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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYBERIOUS RAHKEEM PYLES,

APPELLANT

APPELLATE CASE NO. 2025-001886

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1.

Whether the court erred in failing to suppress evidence obtained via a search warrant for Appellant's Facebook records, where the search warrant affidavit intentionally or recklessly misled the issuing judge by omitting critical exculpatory information which would have negated a finding of probable cause, since the evidence was obtained in violation of the Fourth Amendment?

2.

Whether the court erred in admitting Appellant's confession, where his *Miranda* waiver was obtained under false pretenses, since the statements were tendered in violation of Appellant's *Miranda* rights and were involuntarily made under the totality of circumstances?

STATEMENT OF THE CASE

During the April term of 2024, a Greenville County Grand Jury indicted Tyberious Pyles, Appellant, for murder, first-degree burglary, armed robbery, conspiracy, and possession of a weapon during the commission of a violent crime. R. *(indictments, all pages). Appellant was tried before the Honorable R. Scott Sprouse and a jury, from September 2 – 4, 2025. Michael Gambrell represented Appellant. Brian Moroney prosecuted the case. Tr. 1. Appellant was convicted of murder, first-degree burglary, armed robbery, and conspiracy. He was acquitted of possession of a weapon during the commission of a violent crime. Tr. 367, ll. 3-14. Appellant was sentenced to forty years' imprisonment for murder, thirty years for first-degree burglary, thirty years for armed robbery, and five years for conspiracy, with sentences to run concurrently. Tr. 375, ll. 3-9; R. *(sentence sheets, all pages). This appeal follows.

STANDARD OF REVIEW

Issue 1

Appellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis. This dual inquiry means we review the trial court’s factual findings for any evidentiary support, but the ultimate legal conclusion . . . is a question of law subject to de novo review.” *State v. Frasier*, 437 S.C. 625, 633–34, 879 S.E.2d 762, 766 (2022). *See also State v. German*, 439 S.C. 449, 460, 887 S.E.2d 912, 917 (2023) (same).

Issue 2

The question of voluntariness presents a mixed question of law and fact. The appellate courts “review the trial court’s factual findings regarding voluntariness for any evidentiary support. However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review.” *State v. Miller*, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023).

STATEMENT OF FACTS

Shortly before 3:30 a.m. on January 22, 2022, Joseph Smith (Decedent) was shot and killed in his apartment at Cliffwood Terrace in Greenville County. Tr. 112, l. 7 – 116, l. 24; Tr. 121, l. 8 – 123, l. 2; Tr. 209, ll. 8-10. Decedent had one bedroom on the top floor of the apartment and the other bedroom was shared by cousins Marquez and Shareef McCarroll (Marquez; Shareef). Tr. 118, l. 18 – 124, l. 12. A fourth man, Joseph Kane Roach (Roach), also stayed at the apartment sometimes, sleeping on a mattress in the living room. Tr. 139, ll. 8-20; Tr. 165, ll. 20-24; Tr. 226, ll. 3-11.

After Marquez and Shareef went to sleep that night, their bedroom door was “busted” open and Marquez saw Decedent flanked by two masked gunmen wearing hoodies. Marquez heard demands to “give it up;” if you “[d]on’t give it up, going to kill everybody here.” He also heard someone say, “There’s nothing in here.” A pistol was aimed at Marquez’s head and he fell back and wrapped himself in a sheet. He heard a gunshot and then the intruders leaving. When Marquez got up, he saw Decedent, shot, on the floor. Tr. 124, l. 16 – 135, l. 7. Marquez could not identify the gunmen. Tr. 132, ll. 1-13. Marquez did not describe the guns, other than to say they were guns or pistols. Tr. 118, l. 15 – 146, l. 24. Marquez had met Appellant previously and had heard his voice, but he did not identify either of the gunmen as Appellant. Tr. 146, ll. 8-18. Although Shareef was present for these events, he did not testify at trial. Tr. 2 – 4.

