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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Sumter County

The Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

Respondent,

v.

MUSTAFA ABDUR SALAAM,

Appellant.

Appellate Case No. 2024-001620

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

Did the trial court err by overruling Appellant's objection under Rule 404, SCRE, to testimony that he previously obtained a weapon improperly where that evidence could not prove he intentionally shot the injured people and he testified the gun fired accidentally?

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL

Did the trial court fairly and properly allow the State, on reply, to introduce limited evidence to rebut the false impression created by Appellant's testimony regarding the suspected murder weapon—specifically, evidence of Appellant's access to and possession of the gun after Appellant testified that the fired weapon belonged to the victim, that she accidentally fired it twice, and denied knowing the purchaser of the missing gun?

STATEMENT OF THE CASE

Appellant, Mustafa Abdur Salaam, was indicted by a Sumter County grand jury on December 8, 2022, on the following charges: Murder (2022-GS-43-1300), Possession of a Weapon During a Violent Crime (2022-GS-43-1301), and Attempted Murder (2022-GS-43-1302). Following a September 11-13, 2024, bench trial before the Honorable R. Ferrell Cothran, Appellant was found guilty on all charges. (R. 411:22-412:8). Appellant was sentenced to life imprisonment for the murder charge and thirty years for the attempted murder charge, to run concurrent with the life sentence. (R. 416:10-19). The court chose not to issue a sentence for the possession of a weapon charge due to the life sentence. (R.416: 15-17).

Appellant filed a timely notice of appeal.

STATEMENT OF FACTS

On June 11, 2021, Lorraine "Doretha" Bennett[1], her sister, Joyce Bennett, and her aunt, Fran McFadden traveled to Lorraine's Chestnut Pointe #204 apartment in Sumter, South Carolina. (R. 104:5-9, 102:3-25; 101:2-4). The three went to help Lorraine pack and clean the apartment in anticipation of her lease ending, which she did not plan to renew. (R. 101:2-3, 103:1-104:3). Fran McFadden went downstairs while Lorraine and Joyce remained in the apartment. (R. 104:19-23). Surveillance video shows Mustafa Salaam ("Appellant") and his fiancé, France Metellus, enter Lorraine's apartment at 7:36 p.m. (R. 229:9-24, 393:7-11). With Appellant and France Metellus, was Metellus's daughter, Rachelle[2], and Rachelle's newborn baby. (R. 104:24-105:7, 223:19-224:13).

Lorraine and Appellant were previously in a romantic relationship and jointly occupied the Sumter apartment, but Lorraine was the only tenant listed on the lease. (R. 97:16-99:21). State's Exhibit 43, admitted into evidence without objection, was a copy of the Chestnut Pointe Apartment Lease, listing Lorraine Bennett as the sole tenant on the lease agreement. (R. 43:11-44:22). On occasion, however, Lorraine and Appellant co-habited the 204 apartment for days at a time, but Appellant was never a permanent resident or leased tenant. (R. 44:17-22, 101:2-102:1).

Lorraine testified that on the day of the incident, Appellant unexpectedly entered her apartment. (R. 104:24-105:7). With him were two women, France Metellus and Rachelle, along with Rachelle's baby who upon entry, bypassed her and Joyce and went directly into the back bedroom. (R. 105:1-7, 106:5-14). Lorraine told Appellant that Metellus and Rachelle were not

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[1] The names "Lorraine" and "Dorthea" were used interchangeably throughout the trial but refer to the same person.

[2] Rachelle is referred to as "Rachel" throughout the transcript.

permitted to stay in her apartment pursuant to the lease agreement. (R. 106:15-20). Appellant told her to speak with Metellus and Rachelle directly. (R. 106:21-22). Lorraine went to the back bedroom and told the women they were not allowed to stay in her apartment. (R. 106:21-107:1). Lorraine testified that as she returned to the living room, Appellant asked her, "Where you going now?" (R. 110:5-8). Lorraine responded that she and Joyce were leaving. (R. 110:9-10). Appellant stood at the front door, drew his gun, and screamed, "You ain't gonna no motherfucking place." (R. 110:14-17, 112:1-10). Appellant proceeded to shoot both women, Lorraine first and Joyce second. (R. 112:11-14).

