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May 21 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Jessica Salvini, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY OVERMAN,

APPELLANT

APPELLATE CASE NO. 2025-000036

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in allowing appellant's jail call recording into evidence at trial where the content revealed a voice referencing the street term "humbug" because this expression indicated that someone targeted appellant, which in turn constituted prejudicial information that suggested guilt in connection to the drug charges filed against him.

STATEMENT OF THE CASE

Appellant Anthony Ray Overman was convicted of driving under suspension, possession of crack cocaine, and trafficking in methamphetamine per jury trial held at the December 2004 term of the Greenville County General Sessions Court before Judge Jessica Ann Salvini who sentenced him to imprisonment for a period of twenty-five years.

Attorney Nekedia A. Heath represented appellant at trial, and Assistant Solicitors Sydney L. Case and Kristen A. Farmer prosecuted the case.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

In criminal cases an appellate court sits to review errors of law only. State v. Baccus, 367 S.C. 41, 625 S.E.2d 216 (2006). An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court abused its discretion. Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528 (2000). An abuse of discretion occurs when the trial court's ruling is based on an error of law or when the grounded in factual conclusions is without evidentiary support. *Id.*

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, 732 S.E.2d 861 (212); State v. Clasby, 385 S.C. 148, 682 S.E.2d 892 (2009). In order to admit evidence of prior bad acts not resulting in a conviction, the trial court must determine whether the proffered evidence is relevant. State v. Clasby, *supra*. If the trial judge finds the evidence is relevant, the judge must then determine whether the bad act evidence is admissible under Rule 404(b). If the testimony is relevant and proffered for a permissible purpose, the trial court must conduct a balancing test pursuant to Rule 403 to discern whether the probative value is substantially outweighed by the danger of unfair prejudice, and the trial court may exclude evidence if the probative value is substantially outweighed by the danger of unfair prejudice. State v. Gilliams, 373 S.C. 601, 646 S.E.2d 872 (2007).

ARGUMENT

The trial judge erred in allowing appellant's jail call recording into evidence at trial where the content revealed a voice referencing the street term "humbug" because this expression indicated that someone targeted appellant, which in turn constituted prejudicial information that suggested guilt in connection to the drug charges filed against him.

On June 23, 2023, police conducted a traffic stop of a vehicle driven by appellant in Greenville County, South Carolina. The investigation that followed revealed that appellant was driving under a suspended license, and that the car tag on the vehicle did not match the vehicle driven. Also, before the vehicle was towed away, an inventory search yielded a finding of cocaine base and methamphetamine located therein. R. 69, l. 24 – p. 89, l.7.

Appellant's position was that the vehicle in question did not belong to him, which in turn meant that the drugs found inside did not belong to him. R. 98, lines 21-24; R. 93, lines 12-17; R. 181, lines 3-15.

Prior to trial, defense counsel objected to the admission of appellant's jail call into evidence due to the prejudicial nature of the content i.e., appellant's statement that suggested that he had been set up. R. 12, l. 23 – p. 14, l. 2. Specifically, the call included a reference to the word "humbug," i.e., a snitch, and a communication that "somebody who sold [or told] on [him]." The trial judge denied the motion to suppress the jail call evidence. Counsel subsequently renewed the objection prior to the publishing of said call to the jury. R. 86, l.3 – p. 88, l. 22. The call suggested that appellant had been set up, which clearly implicated him and hinted at guilt.

During closing argument, the solicitor commented as follows:

And if that's not enough to leave you firmly convinced the defendant knew those drugs were there, let's listen to his own words. Sorry. Just bear with us. The computers are not as fast as they should be. And you all heard that. When Charles Moore got

on stand, it tells them it's being recorded. They know. They have a pen.

(video played)

Okay. Somebody sold on me. Somebody told on me. I can't tell if he said told or sold but, regardless, somebody told on me. What was there to tell on if you didn't know that you had two ounces, like he said, of meth in the car. He knew it was there, and he just told you. Thank you.

R. 179, l.19-p.180, l.6.

Defense Counsel argued during closing argument as follows:

This jail call that the state just played, let's talk about it a little but. They got me on a humbug. Somebody told on me, or somebody sold on me. Can't make a difference—can't really hear what he's saying. The State asked Deputy Eppes and McDonnell on direct examination, What is a humbug? He couldn't tell you what a humbug is. I can. When Mr. Overman said They got me on a humbug, what Mr. Overman was saying is they pulled me over for something silly; they pulled me over because somebody told on me, that I was driving without a license; they got me on a humbug; they pulled me over because somebody told that I was driving while under suspension; they got me on a humbug because someone told on me that I'm driving with a tag that's not matching the vehicle; they got me on a humbug; somebody told on me. This call does not prove that Mr. Overman knew that there were drugs in this vehicle. They got me on a humbug; somebody told on me. That does not say Someone told on me; someone told that I had drugs in the vehicle. The State wants you to interpret that call as that, but that is not what the call is saying; it's not what [appellant] said. R. 181, l.16-p. 182, l.10.

Under Rule 403, SCRE, evidence must be excluded if its probative value is substantially outweighed by the dangers of unfair prejudice, confusion of the issues, or misleading the jury or by considerations of undue delay, waste of time or needless combative evidence, see State v. King, 416 S.C. 92, 784 S.E.2d 252 (2016).

Apparently, the solicitor's goal was to apprise the jury of appellant's thought process to connect him to the charges via an interpretation of the word "humbug," which was interpreted to

mean “knowledge” and “intent,” in order to establish appellant’s association with the drugs and/or his ownership and possession of the drugs. Prejudice resulted because the inference of “humbug”¹ implied “being set up” and that “somebody sold [or told] on me,” as a link to guilt.

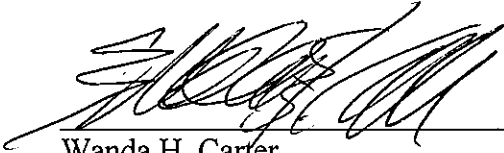
Note that the mention of the word “humbug,” which is a street word, signaled a certain familiarity that appellant might have had with drug activities. Without the jail call, the circumstances surrounding the traffic stop ended up being the only mostly incriminating evidence presented against appellant in the case. However, the jail call information presented to the jury allowed them to speculate and justify a finding of guilt on a ground different (possible street/drug connections) from actual proof on the offenses charged. Unfair prejudice means an undue tendency to suggest a decision based on an improper ground. State v. Crummey 443 S.C. 94, 902 S.E.2d 391 (2024), citing to Johnson v. State 433 S.C. 550, 860 S.E.2d 696 (Ct. App. 2021).

The trial judge erred in allowing appellant’s jail call recording into evidence at trial because the content of the same included the street expression (“humbug”) which ultimately prejudiced his defense in the case.

¹ At trial, police officers stated that a “humbug” means “appellant [thought] that someone that either he bought the dope from or one of his competitors or somebody he’s done wrong [had] snitched on him. R. 88, lines 15-22.

CONCLUSION

Based on the foregoing, counsel for appellant would request that appellant's convictions and sentences be reversed and his case remanded to the lower court for a new trial.



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Chief Appellate Defender

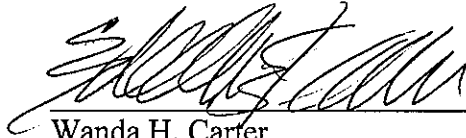
ATTORNEY FOR APPELLANT

This 21st day of May, 2026.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final 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."

May 21, 2025.



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