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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable B. Alex Hyman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHARLES WILLIAM MURPHY, JR.,

APPELLANT

APPELLATE CASE NO. 2025-000135

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

I.

The trial judge erred in denying appellant's motions for directed verdicts on the murder and weapon charges filed against him because there was insufficient substantial circumstantial evidence presented by the state to convict on the charged offenses in the case.

II.

The trial judge erred in allowing inflammatory photographs into evidence at trial, particularly where the prejudice was exacerbated by the existence of insufficient substantial circumstantial evidence presented by the state in the case, and where the jurors in effect acknowledged an absence of proof of guilt on the charges via two inquiries raised regarding whether a retrial would result if not guilty verdicts were found and whether an appeal would follow any guilty verdicts.

STATEMENT OF THE CASE

Appellant Charles William Murphy, Jr., was convicted of murder and possession of a weapon during the commission of a violent crime during the January 2025 term of the Horry County General Sessions Court before Judge B. Alex Hyman, who handed down a sentence of life imprisonment on the murder conviction and five years on the weapon conviction. Attorney Kia T. Wilson represented appellant at trial, and Assistant Solicitors James D. Stanko and Anthony J. Dichiara prosecuted the case.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

A case should be submitted to the jury when the evidence is circumstantial if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 708 S.E.2d. 774 (2011) (quoting State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000)). Evidence must constitute positive proof of the facts and circumstances which reasonably tend to prove guilt. *Id.* Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error. *Id.* On appeal of the denial of a directed verdict of acquittal, this Court must look at the evidence in the light most favorable to the state. State v. Hepburn, 406 S.C. 416, 753 S.E.2d 402, 409 (2013). If the state failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must reverse the lower court's denial of the directed verdict motion. Hepburn, 406 S.C. at 429, 753 S.E.2d at 409.

The admission of evidence is within the circuit court's discretion and will not be reversed on appeal absent an abuse of that discretion. State v. Dickerson, 395 S.C. 101, 716 S.E.2d 895 (2011). A trial court has particularly wide discretion in ruling on Rule 403 objections. State v. Lee, 399 S.C. 521, 732 S.E.2d 225 (Ct. App. 2012); See also State v. Dial, 405 S.C. 247, 746 S.E.2d 495 (Ct. App. 2013). A trial judge's decision regarding the comparative probative value and prejudicial effect of relevant evidence should be reversed only in exceptional circumstances. In exercising its discretion on a Rule 403 objection to the admissibility of autopsy photographs, the trial court must balance the unfair prejudice of graphic photos against their probative value. Dial, 405 S.C. at 260, 746 S.E.2d at 502.

QUESTION I

The trial judge erred in denying appellant's motions for directed verdicts on the murder and weapon charges filed against him because there was insufficient substantial circumstantial evidence presented by the state to convict on the charged offenses in the case.

Appellant was indicted for the murder of Teresa Lischer. The cause of death was a gunshot wound to her head. Tr. 54, l. 3-22. The entire state's case was wholly circumstantial in nature. Pertinent portions of the state's case follow below.

- 1.) Daniel Wright testified that he received a 911 call from appellant on Monday, May 9, 2022, at 7:02 am to report the finding of a dead body. Tr. 23, l.17-p. 25, l.23. January 14th Volume.
- 2.) Police Officer Kenneth Canterbury arrived at the deceased's home on Monday, May 9, 2022, and found appellant there. Appellant stated that the last time he saw the deceased alive was on Friday night, May 6, 2022. Tr. 27, l.12 – p. 33, l.11. January 14th Volume.
- 3.) The deceased's neighbor's home video ring camera surveillance tape captured an individual that appeared in a black vehicle at the deceased's residence on Saturday, May 7th, 2022. Tr. 37, l.8 - p. 45, l.9. January 14th Volume.
- 4.) Appellant was seen via videotape at a Food Lion store nearby at 4:23 pm on May 8, 2022. Tr. 47, l.18 - p. 58, l.17. January 14th Volume.
- 5.) The deceased's friend Valerie Wandtke testified that when she spoke with the deceased on the telephone on Saturday, May 7, 2022, she heard appellant's voice yelling and smashing sounds in the background at that time. Tr. 74, l.4 - p. 78, l.10 – January 14th Volume.

6.) Gunshot residue was found on clothing taken from the residence (hat, shorts) that allegedly belonged to appellant. In addition, a shotgun was found therein also. Tr. 98, l. 24 - p. 103, l.25- January 14th Volume. No gun residue was found on appellants hands. Tr. 43, l. 2 – p. 44, l. 21. January 15th Volume.

7.) A gunpower alert from a dog sniff was detected in on the gearshift console and rear trunk from the black vehicle in question. Tr. 20, l. 9 – p. 22, l. 25. January 15th Volume.

In circumstantial evidence cases, the rule is that a case can be submitted to the jury only if there is direct evidence or substantial circumstantial evidence that reasonably tends to prove the defendant's guilt. State v. Rogers, 405 S.C. 554, 748 S.E.2d 265 (2013). Circumstantial evidence is proof of a chain of facts and circumstances from which the existence of a separate fact may be inferred. State v. Rogers, supra. Here, there was insufficient substantial circumstantial evidence presented by the state to establish that appellant was guilty of murder in the case. A video of appellant walking up to the deceased's home on Saturday, May 7, 2022, and appearing at a nearby Food Lion on Saturday, May 7, 2022, did not constitute sufficient substantial circumstantial evidence that was tantamount to proof of murder. Furthermore, an argument overheard between the two parties on Saturday, May 7, 2022, did not constitute sufficient substantial circumstantial proof of murder. Finally, gunshot residue found on two articles of appellant's clothing (shorts and hat) found in the house and gunshot alerts from a dog sniff inside appellant's vehicle nonetheless did not establish sufficient substantial circumstantial proof that appellant murdered Lischer.