At trial, Appellant testified to a different sequence of events. Appellant testified that Lorraine was confrontational towards Metellus and Rachelle. (R. 342:9-15). According to Appellant, after Lorraine spoke to the women, she pulled a gun out of her cross-body purse—however no purse was found on Lorraine or anywhere in her apartment. (R. 342:9-17, 364:2-7). Further, Lorraine testified that neither she nor Joyce had a gun with them during their time in the apartment or during the time of the incident. (R. 116:21-24). Appellant testified that he attempted to disarm Lorraine, causing the gun to discharge and shoot Joyce who was behind him. (R. 343:13-20; 367:16). Additionally, during his alleged attempt to disarm Lorriane, Appellant testified that his knees buckled, and Lorraine fell on top of him. (R. 343:21-22). Appellant asserts that Lorraine fell onto his chest, which then caused the gun to discharge and shoot Lorraine in the face. (R. 343:21-25).

However, State's Exhibit 105, directly contradicted Appellant's testimony, showing that Appellant's shirt, worn before, during, and after the shooting, contained no blood of either victim—just gun-powder residue. (R. 240:5-24, 257:10-261:7). The absence of blood on Appellant's shirt undermined his assertion that Lorraine was shot while on top of him, considering

the amount of blood loss from Lorraine—who sustained a gunshot wound to the temple. (R. 84:9-19, 87:1-8, 149:5-150:14, 240:8-16). Additionally, forensic serology expert Samantha Seldon testified that no blood was found on Appellant's shoes. (R. 265:4-268:22). Appellant also asserted that Lorraine, after being shot in the head, subsequently got up, walked around the apartment and washed her hands. (R. 375:2-16). Appellant testified that when he left, the gun was still on the floor, yet law enforcement never located the firearm used by Appellant. (R. 207:7-18, 355:22-356:4, 374:17-375:1). Surveillance video placed Appellant, France Metellus, Rachelle, and Rachelle's baby in Lorraine's apartment for twenty-six minutes and showed Appellant leaving at 8:03 p.m. (R. 230:1-25). Appellant never called 911. (R. 220:18-23; 372:10-25).

After the incident, Appellant testified that he left the apartment complex first and drove around for a while. (R. 350:10-352:13). Appellant testified that he later met up with France, Rachelle, and Rachelle's baby and settled on the fourth hotel they visited – the Quality Inn. (R. 352:9-353:4). Appellant was arrested at the Quality Inn approximately 6 hours after the shooting wearing the same clothes he was wearing in the apartment surveillance video from the previous evening. (R. 234:1-241:11). Lorraine and Joyce's cell phones were not found on their persons or anywhere in the apartment. (R. 231:18-232:19). Law enforcement located the sisters' cell phones in a post office dumpster in Wedgefield, South Carolina—over ten miles away from the crime scene. (R. 202:18-203:21). Notably, Appellant's address of record is off of Wedgefield Road. (R. 213:12-227:4, 232:11-233:11).

Joyce's son-in-law, Troy Cade, planned to meet the sisters at Lorraine's apartment that evening and found Lorraine and Joyce shortly after the incident. (R. 23: 23-25, 28:11-14; 28:23-29:3). Both Cade and McFadden called 911, placing the first call at 8:17 p.m. (R. 219:19-220:23). In response to Cade's 911 call, Sumter County Emergency Medical Services arrived at the

