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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
The Honorable Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2024-002204

THE STATE,

Respondent,

v.

BRITTANY NICOLE RUTLAND,

Appellant.

INITIAL BRIEF OF RESPONDENT

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COUNTER-STATEMENT OF ISSUE ON APPEAL

- I. The trial judge did not abuse his discretion in admitting body camera footage without audio.

STATEMENT OF THE CASE

Appellant was indicted by a Pickens County Grand Jury for trafficking methamphetamine 28-100 grams. Appellant proceeded to a jury trial on December 9, 2024, before the Honorable Alex Kinlaw, Jr. The jury found Appellant guilty as indicted. She was sentenced to seven years' imprisonment. This appeal follows.

STATEMENT OF FACTS

During the morning hours of November 19, 2022, Officer Justin Wade, of the Pickens County Sheriff's Office (PCSO), received a general welfare check on a person, later identified as Brittany Rutland (Appellant), who was passed out behind the wheel at a gas pump. (Tr. 100). Wade approached the vehicle, checked through the windows to make sure there were no weapons, and then tapped on the glass to wake Appellant up. (Tr. 102). As Wade opened the door of the vehicle, he smelled an odor of marijuana emitting from the vehicle. (Tr. 102). Wade had Appellant step out of the vehicle and notified her that due to the smell of marijuana he was going to search the vehicle and asked her if she had anything illegal on her person or in the vehicle. (Tr. 102). She admitted to having a meth pipe on her person. (Tr. 102).

Deputy Thomas Camp (PCSO) arrived on scene to assist in the search of Appellant's vehicle. During the search of the vehicle, officers located a jar containing marijuana, a digital scale, a small amount of methamphetamine in Appellant's wallet, and a large quantity of methamphetamine underneath a sock at the bottom of a red solo cup located in the cupholder. (Tr. 105-112, 132). Appellant accepted ownership of the marijuana and methamphetamine found in her purse. (Tr. 125-126).

During trial, the State called Deputy Wade, who testified about his encounter with Appellant. He explained that his body camera was accidentally muted, hence there was no audio on his camera. (Tr. 101-105). The state also called Deputy Camp and moved to enter his body camera footage, which had been edited to remove the accompanying audio. (Tr. 134-135). Counsel for Appellant objected to the video, arguing that it should be submitted in completeness and have the sound accompanying it. (Tr. 135). The State argued that the audio had been removed to take out Appellant's self-serving statements and that the rule of completeness did not apply because the entire video was in, just without the sound. (Tr. 136-137). The State argued that if Appellant

wanted the self-serving statements in, she would have to testify so the State could have the opportunity to cross-examine those statements. (Tr. 136). Counsel for Appellant argued that the purpose of the video with sound was to show how cooperative she was. (Tr. 139). Counsel for Appellant conceded that the self-serving statements could be redacted, but still the rest of the video should be played with sound to show the whole picture and how cooperative she was. (Tr. 141-143). The trial judge allowed the State to admit the video without sound stating:

I think The State's going to be at a disadvantage only from the standpoint not being able to cross-examine her if she doesn't take the witness stand. If she takes witness stand, play the whole thing. The State has the opportunity to come back and ask her any questions they want to, but I think the scales would not be even—the playing field would not be even if—just like the states has to have the opportunity to cross-examine your witnesses, you want the opportunity to cross-examine any witness the state puts up. So I think that's just fair.

(Tr. 144). Appellant testified in her own defense and the complete body camera footage with audio was eventually admitted into evidence. (Tr. 223, Defendant's Exhibit 1).

STANDARD OF REVIEW

“In criminal cases an appellate court sits to review errors of law only.” State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). “The admission or exclusion of evidence is left to the sound discretion of the trial judge, whose decision will not be reversed on appeal absent an abuse of discretion.” State v. Saltz, 346 S.C. 114, 121, 551 S.E.2d 240, 244 (2001). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” State v. Jennings, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011) (citation omitted). “To warrant reversal, an error must result in prejudice to the appealing party.” State v. Black, 400 S.C. 10, 732 S.E.2d 880 (2012) (citing State v. Commander, 396 S.C. 254, 721 S.E.2d 413 (2011)). Further, “[e]rror ‘is harmless where a defendant’s guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached.’” State v. Collins, 409 S.C. 524, 538, 763 S.E.2d 22, 29-30 (2014) (quoting State v. Bryant, 369 S.C. 511, 518, 633 S.E.2d 152, 156 (2006)).

ARGUMENT

I. The trial judge did not abuse his discretion in admitting body camera footage without audio.

Appellant argues that the trial court erred in allowing the State to enter an officer's body camera video with the audio fully redacted over defense counsel's objection under the rule of completeness. Appellant specifically argues that the audio was necessary and relevant to give context to the incident. Appellant's argument lacks merit because the rule of completeness does not apply here. Further, the audio was not necessary because there was testimony regarding what the audio stated. Lastly, the video with audio was ultimately admitted through the defense.

Rule 106 of the South Carolina Rules of Evidence states, "[w]hen a writing, or recorded statement, or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it." Rule 106, SCRE. "Rule 106 is based on the rule of completeness and seeks to avoid the unfairness inherent in the misleading impression created by taking matters out of context." State v. Cabrera-Pena, 361 S.C. 372, 379, 605 S.E.2d 522, 525 (2004). The rule of completeness is extended to oral communications. Id. at 380, 605 S.E.2d at 526. "Accordingly, where, as here, the state elects to use a witness to elicit portions of a conversation (and incriminating statements therein) made by a defendant, the rule of completeness requires the defendant be permitted to inquire into the full substance of that conversation." Id.

The rule of completeness does not apply here. There were no portions of audio from either body camera footage that were admitted, when the recording was played and, thus, no statements or portions of statements were introduced through the admission of the recording. Id. (If the statement is in writing or recorded, the adverse party may require the introduction of the relevant portions—at the time of introduction of other portions of the statement—pursuant to Rule 106,

SCRE). Appellant is relying on a statement made by Appellant that Deputy Wade testified to, not a statement that was shown to the jury on video. Deputy Wade testified that when he asked Appellant if she had anything illegal on her person or in her vehicle that she stated she had a meth pipe on her. This statement was not heard on audio but testified to and properly admitted as an admission by party opponent. See Rule 801(d)(2) (A statement offered against a party and is the party's own statement in either an individual or representative capacity). Appellant had the opportunity to cross-examine Deputy Wade on this statement and actually did elicit that she was cooperative. (Tr. 123).

Appellant further argues that the sound on the video was necessary and relevant, but that argument lacks merit. The Fourth Circuit Court of Appeals held that the rule of completeness did not render Defendant's exculpatory statement, where admission of defendant's self serving, exculpatory statement was not necessary to avoid misleading the jury. United States v. Davis, 75 F.4th 428, 436 (2023). Counsel for Appellant argued that the purpose of the video with sound was to show how cooperative she was. (Tr. 139). Counsel for Appellant conceded that the self-serving statements could be redacted, but still the rest of the video should be played with sound to show the whole picture and how cooperative she was. (Tr. 141-143). However, Deputy Wade testified that she was cooperative, forthcoming and very non combative. (Tr. 121-125). Deputy Camp also testified that she was cooperative. (Tr. 155). Further, the jury could very much determine by the video she was non combative and cooperative. (Defense Exhibit 1). Lastly, even if the admission of the video without the sound was error, it was harmless because the video with the sound was ultimately admitted when Appellant testified.

CONCLUSION



For all the foregoing reasons, it is respectfully submitted that the judgments and convictions of the lower court should be affirmed.

Respectfully submitted,

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