A neighbor, Lajuan Hoke (Hoke) had a Ring surveillance camera, and he got a notification around 2:00 a.m. of someone walking past his car on camera. He saw first responders at Decedent’s apartment later that morning. Hoke then looked up Decedent’s Facebook page and saw a recent video posted by Decedent which showed a man wearing what appeared to Hoke to be the “same clothes” as the man on the Ring video who walked past

Hoke's car towards Decedent's apartment prior to the shooting. Hoke showed law enforcement both videos. Tr. 147, l. 13 – 155, l. 2. Later, Hoke found another video, from Appellant's Facebook account, which showed someone wearing the "same clothes." Tr. 156, l. 11 – 157, l. 11. Additionally, police found a bag of marijuana in Decedent's apartment. Tr. 170, ll. 22-23.

Pretrial, Appellant moved to suppress the evidence obtained via a search warrant for Appellant's Facebook records. Tr. 49, ll. 2-11. Pursuant to the search warrant, police obtained incriminating evidence against Appellant, including a photograph sent to him prior to the shooting by his girlfriend which depicted her bruised face, a photograph of a large amount of marijuana sent to him by Roach the day before the shooting, and Appellant's Facebook Live video from the evening after the shooting which depicted Appellant holding a two-toned pistol. Tr. 257, l. 9 – 269, l. 14; Tr. 157, l. 11 – 158, l. 6. The State's theory of the case was that the motive for the burglary and shooting was to get back at Roach for striking Appellant's girlfriend and to steal drugs from the home. Tr. 314, ll. 12-17; Tr. 317, l. 5 – 318, l. 12.

At the hearing, the court heard the testimony of Alvin King, a retired investigator from the Sheriff's Department who had obtained the search warrant for Appellant's Facebook data. Tr. 50, l. 14 – 51, l. 3. The search warrant was obtained on January 26, 2022, and was Court's Exhibit #2, which is located at pp. *(C-2, all pages) of the Record on Appeal. King testified he did not supplement with search warrant with any oral testimony before the judge. Tr. 59, l. 19 – 60, l. 3. The affidavit stated the following "reasons for affiant's belief that the property sought is on the subject premises."

The affiant is assisting in a death investigation where the victim was found shot to death in his apartment at [redacted] Edwards Rd [redacted], in Taylors, SC 29687. The Greenville County Sheriff's Office received a call for assistance at a 0336 AM on 01/22/22. Deputies arrived and found Greenville County EMS already present and working on the victim. The victim was later pronounced dead. GCSO Uniform Patrol secured the scene and Investigators arrived a short time

later. **There were two witnesses to this event, Shareef McCarroll and Marquez McCarroll.** The two witnesses were reluctant to speak to investigators at first but they did travel to the LEC later and speak with investigators. The witnesses described a similar version of events that their bedroom door was kicked in and the victim was thrown into the room. There were two subjects with their faces covered and **one subject had a two tone (black/green) gun.** One of the subjects asked the victim where “it” was. The subject with the gun then shot the victim and both subjects fled the scene. During the course of this investigation a large amount of marijuana was located in the victim’s apartment. This investigator believes that drugs was a motivating factor in this shooting. Other investigators spoke to witnesses about the suspects they observed in this incident. **One of these witnesses reported seeing the shooter with a two tone handgun. The victim’s public Facebook profile was viewed and facial recognition was utilized that showed what appears to be Tyberious Pyles with the victim at the victim’s apartment a few days before the shooting. This video shows what appears to be Tyberious Pyles holding a two tone handgun.** The affiant requests this warrant to further investigate this homicide by attempting to link Tyberious Pyles to this incident from information that has already collected and information that is in the data relating to the Facebook account of Tyberious Pyles.