apartment at 8:20 p.m. (R. 83:24-84:2). William Dyson, the responding paramedic, testified that when he entered the apartment, he saw two bodies on the floor, identified as Lorraine Bennett and Joyce Bennett. (R. 83:2-84:15). Dyson testified that he found "two bodies laying on the floor, blood all over the floor, some brain matter on the floor" and initially perceived both victims to be deceased. (R. 84:9-19). Lorraine was life-flighted to the hospital and miraculously survived being shot in the temple; Joyce was shot in the back left-side of the head and died as a result. (R. 87:5-8, 88:10-12, 90:15-92:25, 280:13-22). The forensic pathologist who performed Joyce's autopsy, Dr. Nicholas Batalis, ruled Joyce's death a homicide, and testified that the cause of her death was a gunshot wound to the head. (R. 272:15-21, 279:19-280:12). Lorraine sustained life-threatening injuries, underwent seven surgeries, and ultimately lost an eye due to the gunshot. (R. 114:9-115:17).

Law enforcement officers obtained and executed a search warrant for the apartment. (R. 154:2-24). In the closet containing men's clothing officers located a locked suitcase containing three guns, a locked safe containing another gun, and another suitcase containing a revolver. (R. 179:19-183:11). Found in the bedroom, on the bottom shelf of the desk, was an empty white Ruger LCP gun box. (R. 154:8-155:8). State's Exhibit 95, admitted into evidence without objection, was the white gun box for a Ruger LCP semi-automatic pistol, caliber .380 ACP. (R. 155:9-156:5-8). The Ruger pistol was not found inside the box nor anywhere in the apartment. (R. 156:2-157:14, 183:9-14). Inside the Ruger box, however, was a sealed factory test-fired cartridge admitted as State's Exhibit 97A. (R. 157:14-21, 159:18, 162:7-163:6). Investigator Amanda Snapp testified that the only other fired cartridge case recovered from the scene was found in a cardboard box by the front door of the apartment. (R. 169:14-170:22, 175:11-176:11). Firearms examination expert, Brian Malanio, testified that these two spent shell casings both came from a .380 auto caliber

firearm. (R. 196:6-197:9, 289:12-16, 302:6-20). Malanio testified that he could not affirmatively match the two casings to the same gun, but both had similarities that did not rule out them being fired from same firearm. (R. 302:6-20). Additionally, Malanio analyzed three bullet fragments recovered from Joyce's skull and compared them to the two spent shell casings. (R. 289:18-290:9). The other bullet fragments were not able to be removed from Lorraine's head. (R. 115:6-8). Malanio testified that the missing .380 Ruger LCP could have been the firearm used in the murder of Joyce Bennett and the attempted murder of Lorraine Bennett. (R. 302:6-20, 303:8-12).

Additionally, the Ruger box listed a serial number. (R. 194:14-16). By the serial number, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) identified the purchaser of the missing .380 Ruger LCP as Martha Ann Payton. (State's Exhibit 98; R. 194:14-195:2).

Appellant testified that he never met Payton and did not know her. (R. 377:16-24). However, after the defense rested, the State called Martha Payton as a rebuttal witness. Payton identified Appellant and testified that she and Appellant were in a romantic relationship and planned to marry in 2015. (R. 383:2-384:21). The State asked Payton if Appellant ever asked her to purchase a firearm for him. (R. 385:2-4). Appellant objected to the question based on relevance and inadmissible prior bad acts. (R. 385:5-10). The court overruled Appellant's objection, stating, "the question was asked to your client whether he knew her. And -- and, you know, we – it's evidence in this case about a number of firearms. We have -- we have ATF records as to who they were registered to or who purchased. I think it's relevant. I'll allow them to proceed." (R. 385:11-17). Payton responded to the State's question, testifying that Appellant asked her to purchase the firearm for him, and she filled out all the required paperwork. (R. 385:21-386:5). Payton confirmed the firearm she purchased for Appellant was the firearm matching State's Exhibit 98 – the ATF records for the missing firearm. (R. 386:17-387:23). Eventually, the two ended their relationship

in 2015. (R. 386:2-387:23). Payton testified that after the relationship ended, Appellant kept the gun, and she never saw it again. (R. 387:12-25).

