

RECEIVED

Apr 22 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAVEON CAMPBELL,

APPELLANT

APPELLATE CASE NO. 2025-001695

ANDERS BRIEF OF APPELLANT

GARY H JOHNSON
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 CONTENTS..... i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STANDARD OF REVIEW3

ARGUMENT

The lower court erred in admitting irrelevant portions of the video depicting victim lying on the floor and dying for several minutes following the shooting caught on store surveillance video on the claim by the state that the jury needed to watch the victim die on video as relevant evidence regarding malice.4

CONCLUSION.....11

PETITION TO BE RELIEVED AS COUNSEL12

TABLE OF AUTHORITIES

	Page(s)
Cases	
<u>Arnold v. State</u> , 309 S.C. 157, 420 S.E.2d 834 (1992).....	9
<u>State v. Benton</u> , 435 S.C. 250, 865 S.E.2d 919 (Ct. App. 2021)	3
<u>State v. Collins</u> , 409 S.C. 524, 763 S.E.2d 22 (2014).....	8, 9
<u>State v. Middleton</u> , 288 S.C. 21, 339 S.E.2d 692 (1986).....	8
<u>State v. Nelson</u> , 440 S.C. 413, 891 S.E.2d 508 (2023).....	7, 8
<u>State v. Torres</u> , 390 S.C. 618, 703 S.E.2d 226 (2010).....	3
Rules	
Rule 403, SCRE.....	3, 6, 7, 8

STATEMENT OF ISSUE ON APPEAL

Whether the lower court erred in admitting irrelevant portions of the video depicting victim lying on the floor and dying for several minutes following the shooting caught on store surveillance video on the claim by the state that the jury needed to watch the victim die on video as relevant evidence regarding malice?

STATEMENT OF THE CASE

On June 29, 2022, CP was shot and killed inside a convenience store in Charleston County. R. 394-397. The shooting was captured on security camera footage, the video and aftermath forming the basis for this appeal.¹ A Charleston County grand jury indicted appellant for murder and possession of a weapon during the commission of a violent crime. R. 394 - 397. Appellant was tried before the Honorable Benjamin H. Culbertson and a jury on August 18 - 20, 2025. R. 1. Stephanie Linder and George Smit prosecuted the case with Patrick Goodwyn and Lindsay Luthringer appearing on behalf of appellant. R. 1.

The jury convicted appellant as indicted. Judge Culbertson sentenced appellant to life imprisonment for the murder charge and five years for the weapon offense. R. 389, ll. 10 - 19. This appeal follows.

¹ State's Exhibit 2 has been transported and is available for review by this Court.

STANDARD OF REVIEW

“Photographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are irrelevant or not necessary to substantiate material facts or conditions. To be classified as unfairly prejudicial, photographs must have a tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.” State v. Torres, 390 S.C. 618, 623, 703 S.E.2d 226, 228–29 (2010) (internal citations omitted). “[T]he standard is not simply whether the evidence is prejudicial; rather, the standard under Rule 403, SCRE is whether there is a danger of unfair prejudice that substantially outweighs the probative value of the evidence.” State v. Benton, 435 S.C. 250, 266, 865 S.E.2d 919, 927 (Ct. App. 2021).

ARGUMENT

The lower court erred in admitting irrelevant portions of the video depicting victim lying on the floor and dying for several minutes following the shooting caught on store surveillance video on the claim by the state that the jury needed to watch the victim die on video as relevant evidence regarding malice.

A. The alleged relevance of the full video and its use at trial.

State's Exhibit 2 shows the entire encounter leading to the shooting of CP and the suspect fleeing the store.² CP interacts with the store clerk from time stamp 0:00:00 until 0:00:46. The suspect walks up behind CP between 0:00:44 and 0:00:46. A gun is visible in the suspect's hand at 0:00:47 as he raises the firearm and shoots CP in the back multiple times through time stamp 0:00:48. The suspect flees as the shooting ends at 0:00:48. CP falls to the floor from the wounds at 0:00:50. For the next several minutes, the video shows only the pain and impending death of CP (0:00:52 – 0:03:12).

