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Dec 08 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RODERICK SHUNDALE DOVER,

APPELLANT

APPELLATE CASE NO. 2025-000713

ANDERS BRIEF OF APPELLANT

JESSICA M. SAXON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in allowing the state to enter evidence that after the robbery had been completed, the robber placed the gun to the victim's head and pulled the trigger but the gun did not fire, where the evidence was not relevant to an element the state was required to prove, and even if relevant, the probative value of the evidence was substantially outweighed by the danger of unfair prejudice?

STATEMENT OF THE CASE

Appellant was indicted in March 2023 by a Cherokee County grand jury for armed robbery and possession of a weapon during the commission of a violent crime. R. 287-288. On April 1, 2025, the state, represented by Kim Leskanic, called the case to trial before the Honorable J. Mark Hayes, II, and a jury. Appellant was represented by Dan McDonald. R. 1; 133; 245. On April 3, 2025, Appellant was found guilty as indicted. R. 278, ll. 19-25. He was sentenced to thirty years' imprisonment on the armed robbery and five years' imprisonment on the weapon charge, sentences to run concurrently. R. 285, ll. 1-4. This appeal follows.

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. Hatcher, 392 S.C. 86, 91, 708 S.E.2d 750, 753 (2011) (quoting State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” Id.; see also State v. Brockmeyer, 406 S.C. 324, 340, 751 S.E.2d 645, 653 (2013). In reviewing a trial court's ruling on the admissibility of evidence, appellate courts recognize that the trial judge has considerable latitude in this regard and will not disturb such rulings absent a prejudicial abuse of discretion. State v. Whitner, 399 S.C. 547, 557, 732 S.E.2d 861, 866 (2012); State v. Clasby, 385 S.C. 148, 154, 682 S.E.2d 892, 895 (2009).

ARGUMENT

The trial court erred in allowing the state to enter evidence that after the robbery had been completed, the robber placed the gun to the victim's head and pulled the trigger but the gun did not fire, where the evidence was not relevant to an element the state was required to prove, and even if relevant, the probative value of the evidence was substantially outweighed by the danger of unfair prejudice.

Relevant Facts

On November 11, 2022, Nirajkuma Patel was working in his convenience store located in Gaffney, South Carolina. Around four in the afternoon, a black male wearing a camouflage jacket, camouflage sweatpants, a red Washington Nationals baseball cap, and distinctive jewelry came into the store. The man looked at various items and spoke with Patel before taking a pint of ice cream from a Blue Bunny display case and walking behind the service counter. Patel questioned whether the man was robbing him because the man was a regular customer who Patel knew by sight, although Patel did not know the man's name. The man then produced a gun and demanded Patel empty his cash register. After Patel had put the money in the cash register into a shopping bag, the man placed the gun against Patel's head and pulled the trigger, however the gun did not fire. The man then left the store, and Patel called 9-1-1. The entire robbery was caught on video surveillance. R. 80, l. 21-82, l. 9; State's Exhibit 6 (CD-ROM)(on file with this Court).

The next day, the man returned to the store. Patel's wife, Falguni Patel, recognized him from the surveillance video and had a customer call 9-1-1. The man was arrested and identified as Appellant. At the time of his arrest, Appellant was wearing a necklace and earrings matching

those worn by the robber on the video surveillance. He also had \$890 in cash on his person. R. 115, l. 17-116, l. 25; R. 162, ll. 18-24; R. 165, ll. 18-167, l. 20.

Prior to trial, defense counsel moved to exclude any evidence and testimony regarding the gun being placed against Patel's head and the trigger pulled. Defense counsel argued any evidence or testimony about that would be overly prejudicial and not relevant to prove whether an armed robbery occurred. R. 57, l. 13-58, l. 1. The state argued that those actions by the robber were part of the events on video, and the state was entitled to present all the facts in the case. R. 58, ll. 2-14. The court ruled that the state could elicit those facts at trial stating "my understanding of armed robbery, it's by fear and intimidation. How he uses the weapon to create fear and intimidation, I think they can go into it." R. 58, ll. 17-23.

At trial, both Patels identified Appellant as the individual who robbed the store. R. 82, ll. 11-22; R. 114, ll. 7-18. Appellant's girlfriend at the time of the incident, Juri Hill, also identified Appellant as the individual on the video surveillance. R. 145, l. 7-146, l. 11. Defense counsel objected¹ when Mr. Patel testified that the gun was placed against his head and the trigger pulled, and when the state entered still shots² from the video that showed the gun against Patel's head. The objections were overruled. R. 82, ll. 1-9; R. 100, ll. 9-13. The state presented additional evidence that police executed a search warrant on Hill's property. Nothing of evidentiary value was found inside of Hill's home. However, in the trash can in front of Hill's home, police recovered an empty pint of Blue Bunny ice cream. Police found clothing and a gun that matched

¹ Defense counsel did not object to the admission of the surveillance video or to Patel's testimony during the video wherein he stated the robber put the gun to his head and pulled the trigger. R. 86, ll. 3-9; R. 98, ll. 6-14.

² While defense counsel objected to State's Exhibits 7-14, the only still shot at issue is State's Exhibit 14 (Photograph) (on file with this Court).

what was used in the robbery in a black Tahoe³ in Hill's front yard. They also located a white, plastic shopping bag with the words "thank you" on the it that contained a large amount of change in the front passenger seat of the Tahoe. R. 194, ll. 7-17; R. 196, l. 18-197, l. 1; R. 199, ll. 2-200, l. 21; R. 203, l. 20-208, l. 25.