Ultimately, the trial court found that through testimony and substantial evidence presented at trial, the State proved each element beyond a reasonable doubt. (R. 411:22-412:8). The court found Appellant guilty on all charges and sentenced him to life in prison. (R. 416:10-19).

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. White, 446 S.C. 276, 284–85, 919 S.E.2d 37, 41–42 (Ct. App. 2025) (quoting State v. Gaster, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002)). "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. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) (citing State v. McDonald, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000)).

ARGUMENT

The trial judge fairly and properly allowed the State to introduce limited evidence to rebut the false impression created by Appellant's testimony regarding his lack of connection to the suspected murder weapon. The trial judge did not abuse his discretion by allowing the reply that both linked Appellant to the gun he attempted to disavow and constituted evidence supporting malice aforethought and intent to kill.

Relevant Law:

"The admission of testimony which is arguably contradictory of and in reply to earlier testimony does not constitute an abuse of discretion" and is within the sound discretion of the trial judge. State v. Prather, 429 S.C. 583, 602, 840 S.E.2d 551, 561 (2020). Moreover, the "trial court's determination that a party has opened the door to the introduction of otherwise inadmissible evidence is within the sound discretion of the trial judge and is reviewed for abuse and will not be reversed absent an abuse of discretion." State v. Heyward, 426 S.C. 630, 636, 828 S.E.2d 592, 594 (2019).

To show entitlement to relief on appeal based on the wrongful admission of evidence, the complaining party must prove resulting prejudice. State v. White, 446 S.C. 276, 285, 919 S.E.2d 37, 41-42 (Ct. App. 2025) (citing State v. Byers, 392 S.C. 438, 444, 710 S.E.2d 55, 58 (2011)). In the present case, the assessment of prejudice must be viewed from the posture of a bench trial as opposed to a jury trial. Id. at 285 (citing State v. Inman, 395 S.C. 539, 565, 720 S.E.2d 31, 45 (2011). "It is well-established that it is a near insurmountable burden for a defendant to prove prejudice in the context of a bench trial as a judge, unlike a juror, is uniquely suited by training, experience, and judicial discipline to disregard prejudicial or inadmissible evidence." Id. at 285.

Discussion:

Appellant contends that the trial court should have excluded evidence that Payton had purchased the missing firearm, which was likely the murder weapon, pursuant to 404(b), SCRE, arguing it was improper for the State to use this evidence to show he had obtained the weapon

improperly. However, the purpose for which the State offered the evidence during trial was not "to show action in conformity" with a prior bad act. Instead, after Appellant's denial of knowing Payton and his testimony that it was Lorraine's gun that was fired, the evidence was offered to rebut this testimony, as well as to establish facts that became more relevant as a result of his own testimony – ownership and/or possession of the gun. The record shows no abuse of discretion.

Appellant testified that he did not shoot Lorraine or Joyce Bennett, but rather that it was Lorraine's gun that she pulled from her purse and fired as Appellant attempted to disarm her. (R. 342:9-343:25). Additionally, Appellant testified that he did not know Martha Payton, who according to ATF records, was the registered owner of the suspected murder weapon used by Appellant. (R. 377:12-378:1) (State's Exhibit 98). Appellant repeatedly denied knowing Martha Payton and thereby any connection to the missing gun. Thus, Appellant's testimony made the contradictory testimony in reply keenly relevant. Prather, 429 S.C. at 603, 840 S.E.2d at 561 ("Any arguably contradictory testimony is proper on reply.") (quoting State v. South, 285 S.C. 529, 535, 331 S.E.2d 775, 779 (1985)); State v. Todd, 290 S.C. 212, 214, 349 S.E.2d 339, 340 (1986) ("The admission of reply testimony is within the sound discretion of the trial judge, and there is no abuse of discretion if the testimony is arguably contradictory of and in reply to earlier testimony.") (citing State v. Stewart, 283 S.C. 104, 320 S.E.2d 447 (1984)). See also State v. Page, 378 S.C. 476, 482, 663 S.E.2d 357, 360 (Ct. App. 2008) ("It is firmly established that otherwise inadmissible evidence may be properly admitted when [the defendant] opens the door to that evidence.").