Appellant's counsel moved to limit the video through the suspect fleeing the scene, omitting CP's death struggles.

I understand the State wants to introduce this particular part of the camera that we have issue with to prove murder, identity, the unlawful killing, and the malice aforethought. The issue that I have is once the shooter leaves the store, everything after that is irrelevant.

Not only is it irrelevant, it shows this poor kid slowly and excruciatingly dying. He never moves. He goes through paralysis, tries to call his mother. When you watch it, there is no doubt that the only issue -- and I have not heard anything from Ms. Linder

² State's Exhibit 2 has multiple "clips" with Clip 2 being the portion subject to objection and the current argument.

why it's relevant. But when you watch it, you'll understand that this does nothing but enflame the passions of the jury.

R. 50, ll. 3 – 14.

The state argued the aftermath of the shooting was relevant in part because it showed the victim did not contribute to the shooting.

I think that it shows what happened. I don't think – I think that if, as kind of a compromise, if we wanted to mute it afterwards, but it still³ -- it is the best evidence. It literally shows what happened. It shows that he was shot. It shows that he didn't hide a gun. He didn't grab a gun and try to shoot at the defendant. He didn't do any of that.

R. 53, ll. 2 – 7.

This idea that the ending of the video, rather than the portion that contained the actual shooting by the suspect, was somehow relevant was contested by appellant's counsel.

I respect Ms. Linder very deeply, but I find it very disingenuous to think that there's any probative value to watching what happened to that kid after the fact. There's no issue with identity after the shooter leaves the building. He does not -- Mr. Phillips does not give some sort of dying declaration as to who it is. Malice can be seen from the video itself during the shooting. It does not help the jury whatsoever.

R. 54, ll. 13 – 20.

Appellant's counsel stipulated that the video of the shooting was relevant and that CP died as a result of being shot as shown on the video.

In this case we stipulated -- we tried to stipulate that [CP] is dead. We have no issue with that. The only thing that that second portion of the video, after the shooter leaves the building, is to watch him suffer. There is absolutely no probative value there, and to suggest otherwise is -- Judge, I don't know what to say.

THE COURT: Well, I mean, are you willing to stipulate that he died as a result of the gunshot wounds –

³ There was no compromise and the video was not muted.

MR. GOODWYN: Yes.

THE COURT: -- following that shooting --

MR. GOODWYN: Yes.

THE COURT: -- right there?

MR. GOODWYN: Yes. I have been willing to stipulate the entire time to that. And I've told Ms. Linder that.

THE COURT: Okay. So you're saying you will stipulate to the jury that as soon as he shoots and as soon as he runs out, that he died as a result of those gunshot -- the defendant will -- that he died as a result of those gunshot wounds?

MR. GOODWYN: That is correct.

R. 55, ll. 2 – 21.

The solicitor refused the stipulation, asserting the right to try the case as she saw fit. “I will say that -- I mean, while I appreciate that they'll stipulate that he died as a result, Mr. Goodwyn suggested this to me instead of having the pathologist come. I'm going to try the case as I see fit. I think a pathologist is important in a murder case to come . . .” R. 56, l. 24 – 57, l. 3.

Despite the stipulation and the questionable relevance, the lower court denied the Rule 403, SCRE, motion and allowed the video in full.

THE COURT: Well, and I understand that. But I think there is probably more of a probative value. I mean, there is -- it actually shows what happened, and I can't get around that. And that is of a very probative value to the State.

So I am going to deny your motion. I'm going allow them to present their case the way they want to. *I don't know that it's going to unduly prejudice the jury because it shows exactly what happened.* And so I'm going to allow it. All right?

R. 59, ll. 12 – 20 (emphasis added). When the state introduced the video before the jury, appellant’s counsel renewed his objection under Rule 403, SCRE. R. 135, l. 22 – 136, l. 9; 139, 7 – 18.