The lack of sufficient substantial circumstantial evidence presented by the state was punctuated by information given by appellant to police that he was not at the deceased's home on that weekend in question, beginning with his exit on Friday, May 6, 2022, and his return on

Sunday night, May 8, 2022, and his discovery of the deceased's body on Monday morning, May 9, 2022. Tr. 28, l. 12 – p. 33, l. 11.

The state's case contained woefully insufficient substantial circumstantial evidence of proof of guilt on appellant's behalf. The trial judge erred in denying appellant's motions for directed verdicts on the murder and weapon charges filed against him in the case.

QUESTION II

The trial judge erred in allowing inflammatory photographs into evidence at trial, particularly where the prejudice was exacerbated by the existence of insufficient substantial circumstantial evidence presented by the state in the case, and where the jurors in effect acknowledged an absence of proof of guilt on the charges via two inquiries raised regarding whether a retrial would result if not guilty verdicts were found and whether an appeal would follow any guilty verdicts.

At trial, defense counsel objected to pictures labelled as state's exhibits that showed close-up black and white and color shots of the bullet entrances to the head (exhibits 80 and 83A) because the same constituted inflammatory evidence, but the court allowed these exhibits into evidence. Tr. 25, l. 18 – p. 29, l. 20; January 15th Tr. 57, lines 5-8; January 15th Volume.

Additionally, an objection to the deceased's photograph labelled state's exhibit #33 was raised as prejudicial, inflammatory, and inadmissible evidence as well. Tr. 88, l. 18 – p. 91 l. 17 at Jan 14th volume; Tr. 93, l. 15 – p. 94, l.11. January 14th Volume.

In State v. Collins, 409 S.C. 524, 763 S.E.2d 22 (2014), where the trial judge's ruling to admit a dog mauling pre-autopsy photograph of the deceased was upheld, the Court's findings follow:

It would be without the evidence." Rule 401, SCRE. "Although relevant, evidence may be excluded if its probative value is

substantially outweighed by the danger of unfair prejudice.....” Rule 403, SCRE. “The relevancy, materiality, and admissibility of photographs as evidence are matters left to the sound discretion of the trial court.” State v. Nance, 320 S.C. 501, 508, 466 S.E.2d 349, 353 (1996). “If the offered photograph serves to corroborate testimony, it is not an abuse of discretion to admit it.” ID. “When [balancing the danger of unfair prejudice] against the probative value, the determination must be based on the entire **28 record and will turn on the facts of each case.” State v. Lyles, 379 S.C. 328, 338, 665 S.E.2d 201, 206 (Ct. App. 2008).

However, note below the following dissent in Collins:

I respectfully dissent, and would affirm the well-reasoned opinion of the court of appeals. I agree with the court of appeals that any minimal probative value of the admitted photographs was substantially outweighed by the danger of unfair prejudice and that their admission violated Rule 403, SCRE. In my opinion, the prejudice to Collins from the admission of these photographs requires reversal.

This Court recently addressed to the bench and bar our concern over the admission of gruesome photographs in State v. Torres, 390 S.C. 618, 703 S.E.2d 226 (2010), where we observed:

Although we affirm the admission of the photographs, we take this opportunity to address an area of growing concern to this **31 Court. The photographs at issue in this case, while admissible, are at the outer limits of what our law permits a jury to consider. Moreover, the State also sought to introduce evidence in the form of an autopsy dissection photo at trial, which the trial judge wisely excluded. Today, we strongly encourage all solicitors to refrain from pushing the envelope on admissibility in order to gain a victory which, in all likelihood, was already assured because of other substantial evidence in the case.

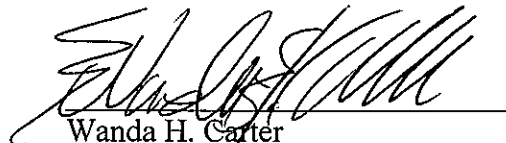
In my judgement, the majority has today approved the admission of evidence that far exceeds “...the outer limits of what our law permits a jury to consider.” Id. In my opinion, the only way we can educate the bench and bar as to that which is and is not beyond the pale is to publish these horrific photographs with our opinion.

Photographs calculated to arouse the sympathy, passions, or prejudices of the jury should be excluded if they are irrelevant or unnecessary to the issue at trial; and the question is whether the photographs are unfairly prejudicial so as to outweigh its probative value, i.e., whether the same would result a tendency to suggest a decision based on an improper or emotional basis. State v. Gleaton, 444 S.C. 394, 906 S.E.2d 630 (2024). The rule under Rule 403, SCRE, is whether there is a danger of unfair prejudice that substantially outweighs the probative value of the evidence.

In light of the fact that the state's case was wholly circumstantial and lacked substantial circumstantial evidence establishing guilt, it was error to admit the gruesome photographs, which inflamed the passions of the jury and provided insurance to strengthen the state's obvious proof insufficiencies connected to the charges. The error in this regard could hardly be considered harmless error in light of the jury's concerns with respect to appellant's retrial and appeal consequences. The lower court erred in admitting the photographs in question into evidence.

CONCLUSION

Based on the foregoing arguments, counsel for appellant would request that appellant's convictions be vacated, or in the alternate that the case be remanded to the lower court for a new proceeding.


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Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 5th of February, 2026.