

**RECEIVED**

**Jul 06 2026**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from State Grand Jury County  
Honorable R. Scott Sprouse, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

RANDALL GENE POSEY,

APPELLANT

APPELLATE CASE NO. 2025-001370

---

INITIAL 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 ISSUES ON APPEAL .....                                                                                                                                                                                                                                                                    | 1  |
| STATEMENT OF THE CASE.....                                                                                                                                                                                                                                                                             | 2  |
| STANDARD OF REVIEW .....                                                                                                                                                                                                                                                                               | 3  |
| ARGUMENTS                                                                                                                                                                                                                                                                                              |    |
| I.                                                                                                                                                                                                                                                                                                     |    |
| The trial court erred as a matter of law in failing to make a finding that appellant presented a special and individualized need for physical restraints during trial and allowing the Department of Corrections to dictate the manner and nature of the security appellant faced before the jury..... | 4  |
| II.                                                                                                                                                                                                                                                                                                    |    |
| The trial court abused its discretion in failing to grant appellant a mistrial when appellant's co-defendants were paraded before the jury during trial in full prison attire and restraints under heavily armed guards since the venue chosen by the State made such interactions unavoidable. ....   | 10 |
| CONCLUSION.....                                                                                                                                                                                                                                                                                        | 14 |

## **TABLE OF AUTHORITIES**

### **Cases**

#### *South Carolina*

|                                                                            |             |
|----------------------------------------------------------------------------|-------------|
| <u>Humbert v. State</u> , 345 S.C. 332, 548 S.E.2d 862 (2001) .....        | 4           |
| <u>Ryals v. State</u> , 439 S.C. 230, 886 S.E.2d 239 (Ct. App. 2023) ..... | 4           |
| <u>State v. Benton</u> , 443 S.C. 1, 901 S.E.2d 701 (2024) .....           | 3, 10       |
| <u>State v. Davis</u> , 371 S.C. 170, 638 S.E.2d 57 (2006) .....           | 9           |
| <u>State v. Heyward</u> , 441 S.C. 484, 895 S.E.2d 658 (2023) .....        | 3, 4, 7, 11 |
| <u>State v. Reeves</u> , 301 S.C. 191, 391 S.E.2d 241 (1990) .....         | 9           |
| <u>State v. Reyes</u> , 432 S.C. 394, 853 S.E.2d 334 (2020) .....          | 8           |
| <u>State v. Smith</u> , 309 S.C. 442, 424 S.E.2d 496 (1992) .....          | 9           |

#### *Other jurisdictions*

|                                                        |              |
|--------------------------------------------------------|--------------|
| <u>Deck v. Missouri</u> , 544 U.S. 622 (2005) .....    | 4, 7, 11, 13 |
| <u>Estelle v. Williams</u> , 425 U.S. 501 (1976) ..... | 11           |
| <u>Renico v. Lett</u> , 559 U.S. 766 (2010) .....      | 3, 10        |

### **STATEMENT OF ISSUES ON APPEAL**

I. Whether the trial court erred as a matter of law in failing to make a finding that appellant presented a special and individualized need for physical restraints during trial and allowing the Department of Corrections to dictate the manner and nature of the security appellant faced before the jury?

II. Did the trial court abuse its discretion in failing to grant appellant a mistrial when appellant's co-defendants were paraded before the jury during trial in full prison attire and restraints under heavily armed guards since the venue chosen by the State made such interactions unavoidable?

## STATEMENT OF THE CASE

The state alleged that Darrell Foster McCoy (a/k/a "DJ") and Matthew W. McCoy (a/k/a "Bossman") were the leaders of a large methamphetamine distribution conspiracy. R.\* (Indictment); Tr. 218. The present trial was the culmination of the state grand jury "Las Señoritas" investigation, which was named for a group of women who fled from South Carolina to Mexico to evade criminal charges and facilitated the distribution of methamphetamine while there. Tr. 789, l. 20 – 790, l. 10.

Appellant was indicted by the State Grand Jury for offenses arising out of this investigation of distribution of methamphetamine allegedly across several counties in the upstate of South Carolina. R. \* (6<sup>th</sup> Superseding incitement). On June 23 – 26, 2025, appellant was tried before the Honorable R. Scott Sprouse and a Pickens County jury solely on the charge for trafficking methamphetamine 400 grams or more conspiracy. R. \*. The State elected to try appellant (a/k/a "RJ") with the alleged leaders of the conspiracy, Darrell Foster McCoy (a/k/a "DJ") and Matthew W. McCoy (a/k/a "Bossman"). Tr. 1.<sup>1</sup> Appellant was represented by Alex Kornfield with Monier Abusaft appearing on behalf of Darrell McCoy and Scott Hayes representing Matthew McCoy. Assistant Attorney General Savanna Goude represented the State.

