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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
The Honorable Dale E. Van Slambrook, Circuit Court Judge

Appellate Case No. 2025-000247

THE STATE,

Respondent,

v.

ANTHONY PATRICK TAYLOR,

Appellant.

FINAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

COUNTER-STATEMENT OF ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

STANDARD OF REVIEW 3

STATEMENT OF FACTS 4

ARGUMENT 6

1. **The trial court properly admitted Appellant's arrest and booking report containing "aliases" into evidence because they were generated and kept in the regular course of business and the information did not constitute inadmissible hearsay, was inherently reliable, and was nontestimonial in nature, which meant the admission did not violate Appellant's right to confrontation.** 6

CONCLUSION 10

TABLE OF AUTHORITIES

Cases

Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528 (2000) 6

Crawford v. Washington, 541 U.S. 36 (2004) 7

Matter of Campbell, 427 S.C. 183, 830 S.E.2d 14 (2019) 6

People v. Ortega, 405 P.3d 346 (Colo. App. 2016) 8

State v. Brewer, 438 S.C. 37, 882 S.E.2d 156 (2022) 7

State v. Commander, 396 S.C. 254, 721 S.E.2d 413 (2011) 6

State v. Davis, 371 S.C. 170, 638 S.E.2d 57 (2006) 7

State v. Gaster, 349 S.C. 545, 564 S.E.2d 87 (2002) 3

State v. Gracely, 399 S.C. 363, 731 S.E.2d 880 (2012) 7

State v. Groome, 274 S.C. 189, 262 S.E.2d 31 (1980) 3

State v. Kelley, 319 S.C. 173, 460 S.E.2d 368 (1995) 3

State v. Ladner, 373 S.C. 103, 644 S.E.2d 684 (2007) 7

State v. McDonald, 343 S.C. 319, 540 S.E.2d 464 (2000) 3

State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002) 7

State v. Torres, 390 S.C. 618, 703 S.E.2d 226 (2010) 3

State v. Williams, 432 S.C. 515, 854 S.E.2d 166 (Ct. App. 2021) 7

State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001) 3

United States v. Summers, 666 F.3d 192 (4th Cir. 2011) 3

Statutes

U.S. Const. Amend. XIV 7

Rules

Rule 801, SCRE 8

Rule 803(6), SCRE 8

COUNTER-STATEMENT OF ISSUE ON APPEAL

I. The trial court properly admitted Appellant's arrest and booking report containing "aliases" into evidence because they were generated and kept in the regular course of business and the information did not constitute inadmissible hearsay, was inherently reliable, and was nontestimonial in nature, which meant the admission did not violate Appellant's right to confrontation.

STATEMENT OF THE CASE

Anthony Patrick Taylor ("Appellant") was indicted by the Charleston County Grand Jury for attempted murder and possession of a weapon during the commission of a crime of violence. Appellant proceeded to trial before the Honorable Dale E. Van Slambrook, and a jury on February 3, 2025. The jury found Appellant guilty as indicted. Appellant was issued concurrent sentences of five and fifteen years' incarceration.

This appeal follows.

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). When reviewing an evidentiary ruling, the appellate court gives great deference to the trial judge because the reception or exclusion of evidence is a matter left largely to the sound discretion of a trial judge. State v. Groome, 274 S.C. 189, 190-191, 262 S.E.2d 31, 32 (1980); see State v. Torres, 390 S.C. 618, 625, 703 S.E.2d 226, 230 (2010) ("The appellate court reviews a trial judge's ruling on admissibility of evidence pursuant to an abuse of discretion standard and gives great deference to the trial court."). Significantly, an appellate court will not reverse a trial judge's decision to admit or exclude evidence absent a clear prejudicial abuse of the trial judge's broad discretion in evidentiary matters. State v. Gaster, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002); see State v. Kelley, 319 S.C. 173, 176, 460 S.E.2d 368, 370 (1995) ("A trial judge has considerable latitude in ruling on the admissibility of evidence and his rulings will not be disturbed absent a showing of probable prejudice."). "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. McDonald, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000); see also United States v. Summers, 666 F.3d 192, 197 (4th Cir. 2011) (instructing an appellate court will not find a trial judge's evidentiary ruling constituted an abuse of discretion unless it was arbitrary and irrational).