R. *(Court’s Exhibit #2, page 2) (emphasis added).

King initially testified he could not recall whether the “one” subject referred to in the affidavit as seeing a two-toned handgun was Marquez or Shareef. Tr. 56, ll. 3-10. However, King testified that although he was not present for Shareef’s interview, he “would have” reviewed the interview before seeking the search warrant. Tr. 55, ll. 10-23. After having his recollection refreshed with video of Shareef’s interview, King admitted he remembered that Shareef gave a detailed description of a two-toned gun, and that Shareef stated he was “a hundred percent sure” the person he saw with a two-toned gun was *not* Appellant.¹ Tr. 56, l. 11 – 60, l. 19. King also acknowledged that during the interview, Shareef stated he had seen Appellant’s two-toned gun previously but that was not the two-toned gun he saw. App. 63, l. 23 – 64, l. 22. As seen above, however, King omitted this critical exculpatory information from the

¹ In a later interview, apparently after King’s retirement, Shareef did identify Appellant to police as a gunman, but King would not have known that when he sought the search warrant. Tr. 61, ll. 5-25.

search warrant affidavit. King offered no legitimate explanation for the omission. When asked whether the issuing judge should have been provided that exculpatory information, King stated, “I don’t feel that it would have benefited one way or the other.” Tr. 58, ll. 8-13.

Defense counsel therefore moved to suppress the evidence based on King’s omission of the “contradicting” information. Tr. 65, l. 4 – 66, l. 9. The court ruled there was sufficient probable cause and the evidence was admissible. Tr. 67, ll. 9-22.

Appellant was interviewed by Investigator Herring several months after the shooting, on May 13, 2022. Herring became the lead investigator on the case in March of 2022. The interrogation was recorded and Appellant made incriminating statements. Pretrial, Appellant moved to suppress the confession and a *Jackson v. Denno*, 378 U.S. 368 (1964), hearing was held. The redacted interview was Court’s Exhibit #4 (admitted at trial as State’s Exhibit #62), and these exhibits are on file with this Court. It appears the entire, unedited tape of the interview was not made a court’s exhibit. Tr. 48, l. 13 – 49, l. 5; Tr. 68, l. 19 – 74, l. 25; Tr. 241, ll. 4-21.

Herring wanted to speak to Appellant about this murder so he went to Appellant’s neighborhood and learned Appellant had been placed on trespass notice at the location but was still being seen there. Therefore, Herring obtained an arrest warrant for Appellant for trespassing. Other officers saw Appellant and tried to arrest him on the trespassing warrant, but he ran and threw drugs before being apprehended. Thus, he was arrested for trespassing and drugs. Tr. 83, l. 14 – 84, l. 18. Coincidentally, Herring was working another murder where the victim was Appellant’s cousin. It does not appear Appellant was a suspect in his cousin’s murder. Herring testified he wanted to use that murder to put Appellant “at ease.” According to Herring, “they” (i.e., other officers) asked Appellant if he was willing to be interviewed about the other murder and Appellant agreed. Herring admitted he wanted to use this pretext to

question Appellant about “the actual charge I was looking at him as a person of interest.” The video of the interview shows that Herring told Appellant he wanted to speak with him “about all that” but since Appellant was arrested on “these charges,” Herring had to “do things by the book” and read him warnings pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966). Appellant was provided *Miranda* warnings, and he waived his rights and spoke with Herring. Tr. 84, l. 19 - 88, l. 22; Court’s Exhibit #4.

However, Herring proceeded to question Appellant about this murder. The interview became inquisitory and accusatory. Initially, Appellant stated he had been at Decedent’s house a few days prior to the shooting, but eventually he admitted to being at the apartment earlier in the night looking for Roach. Appellant eventually admitted Roach had punched Appellant’s girlfriend, Dream (Dream), in the eye. Appellant stated the night of the shooting, Dream was demanding they “do something about that.” Appellant stated he went by and went into the apartment prior to the shooting (i.e., when he was seen on the Ring video) to make sure Roach was not there so he would not be hurt. Appellant stated he rode back over to the apartment with Dream, who remained in the car, and several other people he identified as Buddha, Drake, and Draco. Appellant stated he provided a gun to the three and remained outside the apartment while the three went in to get drugs. Appellant stated he saw the gun flash and the three came running back out to the car with drugs. Court’s Exhibit #4.