After Appellant's testimony, the State called Payton to testify to dispute Appellant's testimony. Payton identified Appellant and testified that she and Appellant were in a romantic relationship in 2015 and planned to wed that same year. (R. 383:2-384:21). The Defense then objected to the State's line of questioning regarding the purchase of a firearm for Appellant on the

grounds of relevance and "to the extent that she's trying to prove any prior bad act or anything of that nature." (R. 385:2-10). The trial court overruled the Defense's objection stating "the question was asked to your client whether he knew her. And -- and, you know, we – it's evidence in this case about a number of firearms. We have -- we have ATF records as to who they were registered to or who purchased. I think it's relevant. I'll allow them to proceed." (R. 385:11-17). Payton then testified that she had purchased a firearm for Appellant and that she had not seen that firearm again since he took it with him when he left in 2015. (R. 385:2-387:25). Payton also confirmed the firearm she purchased for Appellant was the firearm matching State's Exhibit 98 – the ATF records for the missing firearm. (R. 386:17-387:23).

The trial judge's ruling is well supported by the facts and the relevant law. As the record shows the trial judge did not abuse his discretion, this Court should affirm. Prather, supra.

Payton's testimony was relevant to the substantive issues at trial. See Rule 402, SCRE ("All relevant evidence is admissible, except as otherwise provided by ... these rules...."); see also Rule 401, SCRE (stating evidence is relevant when it "ha[s] any 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"). When Appellant denied knowing Payton, he created a false impression that they had no prior relationship and therefore he had no relationship to the suspected murder weapon, which the State was entitled to rebut for the purpose of proving facts material to the issues in the case. See South, 285 S.C. at 535, 331 S.E.2d at 779 ("Any arguably contradictory testimony is proper on reply."); see also State v. Sweat, 362 S.C. 117, 127, 606 S.E.2d 508, 513 (Ct. App. 2004) ("Evidence is admissible if 'logically relevant' to establish a material fact or element of the crime."). This is especially true considering the State's burden to prove malice aforethought. See S.C. Code Ann. § 16–3–10 (defining "murder" as "the killing of any person with

malice aforethought, either express or implied" (emphasis added)); see also S.C. Code Ann. § 16–3–29 ("A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder." (emphasis added)); see also State v. Jackson, 364 S.C. 329, 334, 613 S.E.2d 374, 376 (2005) (providing the State "has the right to prove every element of the crime charged").

Appellant's argument the trial judge erred is centered on Payton's testimony being inadmissible evidence of another crime or wrong under Rule 404(b), SCRE. ("Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith."). Appellant posits that "[b]y suggesting Appellant previously obtained the weapon improperly, the State relied upon the 'inevitable tendency' of other crimes to demonstrate his bad character and therefore intent and guilt." (IBOA, p. 8). However, the trial judge did not admit the testimony on that basis, and the State did not present evidence that Appellant had any prior conviction(s) or that Appellant was not permitted to possess a firearm.[3] Appellant similarly argues "evidence that he asked someone else to put a gun in their name tends to raise the assumption of criminal activity and the assumption has the same prejudicial effect." (IBOA, p. 8). This fares no better. See State v. Patterson, 425 S.C. 500, 509-510, 823 S.E.2d 217, 222-223 (Ct. App. 2019) (holding the trial court *did not* err in admitting testimony regarding the DNA database search where Patterson similarly argues the testimony was inadmissible because it implied Patterson had a prior criminal record in violation of Rule 404(b), SCRE. The court held evidence was admissible where the State did not place letter containing references to DNA

[3] It was only at sentencing, after the Appellant had been found guilty that the State reported that Appellant has a prior conviction for domestic violence of a high and aggravated nature, which would preclude him from possessing a firearm. (R. 413:19-25). See S.C. Code Ann. § 16-25-6530(A)(l) (forbidding those convicted of high and aggravated domestic violence from possessing a firearm).