STATEMENT OF FACTS

On July 21, 2020, officers were dispatched to Gadsenville road in Charleston County for a shots fired call. (R. 31). Officer Peter Reuter with Charleston County Sheriff's Office (CCSO) arrived on scene; and initially, no one was there, but he soon encountered Debrank Ravenell (Victim). (R. 33-34). Victim told him that someone had fired shots at her and drove off in a dark colored SUV. (R. 34). Reuter then left the scene in an attempt to find the vehicle, but returned when the car was not seen, closed off the area and collected shell casings. (R. 34-35).

Victim testified at trial that she drove down to Greg Singleton's (Straightjacket) house to give him a cigarette and some money for beer. (R. 45-47). She stated that there were a couple of people on Straightjacket's porch, and she asked him to come to her car. (R. 47). She testified that a man she knew as "G" or "G5" approached her car instead. (R. 47-48). She stated she handed him ten dollars and a cigarette to give to Straightjacket, but he returned to the porch and pocketed the money. (R. 48). They began arguing and she threatened to call the police. (R. 49). She testified that "G" then became violent, pushed her to the ground, head butted her, tried to steal her keys, and, once she was able to get into her car, "G" jumped on the hood, denting the hood and cracking the windshield. (R. 49-52). Victim was able to reverse out of the driveway and as she started to pull away, "G" fired several shots at her car. (R. 54). Victim identified "G" in court as Anthony Taylor (Appellant). (R. 62).

A BOLO was issued for the surrounding areas for a dark colored suburban with a black male wearing a grey shirt and jeans. (R. 178-179). Charles Stafford with Mount Pleasant Police Department (MPPD) observed a dark blue suburban that matched the BOLO description, began following it and soon after observed the car commit a traffic violation and conducted a traffic stop. (R. 180). After approaching the vehicle, Stafford observed that the passenger in the vehicle

matched the suspects description from the BOLO. (R. 182). Timothy Williams with MPPD arrived as back up and searched the vehicle. (R. 192). A Glock 22 .40 caliber handgun was found in the passenger side front door panel where Appellant had been seated. (R. 193). The shell casings found on scene matched the firearm found in the vehicle. (R. 290).

While the stop was occurring officers Philip Fagan and William Martin with CCSO went to Victim's house to speak with her. Fagan observed the damage to the vehicle, retrieved a bullet slug out of victim's trunk, and got a description of the suspect from Victim. (R. 199-207). She stated that he had a slim build, had dreads, was wearing a grey t shirt and black pants and he left in a dark colored suburban. (R. 202-203). Victim was not able to give a name of the suspect but kept referring to him as "G" or "G5" and that she was familiar with him and his family from growing up in the area. (R. 203-204). After receiving information from the traffic stop, Appellant's DMV picture was printed and shown to Victim by Martin where she identified the man in the picture as "G" and the person who shot at her. (R. 205, 236).

During trial, over Appellant's objections, the court admitted State's Exhibit 11, which was Appellant's "arrest and booking report". (R. 298). It contained Appellant's mugshot, various demographic information, and several "aliases" associated with Appellant. (R. 432-433). Martin testified that when collecting the standard demographic information, they ask the person that they are booking for that information. (R. 241). Melissa High, a records custodian at the detention center, also testified to the questions asked of the person at booking including aliases. (R. 296).

ARGUMENT

I. The trial court properly admitted Appellant's arrest and booking report containing "aliases" into evidence because they were generated and kept in the regular course of business and the information did not constitute inadmissible hearsay, was inherently reliable, and was nontestimonial in nature, which meant the admission did not violate Appellant's right to confrontation.

Appellant argues the trial court erred in admitting the aliases in the arrest and booking report because it violated Appellant's right to confront the witnesses against him. Specifically, that the State offered no evidence demonstrating who the witnesses were or the circumstances where they provided the purported aliases. Appellant further argues that it is the States burden of proving the statements were nontestimonial under the confrontation clause before they could have been admitted. This argument lacks merit because the arrest and booking report was generated and kept in the regular course of business, they were non testimonial in nature and there is evidence in the record that the aliases came from Appellant himself.

"In general, the admission or exclusion of evidence is a matter left to the sound discretion of the trial court, whose ruling will not be reversed on appeal absent an abuse of that discretion." Matter of Campbell, 427 S.C. 183, 190, 830 S.E.2d 14, 18 (2019). "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." Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000). "To warrant the reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof." State v. Commander, 396 S.C. 254, 263, 721 S.E.2d 413, 418 (2011).