Appellant moved to suppress the statement, arguing his waiver of *Miranda* rights was not made with full awareness of the nature of the rights and the consequences of the decision to abandon them. Tr. 89, ll. 6-17. Counsel noted Appellant had been arrested on other charges and

the waiver of rights was thus ineffective.² The solicitor argued in response that *Miranda* warnings are not offense-specific and the warnings were sufficient. Tr. 89, ll. 19-25. The court found the interview was custodial, there was no coercion, Appellant was advised of his *Miranda* rights, and *Miranda* was not offense-specific. Therefore, the Court ruled the interview was admissible. Tr. 90, ll. 1-25.

² The transcript reflects defense counsel argued: “he was arrested previously for different crimes, and then subsequently charged during that interview, with additional crimes, I believe that it would require him to have an additional arrest warrant [sic] and that those were not given.” Tr. 89, ll. 13-17. It is clear from the solicitor’s subsequent response and the judge’s subsequent ruling that they both understood defense counsel was arguing there should have been additional “*Miranda* warnings,” not additional “arrest warrant.” Tr. 89, l. 19 – 90, l. 25.

ARGUMENT

1.

The court erred in failing to suppress evidence obtained via a search warrant for Appellant's Facebook records, where the search warrant affidavit intentionally or recklessly misled the issuing judge by omitting critical exculpatory information which would have negated a finding of probable cause, since the evidence was obtained in violation of the Fourth Amendment.

The Fourth Amendment requires warrants to be supported by probable cause. U.S. Const. amend. IV. Probable cause is evaluated under the totality of the circumstances. *Illinois v. Gates*, 462 U.S. 213, 230-31 (1983). When all the circumstances set forth in the affidavit before the magistrate present a fair probability that evidence of a crime will be found in a particular place, then a search warrant may be issued.” *Id.*, 462 U.S. at 239.

Franks v. Delaware, 438 U.S. 154, 171-72 (1978), held a defendant may challenge the veracity of a warrant affidavit in accordance with a two-part test:

1) To mandate an evidentiary hearing, the challengers’ attack must be more than conclusory and must be supported by more than a mere desire to cross-examine. There must be allegations of deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof; and

(2) If these requirements are met, and if, when material that is subject of the alleged falsity or recklessness disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required.

State v. Missouri, 337 S.C. 548, 554, 524 S.E.2d 394, 397 (1999) (citing *Franks*, *supra*).

“*Franks* addressed an act of commission in which false information had been included in the warrant affidavit. However, the *Franks* test also applies to acts of omission in which exculpatory material is left out of the affidavit.” *Id.* “To be entitled to a *Franks* hearing for an alleged

omission, the challenger must make a preliminary showing that the information in question was omitted with the intent to make, or in reckless disregard of whether it made, the affidavit misleading to the issuing judge. There will be no *Franks* violation if the affidavit, including the omitted data, still contains sufficient information to establish probable cause.” *Id.* (footnote omitted).

If the information was omitted intentionally to make, or with reckless disregard of whether it made, the affidavit misleading to the issuing judge, the issue becomes “whether excluding the false information and inserting the exculpatory statement, there remains a substantial basis upon which the magistrate could have found probable cause to issue the warrant.” *Id.*, 337 S.C. at 555, 524 S.E.2d at 397. In this regard, the appellate courts apply the “totality of the circumstances” test from *Illinois v. Gates, supra. Id.*

In *Missouri*, the South Carolina Supreme Court addressed both a commission and an omission in a warrant affidavit. The affidavit stated a confidential informant told the officer the defendant said he “had the crack but would call him when it was right.” *Id.*, 337 S.C. at 552, 524 S.E.2d at 395. However, at the suppression hearing, the officer admitted the defendant never told the informant there was crack in the defendant’s home and in fact, after leaving the defendant’s home, the informant told the officer the crack was not there. *Id.* at 553, 524 S.E.2d 396. The Court found the officer acted “at least recklessly in making the false statement and omitting the exculpatory information. *Id.*, 337 S.C. at 555, 524 S.E.2d at 397. The Court thus considered whether the affidavit would support a finding of probable cause if the false statement was removed and the informant’s actual statement that the crack was “not there” had been added. *Id.* The Court noted the “omitted information goes to the very heart of the affidavit’s purpose,” and found that “when the omitted information is inserted, the probable presence of the crack

cocaine in the apartment is defeated.” *Id.* at 556, 524 S.E.2d at 398. The Court held the affidavit could not support a finding of probable cause and the Court was required to invalidate the search warrant. *Id.* at 555-57, 524 S.E.2d at 397-98.