The jury convicted appellant as indicted. Tr. II 103, l. 21 – 104, l. 8. Judge Sprouse sentenced appellant to serve twenty-five years imprisonment. Tr. II 111, ll. 6 - 8.

This appeal follows.

---

<sup>1</sup> Due to a power disruption at the close of the state's case, the trial transcript for January 27, 2025, was produced as a separate numbered volume. The main trial transcript is herein designated as "Tr." and the January 27, 2025, transcript is designated as "Tr. II." When the record on appeal is completed, this footnote will be deleted from the Fina Brief.

## **STANDARD OF REVIEW**

As to the first issue presented:

Since "a defendant in a criminal trial may not be required to wear handcuffs, leg shackles, or other restraints in the presence of the jury unless the trial court makes specific findings on the record as to the particular reasons the restraints are necessary," the lack of such finding would be an error of law. State v. Heyward, 441 S.C. 484, 493, 895 S.E.2d 658, 663 (2023).

As to the second issue presented:

"We review a trial court's mistrial decision for abuse of discretion." State v. Benton, 443 S.C. 1, 6, 901 S.E.2d 701, 703 (2024) (*citing* Renico v. Lett, 559 U.S. 766, 774 (2010)).

## ARGUMENT

**I. The trial court erred as a matter of law in failing to make a finding that appellant presented a special and individualized need for physical restraints during trial and allowing the Department of Corrections to dictate the manner and nature of the security appellant faced before the jury.**

A. The law requires a special and individualized need for physical restraints of an accused during trial.

“The law has long forbidden routine use of visible shackles during [a jury trial]; it permits a State to shackle a criminal defendant only in the presence of a special need.” Deck v. Missouri, 544 U.S. 622, 626 (2005). “Thus, a defendant in a criminal trial may not be required to wear handcuffs, leg shackles, or other restraints in the presence of the jury unless the trial court makes specific findings on the record as to the particular reasons the restraints are necessary. If the court finds restraints are necessary, it must make every reasonable effort to ensure the restraints are not visible to the jury.” State v. Heyward, 441 S.C. 484, 493, 895 S.E.2d 658, 663 (2023). This prohibition extends to the visual impact of other aspects of a defendant's appearance before the jury that implies a guilty verdict is required based upon the way the accused is presented to the jury. *See* Ryals v. State, 439 S.C. 230, 237, 886 S.E.2d 239, 243 (Ct. App. 2023) (“Balancing the impact of Ryals’ forced appearance at his trial in prison clothing visible to the jury against the strength of the State's evidence against him, there is a reasonable probability that, but for trial counsel's failure to object to his appearance at this trial in prison clothing, the result of the proceeding would have been different.”); Humbert v. State, 345 S.C. 332, 337, 548 S.E.2d 862, 865 (2001) (holding “counsel was deficient by allowing the trial to proceed while petitioner was dressed in prison clothing. We find it generally improper for a defendant to appear for a jury trial dressed in readily identifiable prison clothing.”).

B. The trial court's treatment of appellant.

As pre-trial matters were argued, appellant was not yet present in the Courtroom. The trial judge noted

THE COURT: Yes. And I have instructed – after discussion with Defense counsel and Ms. Goude this morning, I've instructed the Department of Corrections personnel to allow your clients to dress in appropriate street clothes for the trial. Now, they'll still be restrained, but I, also, instructed them to have their right hand free so they can take notes and communicate with their attorney.

Tr. 38, l. 22 – 39, l. 4.

Counsel for appellant noted the improper shackling.

MR. HAYES: A few more short motions. But just with the jurors coming in, Judge, the condition of these chains, I don't know -- I wish I had the solution to suggest to the Court.

THE COURT: Well, I see Mr. Posey has a jacket on and that helps. Do we have a jacket we can put on Mr. McCoy? Under the case law, chains don't need to be visible to the jury.

MR. ABUSAF: Mr. Posey's shackles --

THE COURT: Which one is Mr. Posey?

MR. KORNFELD: You can see his -- I was trying to get him to hide it. Your Honor, I believe the case law, and just for the record, Humber V. State from 2001, that they're supposed to not know that these people are incarcerated at the time, or, at least, where these guys . . .

Tr. 91, l. 19 – 92, l. 8.

With the trial court still insisting on the restraints, counsel for appellant attempted to mitigate the adverse impact of the decision to restrain appellant while reminding the trial court that appellant's limited prior record.

