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Oct 21 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable H. Steven DeBerry IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRELE BAILEY,

APPELLANT

APPELLATE CASE NO. 2024-001755

ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in refusing to suppress statements made to investigators with the Florence Police Department when the statements were rendered involuntary by the investigator's combined coercive tactics of failing to advise Appellant about the nature of the investigation and lying to Appellant about the existence of ring doorbell evidence?

STATEMENT OF THE CASE

In November of 2021, the Florence County Grand Jury indicted Appellant, Terrele Rashon Bailey, for murder, indictment #2021-GS-21-02698. On October 7, 2024, Appellant proceeded to jury trial before the Honorable H. Steven DeBerry, IV. Vick Meetze represented Appellant. J. Ryan White prosecuted the case. The jury found Appellant guilty. Judge DeBerry sentenced Appellant to fifty (50) years in prison. A timely notice of intent to appeal was served on October 11, 2024. This appeal follows.

STANDARD OF REVIEW

“Going forward, we [the appellate court] will review the trial court's factual findings regarding voluntariness for any evidentiary support. However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review.” State v. Miller, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023).

ARGUMENT

The trial judge erred in refusing to suppress statements made to investigators with the Florence Police Department when the statements were rendered involuntary by the investigator's combined coercive tactics of failing to advise Appellant about the nature of the investigation and lying to Appellant about the existence of ring doorbell evidence.

Facts

The jury found Appellant guilty in the shooting death of Lamonte McAllister. Police, responding to a 911 hang-up call and a shots fired call, found McAllister deceased in the passenger seat of a car on Dixie Street on December 18, 2020. (R. p. 111, line 7 – p. 112, 113, lines 1-25). The deceased, McAllister, was holding a gun in his right hand. (R. p. 125, lines 16-24). Destiny Waiters testified at trial that on the night of the shooting she saw Appellant walking toward a car Chicago Dixon, the brother of the deceased, was driving. (R. p. 75, lines 1-13). Waiters testified she went inside her grandmother's house on Dixie Street and then heard gunshots. (R. pp. 74-75). Appellant dated Waiters' sister, Shakila Hickson. (R. p. 70, lines 1-8). Waiters was living with her grandmother on Dixie Street and Hickson lived next door. According to Waiters she heard Dixon say, "I don't have nothing. You can take everything." (R. p. 76, lines 19-20). Waiters then testified that Dixon ran away, she ran back in the house and woke her aunt who called law enforcement. (R. p. 77, line 10- p. 78, lines 1-12). Waiters testified that Dixon was a drug dealer. (R. p. 83, lines 3-5).

Dixon claimed at trial that Appellant called him asking to buy marijuana. (R. p. 224, lines 11-24). Dixon testified that he and his brother, the deceased, met Appellant on Dixie Street. (R. p. 224, lines 8-24). According to Dixon, Appellant got in the backseat of the car, they discussed price, his brother asked for a cigarette and then he heard a gunshot. (R. p. 226, line 15 – p. 227, lines 1-7). Dixon claimed that Appellant shot his brother and then demanded

money, the two struggled and then Dixon fled. (R. p. 227, line 8 – p. 228, lines 1-25). Dixon was also charged with the murder of his brother, Lamonte McAllister, but the charges were dismissed prior to trial. (R. p. 236, lines 6-14). At the time of trial Dixon had a possession with intent to distribute oxycodone charge and a gun charge pending in Florence County. (R. p. 244, lines 6-21).

Appellant was arrested later on December 18, 2020, for possession of a stolen car in Darlington County. (R. p. 272, line 17 – p. 273, lines 1-2). Investigator Thomas Herman with the Florence Police Department questioned Appellant at the Darlington County Detention Center. (R. p. 272, line 17 – pp. 273 – 276). The interrogation was recorded on the investigator's body camera and admitted in evidence, over objection, as State's exhibit #1. (R. p. 276, lines 8-20).

Argument

Prior to trial the judge held a Jackson v. Denno hearing. (R. pp. 36-52). Investigator Herman testified Appellant was not coerced during the interview, did not seem under the influence and appeared to understand the waiver of rights form. (R. p. 39, lines 16-25). Investigator Herman testified that Appellant signed the waiver of rights form marked State's exhibit #2. (R. p. 40, line 1 – p. 41, lines 1-12; R. p. 380). The video of the interview was marked as State's exhibit #1. (R. p. 41, lines 14-25). The investigator testified that Appellant was not promised anything in exchange for his statement. (R. p. 42, lines 6-8). The investigator testified Appellant maintained he was not present at the time of the shooting. (R. p. 42, lines 9-12).

Counsel moved to suppress the statements arguing, "He wasn't advised as to why he was there, why they wanted to talk to him, what the investigation was about. He didn't have any

information like that to where he could make a voluntary waiver of his rights or not.” (R. p. 47, line 22 – p. 48, lines 1-3). The judge withheld ruling until he watched the entire interview. (R. p. 48, lines 18-20). The next day the judge ruled, “I did take the opportunity to watch and hear the entire statement that was the subject of the Jackson vs Denno hearing yesterday. I’ll find that it was freely and voluntarily made, although, you know, I’m not sure – well, certainly and what I understand is that there were some portions that need to be redacted.” (R. p. 51, line 2 – p. 52, lines 1-6). The parties agreed on the redactions. (R. p. 52, lines 7-14).

At trial the State entered the waiver of rights form in evidence without objection, as State’s exhibit #2. (R. p. 274, lines 3-21; R. p. 380). The State moved to enter the recording of the statement as State’s exhibit #1. (R. p. 276, lines 1-9). Defense counsel first stated no objection but when the State asked permission to publish the recording, defense counsel stated, “Again, we have a previous objection to this matter and I just renew that.” (R. p. 276, lines 18-19). The judge noted the objection. (R. p. 276, line 20). The statement was played for the jury. (R. p. 277, lines 2-3).