In *State v. Robinson*, 415 S.C. 600, 603, 785 S.E.2d 355, 356 (2016), the search warrant affidavit stated that a confidential informant had purchased illegal drugs from the occupants of Robinson’s home on multiple occasions. However, at the *Franks* hearing, the officer “testified that the confidential informant referenced in the affidavit never personally purchased drugs but that Oliver, a third party, made the purchases.” *Id.*, 415 S.C. at 603–04, 785 S.E.2d at 357. The officer “acknowledged, at the *Franks* hearing, he knew of Oliver’s role, but offered no explanation why he did not include this information in the affidavit.” *Id.* at 606, 785 S.E.2d at 358. The South Carolina Supreme Court held that “the false statements in the search-warrant affidavit were made knowingly and intentionally in violation of *Franks*,” that “[w]ith the false statements excised from the search-warrant affidavit, there no longer exists a substantial basis for a finding of probable cause,” and suppression remains the “appropriate remedy” as the good-faith exception to suppression does not apply. *Id.*, 415 S.C. at 607-09, 785 S.E.2d at 359.

In this case, the court erred in concluding the search warrant was supported by probable cause. King did not orally supplement the affidavit—all the issuing judge had was what was contained in Court’s Exhibit #2. At the suppression hearing, King did not testify that Marquez was the witness referenced in the warrant who described the pistol as two-toned, and instead, after being refreshed with Shareef’s interview, confirmed Shareef had given specifics about a two-toned gun. Shareef was the witness referenced in the warrant who so described the gun. King testified he would have watched Shareef’s interview before he submitted the affidavit, and he stated he recalled the interview after his memory was refreshed with the video of it. King

admitted Shareef stated during the interview that Shareef was “a hundred percent sure” the gunman he saw with the two-toned gun was *not* Appellant, and that Shareef also stated he had seen Appellant’s two-toned gun before but that was not the gun he saw. King offered no valid explanation for omitting the critical information. Thus, King intended to make the affidavit misleading, or, he at least omitted the information in reckless disregard for whether the omission made the affidavit misleading to the issuing judge, satisfying *Franks*. *Franks*, 438 U.S. at 171-72. Like the omission in *Missouri*, the omission of the exculpatory information that Shareef told investigators he was sure the gunman with the two-toned gun was *not* Appellant, and the gun he saw was not Appellant’s two-toned gun, went to the heart of the affidavit’s purpose. When the omitted information is inserted, probable cause is defeated. *Missouri*, 337 S.C. at 557, 524 S.E.2d at 398; *Robinson*, 415 S.C. at 608, 785 S.E.2d at 359.

Evidence that is obtained from an unlawful search or seizure is to be excluded as “fruit of the poisonous tree.” *Wong Sun v. United States*, 371 U.S. 471, 488 (1963). *See also State v. Khingratsaiphon*, 352 S.C. 62, 69, 572 S.E.2d 456, 459 (2002) (“Evidence seized in violation of the Fourth Amendment must be excluded from trial.”). “[S]uppression remains the appropriate remedy when a reviewing judge is intentionally misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth.” *State v. Robinson*, 415 S.C. at 609, 785 S.E.2d at 359 (citing *United States v. Leon*, 468 U.S. 897, 923 (1984)). *See also State v. Dill*, 423 S.C. 534, 545, 816 S.E.2d 557, 563 (2018) (“Since the search warrant was invalid, the trial court erred in admitting the evidence obtained during the search of Dill’s residence.”). Appellant demonstrated the affiant intended to mislead or at least omitted the exculpatory information in reckless disregard for the truth. When the exculpatory information is inserted there is no substantial basis to find probable cause. The trial

court erred by denying the motion to suppress. *Wong Sun*, 371 U.S. at 488; *Robinson*, 415 S.C. at 609, 785 S.E.2d at 359; U.S. Const. amend. IV.

