonished defense counsel about the failure to proffer the testimony outside the presence of the jury as discussed before Pace testified. (R. p. 252, lines 9-10; 14-18; 20-22; 25 – p. 253, lines 1-6). Defense counsel first, again cited Whitner. (R. p. 252, lines 11-13). Defense counsel then argued, "Judge, he just opened the door when he said, I used to do meth in my younger days." (R. p. 252, lines 23-24). Defense counsel further argued:

> Judge, as far as – my understanding from what we were discussing with State v. Whitner is that if this issue did come up that we were going to send the jury out, not that I can't get into a – a question that is absolutely relevant on impeachment of him when it is a co-defendant trial.
>
> He's on – his charge is still pending. He's got a pending charge as well in Anderson that's all the more important that I be able to cross him. Because a conviction here in Pickens necessarily enhances and can enhance that charge for it to be a second in Anderson as well.
>
> My understanding was that I was restricted from just bringing it up. It was just we're going to have to potentially litigate whether I can bring in the specific charge itself.

(R. p. 253, lines 7-22). The prosecutor argued, "No, Judge. The rules are clear, it's convictions." (R. p. 253, lines 23-24). Defense counsel finally argued:

> Judge, I've got State v. Martin[4] here, too, that allows for impeachment establishing a motive to lie when – somebody is denying the drug use, the knowledge. He just – he himself – I didn't bring that out. He said, in my younger days, I used to do meth. I had no idea that he was about to say, in my younger days.

---

4 State v. Martin, 347 S.C. 522, 533, 556 S.E.2d 706, 712 (Ct. App. 2001).

> This charge is pending from March of 2023. At that point in time, it becomes directly relevant to his testimony and impeachment of his credibility. And that's exactly what the purpose of cross is to bring out.

(R. p. 254, lines 11-20).

The judge allowed a proffer of Pace's cross-examination about the pending Anderson County possession with intent to distribute charge in March of 2023. (R. p. 255, line 22 – p. 256, 257, lines 1-6). After the proffer the judge ruled, "I'm ruling in my review of State v. Martin that his charges are not admissible or any questions regarding his charges are not admissible based on your case." (R. p. 259, lines 1-4). The trial judge erred in refusing to allow cross-examination of Pace about his pending Anderson County charge of distribution of methamphetamine.

In State v. Sims, 348 S.C. 16, 25, 558 S.E.2d 518, 523 (2002), the South Carolina Supreme Court wrote:

> Rule 608(c), SCRE, provides that "bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced." Rule 608(c) "preserves South Carolina precedent holding that generally, 'anything having a legitimate tendency to throw light on the accuracy, truthfulness, and sincerity of a witness may be shown and considered in determining the credit to be accorded his testimony.' " State v. Jones, 343 S.C. 562, 541 S.E.2d 813 (2001) (quoting State v. Brewington, 267 S.C. 97, 226 S.E.2d 249 (1976)).

In Sims the Court found the trial judge erred in limiting cross-examination of a witness about pending charges because the evidence was probative of bias. Like the evidence in Sims, Pace's pending charge in Anderson County was probative of bias. As in Sims, there was a substantial possibility Pace would give biased testimony in hopes of a positive resolution of his Anderson County charges. As potentially a second drug offense Pace faced enhanced penalties. Unlike the error in Sims, the error in the present case is not harmless. In Sims the error was

found harmless because of the strength of the State's evidence including fingerprints and a confession. The State's evidence in the present case was based on constructive possession. Appellant, Pace, and Shawna Johnston were all charged with trafficking based on constructive possession of the methamphetamine found in the brown camo bag. The jury had to determine if Appellant exercised dominion and control over the bag. As Pace denied knowledge of the contents of the bag (R. p. 234, lines 1-15), his testimony was critical and Appellant should have been able to explore potential bias by questioning him about the pending charge in Anderson County.

In State v. Clark, 315 S.C. 478, 481, 445 S.E.2d 633, 634 (1994), the South Carolina Supreme Court wrote:

> The Confrontation Clause guarantees a defendant the opportunity to cross-examine a witness concerning bias. State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991). Considerable latitude is allowed in the cross-examination of a witness for potential bias. Id. A defendant demonstrates a Confrontation Clause violation where he is prohibited from "engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias ... from which jurors ... could ... draw inferences relating to the reliability of the witness." Delaware v. Van Arsdall, 475 U.S. 673, 680, 106 S.Ct. 1431, 1436, 89 L.Ed.2d 674, 684 (1986). A violation of the confrontation clause is not *per se* reversible but is subject to a harmless error analysis. Id.