On the video the investigator asked Appellant if he knew why they were there. (State’s exhibit #1, 2:30). Appellant answered that from his understanding something happened last night. (State’s exhibit #1, 2:36). Appellant told the investigator that the officer who pulled him over told him his girlfriend’s car was involved in an incident. (State’s exhibit #1, 3:00). Appellant said the officer then told him what happened and asked Appellant where he was. (State’s exhibit #1, 3:20). The investigator did not tell Appellant they were investigating a shooting death.

Later in the questioning the investigator asked Appellant if he did not find it strange that he was pulled over in Darlington County but was being questioned by Florence County

investigators. (State’s exhibit #1, 11:16). The investigator noted that Appellant had not even asked why Florence County was questioning him. (State’s exhibit #1, 11:26). The investigator then implied that a doorbell video camera captured an image of the car Appellant was driving at the scene of the shooting much later than Appellant admitted being at the scene to drop off his girlfriend. (State’s exhibit #1, 12:40). At trial the prosecutor questioned the investigator about the ring doorbell reference. (R. p. 277, lines 5-15). The prosecutor asked if the ring doorbell was just a bluff. (R. p. 277, line 16). The investigator answered, “It was a partial truth, partial bluff. I knew at one of the residents there was a ring doorbell camera. I knew that at the time we didn’t have video of it, but that was just something we try to use sometimes and to make them think that there is a camera there that caught them. And sometimes we can extract the truth from that.” (R. p. 277, lines 17-22).

The trial judge erred in refusing to suppress statements made to investigators with the Florence Police Department when the statements were rendered involuntary by the investigator’s combined coercive tactics of failing to advise Appellant about the nature of the investigation and lying to Appellant about the existence of ring doorbell evidence. “Coercive police activity is a necessary predicate to finding a statement is not voluntary. Colorado v. Connelly, 479 U.S. 157, 107 S.Ct. 515, 93 L.Ed.2d 473 (1986); Linnen, 278 S.C. 175, 293 S.E.2d 851. Coercion is determined from the perspective of the suspect. Illinois v. Perkins, 496 U.S. 292, 110 S.Ct. 2394, 110 L.Ed.2d 243 (1990).” State v. Miller, 375 S.C. 370, 386, 652 S.E.2d 444, 452 (Ct. App. 2007). The statements in the present case were the result of coercive police activity and inadmissible as involuntary.

In State v. Collins, 442 S.C. 444, 455–56, 900 S.E.2d 426, 432 (2024), the South Carolina Supreme Court wrote:


“The trial judge's determination of the voluntariness of a statement must be made on the basis of the totality of the circumstances, including the background, experience, and conduct of the accused.” State v. Saltz, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001); see also State v. Moses, 390 S.C. 502, 513, 702 S.E.2d 395, 401 (Ct. App. 2010) (“In South Carolina, the test for determining whether a defendant's confession was given freely, knowingly, and voluntarily focuses upon whether the defendant's will was overborne by the totality of the circumstances surrounding the confession.”).

“If a suspect's will is overborne and his capacity for self-determination critically impaired, use of the resulting confession offends due process.” Saltz, 346 S.C. at 136, 551 S.E.2d at 252 (citing Schneckloth v. Bustamonte, 412 U.S. 218, 225, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973)). “Ultimately, the determination will depend ‘upon a weighing of the circumstances of pressure against the power of resistance of the person confessing.’ ” Miller, 441 S.C. at 120, 893 S.E.2d at 314 (quoting Dickerson, 530 U.S. at 434, 120 S.Ct. 2326). We have noted that “[c]ourts may consider the impact of a number of factors” in assessing voluntariness, such as the accused's youth and maturity, lack of education, or low intelligence; the failure to advise the accused of his constitutional rights; the presence of a written waiver of rights; the physical condition and mental health of the accused; the circumstances of the interrogation, including its length, repeated nature, location, and continuity; the use of physical punishment; whether law enforcement offered specific promises of leniency (as opposed to general comments that cooperation would be beneficial); and whether law enforcement made intentional misrepresentations of the evidence against the accused. See id. at 120–21, 893 S.E.2d at 314 (enumerating a nonexclusive list of factors).

Viewing the totality of the circumstances surrounding the interrogation, Appellant's statements were not made voluntarily. The interrogation techniques used by the investigator were coercive. Appellant was not advised of the nature of the investigation prior to questioning and law enforcement intentionally misrepresented to Appellant the existence of ring doorbell evidence against him. The trial judge erred in refusing to suppress the statements.

CONCLUSION

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


Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of October, 2025.

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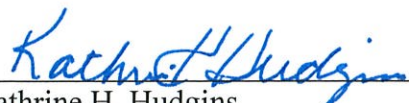
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Terrele Bailey states:

1. She is Senior 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 H. Steven Deberry IV, which was held on October 7-10, 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 Terrele Bailey.

Respectfully Submitted,


Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

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

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

- (1) True-billed indictment and sentencing sheet;
- (2) Trial transcript pages 1-379;
- (3) State's exhibit #1 – recorded interrogation – **TO BE TRANSPORTED.**
- (4) State's exhibit #2 – waiver of rights;
- (5) State's exhibit #66 – DVD jail call – **TO BE TRANSPORTED.**

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


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(803) 734-1330

ATTORNEY FOR APPELLANT

This 21st day of October, 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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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 Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Terrele Bailey, #395456, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 21st day of October, 2025.


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