Discussion

All relevant evidence is generally admissible. Rule 402, SCRE. To be relevant, the evidence must have a "tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. However, 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. Pursuant to S.C. Code Ann. § 16-11-330, a person can commit an armed robbery 1) while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or 2) while alleging, either by action or words, they were armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon.

The trial judge erred by failing to exclude the evidence of the robber placing the gun against Patel's head and pulling the trigger because it was not relevant to prove armed robbery. In admitting the evidence, the trial court found it went to whether there was an armed robbery committed by fear or intimidation. However, that is not an element the state must prove in an armed robbery case, but in a strong-arm robbery case. See Abney v. State, 408 S.C. 41, 45, 757 S.E.2d 544, 546 (Ct. App. 2014) (Strong arm robbery is defined under common law "as the

³ The robber was seen on surveillance video driving a black Tahoe. R. 196, l. 23-197, l. 1.

felonious or unlawful taking of money, goods, or other personal property of any value from the person of another or in his presence by violence or *by putting such person in fear.*)(emphasis added). In an armed robbery case, the state must prove that the defendant was in fact armed with a deadly weapon *or* that the defendant alleged either by actions or words that they were armed with a deadly weapon. Whether or not the deadly weapon creates fear or intimidation was not a relevant reason for admitting the evidence. Therefore, the trial court's ruling was based on an error of law as the evidence was not relevant because robbery "by fear or intimidation" was that is not an element of armed robbery. Additionally, the interaction at issue occurred *after* the completion of the robbery, not during it, thus it was not part of the crime the state was required to prove.

Finally, the evidence was substantially more prejudicial than probative. The actions that took place after the completion of the robbery were inherently prejudicial. Because the evidence was not relevant to an element the state had to prove, its probative value was inherently lower. As this Court stated in State v. Gray, 408 S.C. 601, 609–10, 759 S.E.2d 160, 165 (Ct. App. 2014):

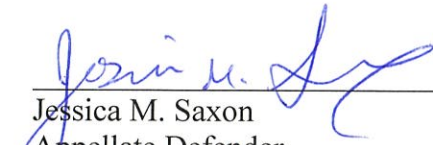
Rule 403 provides that, "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice." "Probative" means "[t]ending to prove or disprove." *Black's Law Dictionary* 1323 (9th ed.2009). "Probative value" is the measure of the importance of that tendency to the outcome of a case. It is the weight that a piece of relevant evidence will carry in helping the trier of fact decide the issues. "[T]he more essential the evidence, the greater its probative value."

That the gun was placed against Patel's head and the trigger pulled is does not carry any weight in helping the jury decide whether Appellant was the armed robber. Therefore, the evidences

limited probative value was substantially outweighed by the unfair prejudice suffered by Appellant.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests that this Court reversed his convictions and remand his case to the General Sessions Court of Cherokee County for a new trial.



Jessica M. Saxon
Appellate Defender
ATTORNEY FOR APPELLANT

This 8th day of December, 2025.

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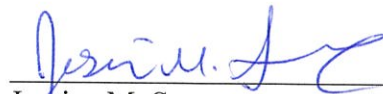
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Roderick Dover states:

1. She is 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 J. Mark Hayes, which was held on April 1-3, 2025, 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 Roderick Dover.

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of December, 2025.

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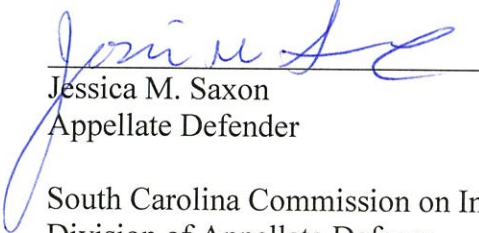
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment(s): 2023-GS-11-00374
- (2) Transcript Vol. I. dated April 1, 2025, pgs. 1-132
- (3) Transcript Vol. II dated April 2, 2025, pgs. 133-244
- (4) Transcript Vol. III dated April 3, 2025, pgs. 245-286
- (5) State's Exhibit 6 – surveillance video
- (6) State's Exhibit 14 – still shot from surveillance video

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



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This 8th day of December, 2025.

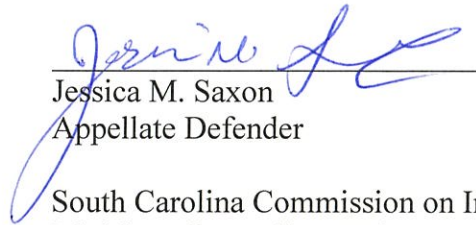
CERTIFICATE OF COUNSEL

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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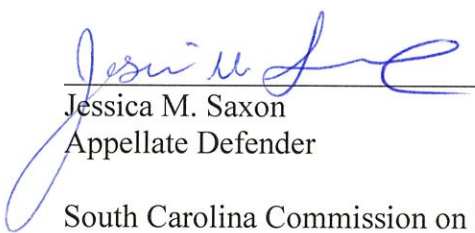
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APPELLATE CASE NO. 2025-000713

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 Roderick Dover, #397035, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 8th day of December, 2025.


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