In Clark a majority of the Court found that any error in prohibiting cross-examination of a witness about a pending murder charge was harmless. In finding the error harmless the Court considered the Van Arsdall factors: 1. importance of the witness testimony; 2. whether the testimony was cumulative; 3. The presence or absence of corroborating or contradicting testimony; 4. The extent of cross-examination; and 5. overall strength of the State's case. While not challenged as a Confrontation Clause violation, considering the Van Arsdall factors, the error in refusing to allow cross-examination of Pace about the pending distribution of

methamphetamine charge in Anderson was not harmless. Pace's testimony was critically important and not cumulative to other testimony. The testimony was not corroborated or contradicted. The cross-examination was further limited by the judge prohibiting questioning about the counterfeit bills found in Pace's wallet, as discussed below in issue two. Finally, the State's evidence that Appellant constructively possessed the methamphetamine was not strong. The trial judge erred in refusing to allow cross-examination of Pace about his pending distribution of methamphetamine charge. The error was not harmless and requires reversal.

2. The trial judge erred in refusing to allow cross-examination of a co-defendant about counterfeit bills he had at the time of arrest and then prohibiting counsel from referencing the counterfeit bills in closing argument.

At trial Agent Daw testified, without objection, that an employee of the detention center found six hundred and sixty ($660.00) dollars of counterfeit twenty ($20.00) dollar bills in co-defendant Shawna Johnston's purse and sixty ($60.00) dollars in counterfeit bills in co-defendant Pace's wallet. (R. p. 101, lines 14-20; p. 110, lines 11-17). During the cross-examination of co-defendant, Pace, defense counsel asked, "Okay. That night, you, also had counterfeit bills on you?" (R. p. 240, line 25 – p. 241, line 1). The State objected. (R. p. 241, lines 2-3). The judge sustained the objection and advised the jury to disregard. (R. p. 241, lines 4-7).

Prior to closing argument defense counsel asked about the ability to reference the counterfeit bills in closing argument. (R. pp. 300-305). The judge ruled that defense counsel could reference the counterfeit bills if he was not arguing third party guilt. (R. p. 300, line 25 – p. 301, line 1; p. 302, lines 2-6; 9-10; 14-19; 22-24; p. 303, lines 2-4; 15-23; p. 304, lines 20-23; p. 305, lines 3-5). Defense counsel argued reminding the jury that co-defendants in a

constructive possession case had counterfeit bills did not constitute inadmissible third-party guilt evidence. The judge disagreed.

When counsel first asked about referencing the counterfeit bills in closing argument the judge said, "And I guess as long as you're not arguing third-party guilt." (R. p. 300, line 15 – p. 301, line 1). Counsel argued the counterfeit bills evidence was relevant circumstantial evidence. (R. p. 301, lines 11-25). The following exchange then took place:

> THE COURT: Are you not arguing third-party guilt? You're saying, no, this isn't ours. I mean, regardless of all that, are you still – how does that negate constructive possession? And are you not arguing third-party guilt in that?
>
> MR.GRAVLEE: No, sir, Judge. It's not third-party guilt when you're raising suspicion as to –"
>
> THE COURT: Other people, is that not the exact definition of third-party guilt?
>
> MR. GRAVLEE: No, sir. Because it has to be facts that are – just that I'm saying that I – that it is absolutely this person, or that person, or –
>
> THE COURT: The case law says raising a suspicion of another person doing it when it does not negate your person doing it. The fact that those counterfeit dollars in there have nothing whatsoever to do with negating whether your client was in actual or constructive possession of this. So –
>
> MR. GRAVLEE: Well, she wasn't in actual – or constructive possession of those bills, Judge.
>
> THE COURT: I know. That's why they're not relevant and you can't talk about them in some kind of third-party guilt argument.
>
> MR. GRAVLEE: So I wouldn't be able to get into what the others had in their possession as he –
>
> THE COURT: As long as you don't argue that that's some kind of suspicion on their part, that they're the drug dealers.
>
> MR. GRAVLEE: So Judge, to be clear, his closing focused on don't look at Shawna, don't look at Dustin, just look at Melanie. They've only chosen to try one and not the other co-defendants, one of whose charge is still pending. The inability to not get into tat when there is a co-defendant trial, three of them all constructively charged and is charges based on the officers investigation of the circumstances of the case – and if I'm not able

> to get into the circumstantial evidence, then the Defense of a constructive possession case is completely obliterated.
>
> THE COURT: No, it's not. You can get into the circumstances as long as you don't use third-party guilt. I'm sorry that's the way this case is set up. But I think the rule on third-party guilt says you cannot put suspicions on somebody else unless the evidence clearly rules out – negates your client's participation. And the talking about these bills. You say they were put in. But as far as arguing that that somehow means they're a drug dealer when there's no evidence of that …

(R. p. 302, line 1 – p. 303, lines 1-23). The defense in the case was that the co-defendants, not Appellant, exercised dominion and control over the bag with the methamphetamine.