2.

The court erred in admitting Appellant's confession, where his *Miranda* waiver was obtained under false pretenses, since the statements were tendered in violation of Appellant's *Miranda* rights and were involuntarily made under the totality of circumstances.

“There are two constitutional bases requiring any confessions admitted into evidence to be voluntary: the Due Process Clause of the Fourteenth Amendment and the Fifth Amendment right against self-incrimination.” *State v. Miller*, 441 S.C. 106, 120, 893 S.E.2d 306, 313 (2023) (citing *Dickerson v. United States*, 530 U.S. 428, 433 (2000)). As to due process, it is “axiomatic that a defendant in a criminal case is deprived of due process of law if his conviction is founded, in whole or in part, upon an involuntary confession, without regard for the truth or falsity of the confession.” *Jackson v. Denno*, 378 U.S. at 385 (citing *Rogers v. Richmond*, 365 U.S. 534 (1961)). The standard for determining the voluntariness of a confession is whether, under the totality of the circumstances, the confession is the product of an essentially free and unconstrained choice by its maker or whether his free will has been overborne and his capacity for self-determination critically impaired. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225-26 (1973).

“In analyzing whether a defendant's will was overborne and the resulting confession was offensive to due process, courts must consider the totality of the circumstances, including the details of the interrogation and the characteristics of the defendant.” *Miller*, 441 S.C. at 120, 893 S.E.2d at 313–14 (citing *Schneckloth v. Bustamonte*, *supra*). Coercive police activity is necessary predicate to finding confession is not voluntary within the meaning of the Due Process Clause. *Colorado v. Connelly*, 479 U.S. 157, 167 (1986). “Coercion is determined from the

perspective of the suspect.” *State v. Goodwin*, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009) (citation omitted).

“The second constitutional basis which requires confessions to be voluntarily given is the Fifth Amendment’s prohibition of compelled self-incrimination.” *State v. Miller*, 441 S.C. at 127, 893 S.E.2d at 317 (citing *Dickerson*, 530 U.S. at 433). “In *Miranda v. Arizona*, the Court determined that the Fifth and Fourteenth Amendments’ prohibition against compelled self-incrimination required that custodial interrogation be preceded by advice to the putative defendant that he has the right to remain silent and also the right to the presence of an attorney.” *Edwards v. Arizona*, 451 U.S. 477, 481–82 (1981) (citing *Miranda*, 384 U.S. at 479). An “individual may knowingly and intelligently waive these rights and agree to answer questions or make a statement. But unless and until such warnings and waiver are demonstrated by the prosecution at trial, no evidence obtained as a result of interrogation can be used against him.” *Miranda*, 384 U.S. at 479. The mere recitation of the litany of rights does not suffice to satisfy *Miranda* in every conceivable circumstance. *Missouri v. Seibert*, 542 U.S. 600, 611 (2004).

“[E]vidence that the accused was threatened, tricked, or cajoled into a waiver will, of course, show that the defendant did not voluntarily waive his privilege.” *Miranda v. Arizona*, 384 U.S. at 476. *See Colorado v. Spring*, 479 U.S. 564, 576 n. 8 (1987) (“In this case, we are not confronted with an affirmative misrepresentation by law enforcement officials as to the scope of the interrogation and do not reach the question whether a waiver of *Miranda* rights would be valid in such a circumstance.”).