MR. KORNFELD: Well, I mean, as it relates to my client, he has only a misdemeanor conviction. I understand the charge here. He's innocent until found guilty, but I haven't had -- I'm just worried

about this with all these officers around him and a jury coming in. If I could sit next to him, maybe have him under a table, like bring a table over here and I'll make sure he doesn't bring his hands up. You know, that would be a solution for me, at least, for my client.

Tr. 93, ll. 16 – 24.

The improper restraints were compounded by the number of guards employed and the size of the courtroom, with the trial court initially deciding the solution would be to have the defendants at a different table than their counsel.

THE COURT: But as long as they're in the jury box, they're not going to be able to see that. I want a coat or some covering so that the chains are not visible to them. And, again, the Court can explain to the jury why the clients aren't sitting with the attorneys.

Tr. 95, ll. 6 – 10.

Trial counsel again objected.

MR. KORNFELD: In *Humber v. State*, a 2001 case, Judge, I believe that they state -- I haven't looked at this in a while, but I think it's still good law. We find it generally improper for a defendant to appear for a jury trial dressed in readily identifiable prison clothing. And I think we know the policy behind that.

But, I mean, this is worse. I mean, with these one, two, three, four, five, six, seven officers while we're in a trial. They're not here getting their 403. They're just watching because they're interested in it. And it appears as though that they've already been found guilty. If there's a way -- I mean, my guy, he's got shackles on. If we keeps those on and get the hands off, he's not going to fly away. And we can keep him here and, at least, I can sit next to him during the trial.

Tr. 96, ll. 2 – 16.

The State, having elected to try the three defendants together and successfully opposing severance,<sup>2</sup> sensed a problem with impropriety of the optics:

---

<sup>2</sup> Counsel for appellant moved to sever at the start of trial, and the state successfully opposed the motion. Tr. 20, ll. 10 – 25; 33, l. 14 – 34, l. 1; 87, ll. 9 – 17.

MS. GOUDE: Well, Your Honor, you know, I don't have anything to do with SCDC's policies here. I do believe that they should be allowed to sit with their attorneys during the trial and they should not be shackled for the jury to see that. I think that could be a big issue.

Tr. 97, ll. 9 – 13.

Rather than make the required finding of a need to restrain appellant, the trial court had the courtroom arranged so the restraints would be more difficult for the jury to observe.

THE COURT: Before we bring our jury in, I would thank our clerk staff as they have worked very hard during our break to arrange the courtroom. And it appears that all our issues regarding shackles and arrangement in the courtroom has been resolved. Each attorney is able to sit with their client and I appreciate the hard work of the folks getting this done.

Tr. 98, ll. 8 – 14.

C. How the trial court erred.

"We first consider whether, as a general matter, the Constitution permits a State to use visible shackles routinely in the guilt phase of a criminal trial. The answer is clear: The law has long forbidden routine use of visible shackles during the guilt phase; it permits a State to shackle a criminal defendant only in the presence of a special need." Deck v. Missouri, 544 U.S. 622, 626, (2005). While the use of restraints and special security measures used against appellant may be appropriate under an individualized showing of special need. "This careful balancing of the competing interests—and articulation of the balancing on the record for the benefit of appellate courts—is necessary to honor the defendant's due process rights whenever the State seeks to restrain the defendant in the jury's presence." State v. Heyward, 441 S.C. 484, 493, 895 S.E.2d 658, 663 (2023).

Here, the trial court made no specific finding of a special need to shackle appellant and subject him to heightened courtroom security as required by Deck and Heyward. To the

contrary, the trial court completely abdicated his role in favor of the decisions of the South Carolina Department of Corrections (SCDC).

THE COURT: Yes. And I have instructed – after discussion with Defense counsel and Ms. Goude this morning, I've instructed the Department of Corrections personnel to allow your clients to dress in appropriate street clothes for the trial. Now, they'll still be restrained, but I, also, instructed them to have their right hand free so they can take notes and communicate with their attorney.

Tr. 38, l. 22 – 39, l. 4. This deference to the decisions of SCDC extended to the prosecutor who claimed the State did not have anything to do with SCDC policies. Tr. 97, ll. 9 – 13.

Because the lower court made no specific finding of special need to restrain appellant during trial, it abused its discretion and committed an error of law. This lack of an individualized finding of need for the special security and the State's selection of venue created further problems with appellant's right to a fair trial unencumbered by the improper use of security as discussed in Argument II.

D. Prejudice.

This Court should reject any harmless error analysis in the improper shackling of appellant before the jury.