database into evidence, and reference to database did not contemporaneously refer to defendant as a suspect, State did not mention the type of database match came from, did not attempt to solicit testimony regarding purpose of database, nor did it bring up defendant's prior record, and even though law enforcement agency developed DNA profile it entered into database, *testimony did not necessarily imply defendant had criminal record.*) (emphasis added)); compare State v. Hill, 409 S.C. 50, 57-58, 760 S.E.2d 802, 806 (2014) (holding that the admission of a law enforcement letter in which references were made to the CODIS database, while irrelevant and inadmissible, was not reversible error. The court noted that the publication of the letter—which referred to Hill as a "suspect" and stated that if he was charged, "an additional biological specimen must be submitted for court purposes"—could "have created an inference in a juror's mind that [Hill] had a criminal record."). Payton's testimony did not necessarily imply Appellant had a criminal record as her reply was appropriately limited and there was no testimony related to Appellant's criminal record or ability to possess a firearm legally.

Moreover, under these facts, the State was under no obligation to present different evidence to prove Appellant's connection to the missing firearm just because of the possibility of an inference that the firearm was improperly obtained. See State v. Faulkner, 274 S.C. 619, 621, 266 S.E.2d 420, 421 (1980) (stating relevant evidence on a material issue "need not be excluded merely because it incidentally reflects upon the defendant's [character]"); see also Sweat, 362 S.C. at 127, 606 S.E.2d at 513 (stating evidence which "establish[es] a material fact or element of the crime," "need not be 'necessary' to the State's case" to be admissible).

Because the reply directly contradicted Appellant's own testimony related to the suspected murder weapon, it was proper and admissible. Prather, supra. See also State v. Groome, 274 S.C. 189, 191, 262 S.E.2d 31, 32 (1980) (finding proper the co-defendant's reply supporting contact

between co-defendant and defendant which contradicted the defendant's testimony "he had not seen the witness for 'a good substantial period of time, maybe two months, maybe three months,' prior to his arrest, as an obvious attempt to disclaim any contact with his coconspirator."). Accord United States v. Leavis, 853 F.2d 215 (4th Cir. 1988) ("The prosecution was entitled, as the district court held, to rebut the false impression Leavis was creating by his testimony."). Moreover, the false impression was on a critical point of proof - identification. See State v. Lane, 749 S.E.2d 165, 167 (Ct. App. 2013) ("The State has the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the charged crime or crimes."). Evidence that it was Appellant's firearm concerned a matter directly relevant to the ultimate issue at trial—whether Appellant killed Joyce and attempted to kill Lorraine—and the testimony rebutted Appellant's testimony that it was Lorraine's gun and his assertion of accident. Compare State v. Williams, 409 S.C. 455, 469, 761 S.E.2d 770, 778 (Ct. App. 2014) (finding reply testimony inadmissible because it "was not directly relevant to the ultimate issue in the trial—[defendant]'s guilt or innocence").

The fact that the evidence could also be considered character evidence is not a bar to admissibility. "While the State may not attack a criminal defendant's character unless he has placed it in issue, relevant evidence admissible for other purposes need not be excluded merely because it incidentally reflects upon the defendant's reputation." Faulkner, 274 S.C. at 621, 266 S.E.2d at 421 (internal citations omitted). Because the reply testimony centered on contradiction, the bar to general character evidence did not apply. Compare id with State v. Bolin, 180 S.E. 809, 811-812 (1935) (questions on prior incident of violence not involving victim constituted improper character evidence as "when a defendant becomes a witness in his own behalf, his character as to veracity is thereby uncovered, but not his general moral character.").

Even if Payton's testimony was considered evidence of another crime or wrong under SCRE 404(b) it would still be admissible as it showed intent. Payton's testimony tended to establish it was Appellant's gun used which contradicted Appellant's assertion that Lorraine pulled out her gun and that the gun went off accidentally twice during the struggle. Any plea of accident in a murder case does not change the State's burden of proof as to its case in chief. State v. Owens, 433 S.C. 482, 860 S.E2d 357 (2021). Evidence that it was Appellant's gun also is evidence that Appellant not only was the shooter but that he also had the intent to kill Lorraine and did kill Joyce. "To prove murder, as we have held many times, the State must prove a voluntary and intentional act with malice." Id.