"The Sixth Amendment rights to notice, confrontation, and compulsory process guarantee that a criminal charge may be answered through the calling and interrogation of favorable

witnesses, the cross-examination of adverse witnesses, and the orderly introduction of evidence." State v. Mizzell, 349 S.C. 326, 330, 563 S.E.2d 315, 317 (2002). The Sixth Amendment is applicable to the states through the Fourteenth Amendment. Id. The confrontation clause provides that "in all criminal prosecutions, the accused shall enjoy the right to . . . be confronted with the witnesses against him . . ." U.S. Const. Amend. XIV; State v. Gracely, 399 S.C. 363, 372, 731 S.E.2d 880, 885 (2012). The Confrontation Clause guarantees a defendant the opportunity to cross-examine a witness concerning bias. State v. Williams, 432 S.C. 515, 854 S.E.2d 166 (Ct. App. 2021). Whether the Confrontation Clause applies turns on whether the challenged out-of-court-statement is testimonial and applies to witnesses against the accused-in other words, those who bear testimony. State v. Brewer, 438 S.C. 37, 882 S.E.2d 156 (2022) (quoting Crawford v. Washington, 541 U.S. 36 (2004)).

"The Crawford Court declined to comprehensively define 'testimonial,' it did however state that 'the core class of testimonial statements' includes:

- *Ex parte* in court testimony or its functional equivalent, such as affidavits, custodial examinations, prior testimony that the defendant was unable to cross examine, or similar pretrial statements that declarants would reasonably expect to be used prosecutorially.
- Extrajudicial statements contained in formalized testimonial materials such as affidavits, depositions, prior testimony, or confessions;
- Statements that were made under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial and;
- Statements taken by police officers in the course of interrogations."

State v. Ladner, 373 S.C. 103, 112, 644 S.E.2d 684,688-689 (2007). In addition, the United States Supreme Court stated that testimony "is typically '[a] solemn declaration or affirmation made for the purpose of establishing or proving some fact.'" Id. State v. Davis, 371 S.C. 170, 638 S.E.2d 57

(2006), also held the generally statements made outside of an official investigatory or judicial context are non testimonial.

Appellant argues that the booking report is hearsay: it is an out of court statement entered for the truth of the matter asserted based on Rule 801, SCRE, because it was entered to prove Appellant's identity as "G" or "G5." The trial court admitted the evidence "as part of the records that are recorded in the ordinary course of business..." (R. 307). See Rule 803(6), SCRE (instructing the hearsay rule does not require the exclusion of "[a] memorandum, report, record, or data compilation, in any form, of acts, events, conditions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness"). Appellant acknowledges that Melissa High testified that she is the relevant records custodian, that the booking report was kept in the ordinary course of business, and that it is the regular practice of the detention center to create the report when people are booked after arrest. (R. 295-298). Appellant states that they have no issues with any of those requirements. However, Appellant argues that the rule requires the acts or events recorded to be "made at or near the time by, or from information transmitted by, a person with knowledge." Rule 803(6), SCRE. In People v. Ortega, the Colorado Court of Appeals held that sentencing and prison records were admitted when the defendant argued that unavailability must be shown but offered no arguments as to what helpful information might be revealed by cross examination of those witnesses. People v. Ortega, 405 P.3d 346, 353 (Colo. App. 2016).

Here, there is evidence in the record that the aliases of Appellant came from Appellant himself. The trial judge allowed in the booking report "as part of the records that are recorded in the ordinary course of business and that they did not include any prohibited opinions or subjective opinions as might be disallowed under the rule, and specifically that it was just intake information, some of which could have been provided by the defendant himself. But none of it was testamentary evidence that would cause concern or exclusion." (R. 307). William Martin testified to the process for booking people. He stated that during the booking process the person being booked is asked for their name, date of birth, social security number, where they live, and any type of aliases they have. (R. 241). Melissa High also testified that the information collected from the person being booked was any identifying numbers, addresses, age, description, scars, tattoos, and aliases. (R. 296). Appellant also testified at trial and had the opportunity to testify that he did not give any aliases at booking or that he did not have any aliases that he went by but did not. (R. 323-345). Further, a photo of Appellant was shown to Victim and Victim identified him in the picture as "G" or "G5" and in the courtroom. (R. 61-62, 236). The booking report was properly admitted because it was non testimonial and was entered as records conducted in the usual course of business; however, even if it should not have been admitted there was ample evidence in the record that Victim had identified Appellant as the alias she knew him by and as her attacker and the aliases from the booking report were cumulative and harmless.

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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