In determining whether error is harmless beyond a reasonable doubt, we often look to whether the “defendant's guilt has been conclusively proven ... 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)). Thus, “overwhelming evidence” of a defendant's guilt is a relevant consideration in the harmless error analysis. *See State v. Kromah*, 401 S.C. 340, 361-62, 737 S.E.2d 490, 501 (2013).

State v. Reyes, 432 S.C. 394, 406, 853 S.E.2d 334, 340 (2020).

Certainly, some of the members of the alleged conspiracy who had previously pled guilty and testified on behalf of the State implicated appellant in actions that were connected, either directly or indirectly, to the McCoys. Of course, the credibility of those witnesses was a contested matter and our courts have routinely found prejudice in errors when the credibility of witnesses were central to a finding of guilt. *See State v. Davis*, 371 S.C. 170, 181, 638 S.E.2d 57, 63 (2006) ("Given the highly circumstantial nature of the State's case, as well as the credibility problems of all the main witnesses, we agree with petitioner that the error was not harmless."); *State v. Smith*, 309 S.C. 442, 447, 424 S.E.2d 496, 499 (1992) (holding that the improper admission of testimony regarding drug use when "witness credibility was crucial to the jury's determination of who and what to believe" could not be deemed harmless error); *State v. Reeves*, 301 S.C. 191, 194, 391 S.E.2d 241, 243 (1990) (noting "[e]rror which substantially damages the defendants credibility cannot be held harmless where such credibility is essential to his defense.").

The state produced no controlled buys involving appellant despite introducing numerous such exhibits. There were no phone records, financial records, or recordings involving appellant. Tr. II. 38, ll. 14 – 20; 40, l. 17 – 41, l. 10. The strongest piece of evidence surrounding appellant's involvement in the conspiracy to traffic centered around his statements to SLED during an interrogation while appellant was incarcerated. This statement was not recorded by SLED or otherwise acknowledged by appellant in terms of his own handwriting or a signature on the alleged contents of this statement. Tr. 50, ll. 1 – 22. As noted by appellant's counsel, the "content" of this alleged statement was based entirely on the credibility of the investigators. Tr. 42, l. 25 – 45, l. 11. The importance of this statement in the case against appellant was effectively summed up by the solicitor during closing argument. Tr. II 37, ll. 16 – 22. I.

However, the law does not treat the word of police investigators any differently than other witnesses in terms of credibility. As the case for conspiracy to traffic was built upon the credibility of witnesses, a finding of harmless error excusing the inappropriate shackling of appellant before the jury would be in error. This Court should reverse appellant's conviction and remand for a new trial free from the implication through improper shackling that appellant was guilty in direct contradiction of the presumption of innocence.

**II. The trial court abused its discretion in failing to grant appellant a mistrial when appellant's co-defendants were paraded before the jury during trial in full prison attire and restraints under heavily armed guards since the venue chosen by the State made such interactions unavoidable.**

Appellant's co-defendants were led into the courtroom in full view of the arriving jurors in prison garb surrounded by several heavily armed guards. Due to the prejudice caused by requiring appellant to be unnecessarily shackled during trial and the prejudicial nature of forcing appellant's co-defendants to enter the courthouse in full prison attire under heavy guard, the trial court should have granted a mistrial.

A mistrial should be declared when there is "manifest necessity" for the act or when "not granting a mistrial . . . could undermine public confidence in the outcome" of trial. State v. Benton, 443 S.C. 1, 8, 901 S.E.2d 701, 704 (2024). The manifest necessity standard "'cannot be interpreted literally,' and that a mistrial is appropriate when there is a 'high degree' of necessity. The decision whether to grant a mistrial is reserved to the 'broad discretion' of the trial judge, a point that 'has been consistently reiterated in decisions of this Court.'" Renico v. Lett, 559 U.S. 766 (2010) (*internal citations omitted*).

Compelling a criminal defendant to appear before a jury in prison attire is violative of due process and incompatible with the presumption of innocence. Estelle v. Williams, 425 U.S. 501, 504-05 (1976) (collecting cases). This weakening of the presumption of innocence extends to forcing a defendant to appear before the jury in physical restraints under heavy guard. *See* Deck v. Missouri, 544 U.S. 622 (2005); State v. Heyward, 441 S.C. 484, 895 S.E.2d 658 (2023).