Belying the video would not be “too prejudicial” the solicitor requested permission to allow CP’s family to leave the courtroom before the video was played. R. 114, l. 22 – 115, l. 5. The trial court stated a concern that allowing the family to leave the courtroom in front of the jury would draw excess attention to the nature of the video. R. 115, ll. 11 – 19. The Court allowed a break would be called to allow the jury to retire before CP’s family left the courtroom so the video could be played. R. 134, ll. 11 – 18.

In an effort to gain full value for the video, the solicitor played it again during closing argument. R. 340, ll. 9 – 12.

B. The trial court erred in admitting the full video.

“Under Rule 403, SCRE, relevant evidence may be excluded where its probative value is substantially outweighed by the danger of unfair prejudice. Moreover, ‘[I]t is well-established that photographs calculated to arouse the sympathies and prejudices of the jury are to be excluded if they are irrelevant or unnecessary to the issues at trial.’” State v. Nelson, 440 S.C. 413, 420, 891 S.E.2d 508, 511 (2023).

State v. Nelson is particularly instructive here. As in Nelson, the sole issue before the jury was one of identity. As in Nelson, the “actions” that led to the death (and murder) were not in dispute nor was the mechanism of death. As in Nelson, there was other competent evidence of the nature of crime so as to arguably be relevant to the issue of malice (namely the portion of the video that actually showed the murder). More importantly, as in Nelson, the admission of the

death video “unnecessarily created the potential for the jury to convict [appellant] of the murder based on inflamed emotions in a case where the jury was provided with undisputed evidence as to how Victim died, as well as ample evidence that [victim] had been killed with malice . . .” Nelson, 440 S.C. at 426, 891 S.E.2d at 514. Finally, as in Nelson, the sole issue before the jury was the identity of the shooter shown in the first fifty seconds of the video, with the final two minutes of suffering by KC being entirely irrelevant to the issues before the jury.

The state compounded the error in admitting the video by playing it during closing argument, further adding an unnecessary and emotional basis from which the jury could have convicted appellant. *Compare* State v. Middleton, 288 S.C. 21, 24, 339 S.E.2d 692, 693 (1986) (“Appellant's counsel offered to stipulate to any relevant information contained in the photographs, and it is clear the information was not really at issue. Furthermore, the testimony of the forensic pathologist negated any arguable evidentiary value of the photographs. The prejudice created by the photographs clearly outweighed any evidentiary value.”) *with* State v. Collins, 409 S.C. 524, 536, 763 S.E.2d 22, 29 (2014) (“Since there was no one else present at the time of the event, the photos aided the jury in evaluating the testimony offered by both the State and the defendant, especially as to determining the dangerous propensities of the dogs and whether or not Collins's conduct was criminally reckless.”).

The present case falls on the side of Middleton and Nelson, not Collins. The contested portion of the video was introduced, over appellant’s objection under Rule 403, SCRE, more to incite an emotional response than to establish contested facts. As was the case with the photographs of the murder victims in Nelson and Middleton, the trial court in this case was in error in admitting the challenged portion of the video since the danger of unfair prejudice outweighed any probative value it offered.

C. Prejudicial impact.

The state's case against appellant centered on testimony identifying him as the assailant shown on State's Exhibit 2. A person riding in the car with appellant just before the shooting identified appellant as the passenger who exited the vehicle shown on the surveillance footage as being the shooter. R. 157, l. 1 – 159, l. 25. This same witness claimed appellant confessed to the shooting as the car drove away. R. 157, l. 1 – 159, l. 25. Other witnesses who were less familiar with appellant also identified him as the shooter, including an employee from the Department of Juvenile Justice who claimed to be able to identify appellant as the shooter due to interacting with him for a supervision offense under DJJ. R. 294, l. 1 – 295, l. 25.