“The State bears the burden of proving by a preponderance of the evidence that a statement allegedly given by an accused was voluntary and that the accused voluntarily, knowingly, and intelligently waived his rights to silence and to have counsel present during

interrogation.” *State v. Henderson*, 286 S.C. 465, 470, 334 S.E.2d 519, 522 (Ct. App. 1985) (citations omitted). A “waiver must be voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception, and made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.” *Berghuis v. Thompkins*, 560 U.S. 370, 382–83 (2010) (cleaned up). “Only if the totality of the circumstances surrounding the interrogation reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the *Miranda* rights have been waived.” *Moran v. Burbine*, 475 U.S. 412, 421 (1986) (cleaned up). “[W]aivers of counsel must not only be voluntary, but must also constitute a knowing and intelligent relinquishment or abandonment of a known right or privilege, a matter which depends in each case upon the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused.” *Edwards v. Arizona*, 451 U.S. at 482 (cleaned up). “In order to secure the admission of a defendant’s statement, the State must affirmatively show the statement was voluntary *and* taken in compliance with *Miranda*.” *State v. Middleton*, 288 S.C. 21, 25, 339 S.E.2d 692, 694 (1986) (citations omitted) (emphasis in original).

In *State v. Collins*, 442 S.C. 444, 448, 900 S.E.2d 426, 428 (2024), the South Carolina Supreme Court held “Collins’s statement was rendered involuntary when law enforcement gave Collins *Miranda* warnings and subsequently negated them by falsely advising him that his statements would remain confidential.” (footnote omitted). In *Collins*, officers read the defendant his rights but then told him anything he said would not “leave this room.” *Id.*, 442 S.C. at 450–51, 900 S.E.2d at 429. The Court concluded:

an intentional misrepresentation of the law in this regard violates due process. Importantly, we note that we reach this result regardless of whether the false assurance was accompanied by *Miranda* warnings. A false assurance of confidentiality from law

enforcement is inherently coercive because it interferes with a layperson's ability to make a fully informed decision whether to engage in an interview under such circumstances.

Id., 442 S.C. at 454–55, 900 S.E.2d at 432.

In *Missouri v. Seibert*, 542 U.S. at 604–05, Seibert was questioned without being provided *Miranda* warnings until she made incriminating admissions. Thereafter, officers provided *Miranda* warnings, obtained a waiver, and confronted her with her prewarning statements. *Id.*, 542 U.S. at 605. The officer admitted he made a “conscious decision” to withhold *Miranda* warnings. *Id.*, 542 U.S. at 605–06. The Supreme Court held the tactic was “likely to mislead and deprive a defendant of knowledge essential to his ability to understand the nature of his rights and the consequences of abandoning them.” *Id.*, 542 U.S. at 613–14 (cleaned up). Therefore, the statement was inadmissible. *Id.*, 547 U.S. at 617.

Appellant's *Miranda* waiver was obtained under false pretenses. He was told the investigator wanted to speak with him about his cousin's murder, and the investigator stated he was reading Appellant his rights because he had “these charges,” i.e., trespassing and drugs, and Herring wanted to do everything “by the book.” These were affirmative misrepresentations about the scope of questioning. Herring was trying to get the drop on Appellant by tricking him into waiving his *Miranda* rights and he succeeded. Counsel correctly argued Appellant did not have a full awareness of the rights and the consequences of abandoning those rights. Like *Collins*, the conduct by law enforcement in this case was “inherently coercive because it interferes with a layperson's ability to make a fully informed decision whether to engage in an interview under such circumstances.” *Collins*, 442 S.C. at 55, 900 S.E.2d at 432. Like *Seibert*, the tactic was “likely to mislead and ‘depriv[e] a defendant of knowledge essential to his ability to understand the nature of his rights and the consequences of abandoning them.’” *Seibert*, 542

U.S. at 613–14 (quoting *Moran v. Burbine*, 475 U.S. at 424)). This ruse was coercive and critically impaired Appellant’s capacity for self-determination as to whether he should waive his rights. *Schneckloth v. Bustamonte*, 412 U.S. at 225-26. The court erred in finding no coercion and admitting the statement. The statement was involuntary under the totality of the circumstances and should have been excluded. *Miranda*, 384 U.S. at 476-79; *Denno*, 378 U.S. at 385; *Seibert*, 547 U.S. at 617; *Collins*, 442 S.C. at 454–55, 900 S.E.2d at 432; U.S. Const. amend. V; U.S. Const. amend. XIV.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his convictions and sentences and remand for a new trial.


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This 11th day of June, 2026.