In closing argument defense counsel told the jury, "Think about what was testified to what was found illegal in Melanie's purse. That's right, nothing, not a baggy, not a scale, not even a nickel. But in the car in the search, what did they find? This ain't real, y'all. 36 counterfeit –" (R. p. 312, line 23 – p. 313, lines 1-2). The State objected and a bench conference held. (R. p. 313, lines 3-6). Defense counsel made no further mention of the counterfeit bills in his closing argument.

The trial judge erred in refusing to allow cross-examination of Pace about the counterfeit bills he had on the night he was arrested and then prohibiting reference to the counterfeit bills in closing argument. In State v. Brown, 437 S.C. 550, 566–67, 878 S.E.2d 364, 373 (Ct. App. 2022), the South Carolina Court of Appeals wrote:

> In State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941), the supreme court adopted the following rule regarding third-party guilt:
>
> [E]vidence 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.... "But before 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. 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."Id. at 104–05, 16 S.E.2d at 534–535 (quoting 16 C.J., Criminal Law § 1085 (1918) and 20 Am. Jur., Evidence § 265 (1939)).

The counterfeit bill evidence is not the type of third-party guilt evidence limited by Gregory. The evidence was part of the investigation. The counterfeit bill evidence did not simply cast a bare suspicion or raise a conjectural inference in this constructive possession case. The counterfeit bills were connected to the crime because they were found in the possession of the co-defendants when they were arrested for constructively possessing trafficking weight methamphetamine. Pace, Appellant, and Shawna Johnston were all charged with trafficking methamphetamine based on constructive possession. Only Johnston and Pace, however, had counterfeit bills. While all three could have constructively possessed the bag containing methamphetamine, Appellant had a right to present a defense that the counterfeit bills made it more likely that that Pace and Johnston exercised dominion and control over the methamphetamine rather than Appellant. The counterfeit bill evidence is starkly different than the evidence in Brown that merely cast a bare suspicion that a third party was guilty.

The errors were not harmless. The refusal to allow cross-examination of Pace about the counterfeit bills and the prohibition to referencing the counterfeit bills in closing argument prevented Appellant from presenting a complete defense. In State v. Burgess, 391 S.C. 15, 21–22, 703 S.E.2d 512, 515–16 (Ct. App. 2010), the South Carolina Court of Appeals wrote:

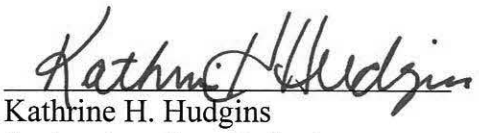
> The United States Constitution guarantees a criminal defendant the right "to present a complete defense." Crane v. Kentucky, 476 U.S. 683, 690, 106 S.Ct. 2142, 90 L.Ed.2d 636 (1986). This right is also guaranteed by our State constitution: "Any person charged with an offense shall enjoy the right ... to be fully heard in his defense...." S.C. Const. art. I, § 14 (2009). See S.C.Code Ann. § 17–23–60 (2003) ("Every person accused shall, at his trial, be allowed ... to

> produce witnesses and proofs in his favor...."); State v. Lyles, 379 S.C. 328, 341, 665 S.E.2d 201, 208 (Ct.App.2008). In Chambers v. Mississippi, 410 U.S. 284, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973), the United States Supreme Court stated: "Few rights are more fundamental than that of an accused to present witnesses in his own defense." 410 U.S. at 302, 93 S.Ct. 1038. 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, 118 S.Ct. 1261, 140 L.Ed.2d 413 (1998). 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.' " Id. (quoting Rock v. Arkansas, 483 U.S. 44, 56, 107 S.Ct. 2704, 97 L.Ed.2d 37 (1987)).

The exclusion of the counterfeit bill testimony was based on an error of law, finding the evidence inadmissible as third-party guilt evidence. The evidence was not third-party guilt evidence. The rules of evidence did not prohibit the evidence about the counterfeit bills. The fact that Agent Daw testified about the counterfeit bills earlier does not render the error harmless when defense counsel was prohibited from cross-examining Pace and prohibited from discussing the counterfeit bills in closing argument. The errors prevented Appellant from presenting a complete defense and require reversal.

CONCLUSION

Based on the above arguments, this Court should reverse the conviction and remand for a new trial.



Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of September, 2025.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this final 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."

Kathrine H. Hudgins
Senior 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

This 16th day of September, 2025.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MELANIE CROMER MCCLAIN,

APPELLANT

APPELLATE CASE NO. 2024-000472

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above-referenced case has been served upon Ambree M. Muller, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 16th day of September, 2025.

Kathrine H. Hudgins
Senior 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