Here, appellant was on trial for a civil conspiracy with the alleged co-defendants who were led into the courthouse in full prison garb with extensive restraints, surrounded by armed guards, and in full view of multiple jurors. Tr. 183, l. 1 – 190, l. 12. The state did not contest the basic fact that jurors saw the co-defendants being escorted under guard, in restraints and prison attire, into the courthouse:

So, I mean, they have to be brought here in some way. To grant a mistrial would be an extreme measure and should be taken only where an incident is so egregious that the prejudicial effect can be removed no other way. And a mistrial should not be granted unless absolutely necessary.

Your Honor, I don't believe that would be the case here. I don't know if we need to question the jurors before we start the trial. We have alternates. But I believe this would be an extreme measure, Your Honor.

Tr. 185, ll. 6 – 15.

Counsel for appellant joined the motion for a mistrial, pointing out that the jury would certainly paint appellant with the same prejudicial brush as applied to his co-defendants.

MR. KORNFELD: And they're just -- I'd like to add this on the record, Judge Sprouse. I mean, they're parking this van over here. There are guards outside with the van waiting. We got here before 8:30, I believe. Most of the people were not here. But there is a way to not have this happen. One, they could drive them down the hill so people couldn't see it. The other, the jury could have gotten here first, got them in and then bring them in.

And, also, just -- I want to say this as far as Humber v. State, the Court in that case said -- the Court said we find it generally improper for a defendant to appear for a jury trial dressed in readily identifiable prison clothing.

MR. GOUDE: Your Honor, Mr. Kornfeld is not Mr. McCoy's attorney.

MR. KORNFELD: *I'm making this on behalf of my client. He's on trial with these guys, also. And they're wanting to try them in the same conspiracy. I don't see how that doesn't affect him as well.*

THE COURT: I'll -- I'll hear from you.

MR. KORNFELD: And so it says readily identifiable prison clothing. This is the most readily identifiable prison clothing that you probably could draw up, Your Honor.

Tr. 190, l. 13 - 191, l. 12.

In ruling, the trial court again avoided making any findings regarding the necessity of parading the co-defendants before the jury and instead found logistically *that the venue chosen by the state made* such interactions unavoidable.

Logistically, there has to be a way for the Defendants to get into the courthouse. This facility is what it is. And the way into the facility complicates this when we have defendants who are in the custody of the Department of Corrections.

These are serious charges. There are a number of witnesses. The State has concerns about security, which I understand the Defense contest that. *And the Court's not making any judgment regarding those allegations.* But when an inmate is being brought from the Department of Corrections to the courthouse, the Court has a responsibility to see that the inmate is brought in safely and that the public is safe while the inmate is being brought in.

Tr. 191, l. 22 – 192, l. 10 (emphasis added).

The prejudicial impact of a jury observing a defendant in full prison garb, shackled, and under heavily armed guards may not be debated. As the Supreme Court observed in Deck:

The third argument fails to take account of this Court's statement in *Holbrook* that shackling is 'inherently prejudicial.' 475 U.S., at 568, 106 S.Ct. 1340. That statement is rooted in our belief that the practice will often have negative effects, but—like 'the consequences of compelling a defendant to wear prison clothing' or of forcing him to stand trial while medicated—those effects 'cannot be shown from a trial transcript.' *Riggins, supra*, at 137, 112 S.Ct. 1810. Thus, where a court, without adequate justification, orders the defendant to wear shackles that will be seen by the jury, the defendant need not demonstrate actual prejudice to make out a due process violation. The State must prove 'beyond a reasonable doubt that the [shackling] error complained of did not contribute to the verdict obtained.' *Chapman v. California*, 386 U.S. 18, 24, 87 S.Ct. 824, 17 L.Ed.2d 705 (1967).

Deck v. Missouri, 544 U.S. 622, 635 (2005). While a defendant through his conduct may justify such action, no such showing was made in the present case justifying the lack of effort in preventing the jury from being exposed to the image of two co-defendants being escorted into the Courthouse under heavily armed guard while wearing full prison attire and being heavily restrained. Since appellant was directly impacted by this impropriety as an alleged co-conspirator and co-defendant, the jury could have improperly painted appellant with the same brush as the co-defendants.

As such, the trial court abused its discretion in failing to grant appellant a mistrial when the State's selected venue forced appellant's co-defendants to be paraded by the South Carolina Department of Corrections under heavy guard, in full prison attire and shackled. Since it is inherently prejudicial, it would follow that a mistrial in such setting would equate to a manifest necessity dictating the grant of a mistrial if the matter may not be otherwise adequately addressed through a finding of a special need for such security.

### **CONCLUSION**

Here, the trial court's errors require reversal of appellant's conviction and a remand for a new trial.



---

Gary H Johnson  
Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of July, 2026.