However, “[t]o say that an error did not contribute to the verdict is ... to find that error unimportant *in relation to everything else the jury considered on the issue in question*, as revealed in the record.” State v. Collins, 409 S.C. 524, 537–38, 763 S.E.2d 22, 29 (2014) (*quoting* Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992)). Here, the identity of appellant as the shooter shown in State's Exhibit 2 depended on the credibility of the testifying witnesses. JCM, the witness from the vehicle which contained the shooter also identified three other people inside the car. One of those persons exited the car and committed the murder. Certainly, there was evidence presented that identified appellant as that person. Notably, there was evidence from which the jury could have foreseen the identification of appellant was made in an effort to hide the identity of the true shooter. JCM identified his older cousin “Hamp” as inside the car. R. 155, l. 1 – 158, l. 25. JCM told investigators how “Hamp” made threatening comments about talking to the police about the shooting. R. 171, l. 1 – 172, l. 4; 272, l. 11 – 274, l. 25. Investigators were unable to produce Hamp for trial or interview him as he was charged with a different murder and unavailable. R. 245, l. 1 – 226, l. 25.

As argued by appellant's counsel at closing, the absence of "Hamp" from trial raised doubt on the quality of the identification of the shooter.

Now, the State has deliberately paraded in front of you, albeit Javeon not voluntarily because he's sitting here charged with murder. But they showed you Travis Richardson. You saw [JCM]. Who's the one person that you haven't seen? Who's the one person's face that you haven't seen? Hampton. Qutarius Capers-Mitchell.

[JCM] needed time to get out in front and get his story straight with his big cousin Hampton. This was after the shooting: "Because we ain't never been out the car." The State's relying on the story that Jalen gave after this was sent to set up where everybody was sitting in the car, to set up Brandon being in the back passenger seat behind the driver, to set up all of that. Jalen talks about him wearing a Chicago bulls shirt and he's sitting in the front passenger seat.

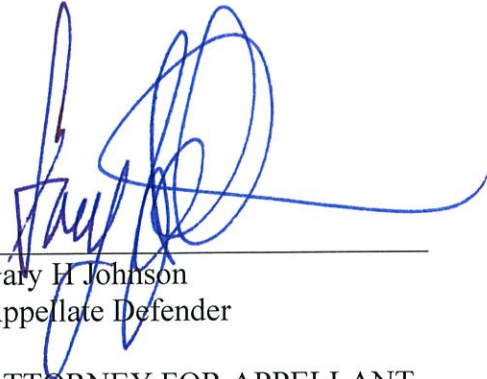
Okay. Okay. Sure. But the one person they have not shown you is Hampton. Why is that? Because they don't believe Javeon is the shooter. And neither should you, because he wasn't.

R. 363, l. 25 – 364, l. 18.

By contrast to the reliance on the video and identification witnesses, there was no physical evidence tying appellant to the murder. No murder weapon was found. No location data was introduced placing him at the scene. The evidence, therefore, relied in large part on the credibility of the witnesses as well as the acceptance by the jury of their identification of appellant as the shooter captured on video. This Court should not find that error in admitting the death video, solely to inflame the jury, did not contribute to the verdict.

CONCLUSION

For the foregoing reason, appellant requests that this Court reverse his convictions and remand the matter for a new trial free from the taint of the improperly admitted portion of the video.



Gary H. Johnson
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of April, 2026.

RECEIVED

Apr 22 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAVEON CAMPBELL,

APPELLANT

APPELLATE CASE NO. 2025-001695

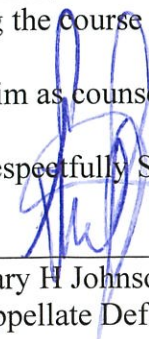
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Javeon Campbell states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Benjamin H. Culbertson, which was held on August 18-20, 2025, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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, he asks the Court to relieve him as counsel for Javeon Campbell.

Respectfully Submitted,



Gary H. Johnson
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of April, 2026.

RECEIVED

Apr 22 2026

SC Court of Appeals

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."



Gary H Johnson
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 22nd day of April, 2026.