Furthermore, Payton's testimony was relevant and highly probative because it went directly to a critical point of proof. Specifically, Payton's testimony established the gun belonged to Appellant and was evidence he intentionally shot both victims, contradicting Appellant's own testimony. See State v. Schmidt, 288 S.C. 301, 303, 342 S.E.2d 401, 403 (1986) ("Evidence is relevant if it tends to establish or to make more or less probable some matter in issue upon which it directly or indirectly bears."). Additionally, based on the fact the trial court was presented with only limited information regarding how Appellant obtained the gun, and given that Payton's testimony directly contradicts Appellant's own testimony, any potential for unfair prejudice to Appellant was minimal. See State v. Wiles, 383 S.C. 151, 158, 679 S.E.2d 172, 176 (2009) ("[E]ven where the evidence is shown to be relevant, if its probative value is substantially outweighed by the danger of unfair prejudice, the evidence must be excluded."); State v. Council, 335 S.C. 1, 13, 515 S.E.2d 508, 514 (1999) (noting that an inadvertent vague reference to defendant's prior record will not amount to prejudicial error).

Even so, the record supports the trial judge's ruling and shows no abuse of discretion. The ruling should be affirmed.

Harmless Error

Even if the reply testimony had been admitted in error, the admission was harmless as Appellant's guilt was conclusively proven beyond a reasonable doubt through overwhelming evidence.

Generally, "[e]rror is harmless when it could not reasonably have affected the result of the trial." State v. Golson, 349 S.C. 421, 429, 562 S.E.2d 663, 667 (Ct. App. 2002). "In determining whether error is harmless beyond a reasonable doubt, we often look to whether the 'defendant's guilt has been conclusively proven ... such that no other rational conclusion can be reached'." State v. Ostrowski, 435 S.C. 364, 401, 867 S.E.2d 269, 288 (Ct. App. 2021) (quoting State v. Reyes, 432 S.C. 394, 406, 853 S.E.2d 334, 340 (2020) (citations omitted)). "[O]verwhelming evidence of a defendant's guilt is a relevant consideration in the harmless error analysis." Id. (citations omitted). An insubstantial error not affecting a trial's result is harmless where "guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached." State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989).

The record shows overwhelming evidence of Appellant's guilt. Notably, there is the testimony from the surviving victim, Lorraine, that Appellant shot both victims. (R. 112: 11-14). Also, though Appellant claimed Lorraine fell on him and was then shot, he had no blood on his shirt, only gun-powder residue. (R. 240: 5-24, 257;10-261:7). Video footage confirmed Appellant's presence at the apartment. (R. 230:1-25). And, though he claimed an unintentional shooting, Appellant did not call 911 but fled, arguably dumping the victims' phones in an area near his Wedgefield Road residence, and over ten miles from the apartment. (R. 220:18-23; 372:10-25;

202:18-203:21; 225:12-227:4; 232:11-233:11). Further still, the Ruger pistol box was found in the bedroom of the apartment where Appellant had stayed, the closet in that bedroom containing men's clothing. (R. 97:16-99:21; 179: 19-183:11; 154:8-155:8) On examination, the gun was consistent with that used in the crimes. (R. 302:6-20; 303:8-12). The gun was one a former girlfriend purchased for Appellant and he kept. (R. 386:17-387:25).

In sum, based on this record, even if some error could be found in the admission of the reply testimony, such error would not warrant reversal, especially considering that the evidence was accepted for a specific reason, *i.e.,* reply based on Appellant's testimony, during a bench trial. See Inman, supra. Appellant is not entitled to any relief.

CONCLUSION

Based on the foregoing, this Court should affirm.

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