RECEIVED
Jul 13 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Marvin H Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WHITNEY BRIAN GRANT,

APPELLANT

APPELLATE CASE NO. 2025-000619

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY
Senior 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 ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

STANDARD OF REVIEW 3

ARGUMENT

The trial court abused its discretion by admitting drug evidence when the state failed to establish the chain of custody as far as reasonably practicable, specifically the state did not present any evidence as to who allegedly found the drugs in the center console of Appellant's car and moved to drugs to the top of a law enforcement vehicle during the course of the traffic stop. 4

CONCLUSION 10

PETITION TO BE RELIEVED AS COUNSEL 11

TABLE OF AUTHORITIES

Cases

Benton v. Pellum, 232 S.C. 26, 100 S.E.2d 534 (1957) 8

Gallego v. United States, 276 F.2d 914 (9th Cir.1960) 9

Miranda v. Arizona, 384 U.S. 436 (1966) 7

South Carolina Dep't of Soc. Servs. v. Cochran, 364 S.C. 621, 614 S.E.2d 642 (2005) 8

State v. Carter, 344 S.C. 419, 544 S.E.2d 835 (2001) 8

State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011) 6, 7, 8, 9

State v. Pagan, 369 S.C. 201, 631 S.E.2d 262 (2006) 3

State v. Sweet, 374 S.C. 1, 647 S.E.2d 202 (2007) 8

State v. Taylor, 360 S.C. 18, 598 S.E.2d 735 (Ct. App. 2004) 8

United States v. De Larosa, 450 F.2d 1057 (3d Cir. 1971) 9

STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion by admitting drug evidence when the state failed to establish the chain of custody as far as reasonably practicable, specifically the state did not present any evidence as to who allegedly found the drugs in the center console of Appellant's car and moved to drugs to the top of a law enforcement vehicle during the course of the traffic stop?

STATEMENT OF THE CASE

A Colleton County grand jury indicted Appellant on December 19, 2024, for possession with intent to distribute methamphetamine, second offense, and possession of cocaine base, second offense. R. 158-161 . Appellant's case was called to trial on March 24, 2025, before the Honorable Marvin H. Dukes, III. Assistant Solicitors Jillian Contestabile and Julie Kate Keeney represented the state. Jared Newman represented Appellant. R. 1.

On March 25, 2025, Judge Dukes found Appellant guilty as indicted. R. 113, ll. 8-11. He was sentenced to seven years for possession with intent to distribute methamphetamine, second offense, and three years for possession of cocaine base, second offense. R. 132, ll. 1-6.

This appeal follows.

STANDARD OF REVIEW

"The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion." State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." Id.

ARGUMENT

The trial court abused its discretion by admitting drug evidence when the state failed to establish the chain of custody as far as reasonably practicable, specifically the state did not present any evidence as to who allegedly found the drugs in the center console of Appellant's car and moved to drugs to the top of a law enforcement vehicle during the course of the traffic stop.

Relevant Facts

On the night of December 2, 2021, Sergeant Christopher Spry with the Colleton County Sheriff's Office, conducted a traffic stop on Appellant. Sergeant Spry, who worked in the narcotics division, first saw Appellant at a gas station that evening. Spry knew Appellant had a suspended license and had previously learned that Appellant may have been involved in drug activity. R. 70, l. 15 – 74, l. 20. Accordingly, after Appellant left the gas station, Spry stopped Appellant for driving under suspension and because the third brake light on his car was not working. R. 58, ll. 14-24.

During the traffic stop, Spry told Appellant he smelled marijuana and asked Appellant if there was any marijuana in the car. See Court's Exhibit No. 2 (Body Cam Video). Appellant admitted he had previously smoked marijuana, but told Spry there was no marijuana in the car. See Court's Exhibit No. 2 (Body Cam Video). Spry then asked Appellant to get out of the car and began to search the vehicle based solely on the alleged odor of marijuana. See Court's Exhibit No. 2 (Body Cam Video). While Spry was searching the car, Appellant ran and Spry immediately gave chase, along with other officers. When Spry returned to the location of the traffic stop after Appellant had been detained, there was a plastic bag containing drugs allegedly found in Appellant's center console on top of a law enforcement vehicle. See Court's Exhibit No. 2 (Body Cam Video). There was no testimony or other evidence presented establishing who

allegedly found the drugs inside Appellant's car and moved the drugs to where they were seen on top of the vehicle.

Sergeant Spry testified that he "collected a clear plastic bag that was in the center console" of Appellant's car. He maintained that this plastic bag contained three smaller plastic bags, two of which had MDMA ecstasy inside, and one that contained crack cocaine. Spry also said there was a scale inside the center console. R. 63, ll. 15-23. Spry field tested the suspected drugs and then placed them inside "a BEST kit bag." He then brought the BEST kit bag to the evidence department at the sheriff's office. R. 64, l. 10 – 68, l. 8.

Sergeant Steve Bazzle, the evidence custodian for the Colleton County Sheriff's Office, collected the BEST kit from the evidence drop box, stored it inside the main evidence locker, and then eventually transported the BEST kit to the South Carolina Law Enforcement Division (SLED) for analysis. R. 87, l. 6 – 90, l. 23.

Shana Sorelles, a drug chemist employed by SLED, testified that she received the BEST kit in this case on April 20, 2022, from Hannah Jefferson. Jefferson took the BEST kit from the evidence room at SLED and gave it to Sorelles upon request. R. 95, l. 16 – 96, l. 3. Sorelles testified that the kit did not appear to have been tampered with and the seal was intact when she received it. R. 97, ll. 2-23. She maintained that the kit contained a "rock substance" that was found to be cocaine base with a weight of 0.95 grams. It also contained multicolor tablets that were found to have methamphetamine with a total weight of 6.02 grams. R. 100, ll. 11-22.

When the state sought to admit the BEST kit containing the drug evidence, defense counsel objected arguing the state failed to present sufficient evidence of chain of custody. Counsel asserted that Sergeant Spry did not seize the drugs from Appellant's car. R. 98, ll. 1-6.

The assistant solicitor maintained that Sergeant Spry can be seen on the body camera footage seizing the drugs out of Appellant's center console, and that Spry testified that he seized the drugs out of the center console. Citing to State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011), the solicitor also argued that not all parties in the chain of custody need to testify. R. 98, ll. 8-15.

Defense counsel disagreed with the solicitor's argument. He asserted that, based on Sergeant Spry's body camera footage, the first time Spry saw the drugs was when they were sitting on the hood of a police car. He concluded that Spry did not find the drugs and did not testify that he found the drugs. R. 98, ll. 18-24.

The trial court overruled the objection simply stating, "I'll allow it subject to the objection, of course." R. 98, l. 16-17. The drugs were admitted as State's Exhibit No. 5. R. 99, l. 3.

After the state rested, Appellant moved for a directed verdict and defense counsel renewed his objection to State's Exhibit No. 5 based on the chain of custody. Counsel played a portion of Sergeant Spry's body camera footage, which was marked as Court's Exhibit No. 2 and is on file with this Court. Counsel argued that the video proves that Spry did not find the drugs inside Appellant's car. He explained that the video shows Spry searching the car, but he never took anything out of the car. Spry is then seen chasing Appellant. After the brief foot chase, the plastic bag containing the drugs is seen on top of a police car. Defense counsel argued that the "video speaks louder" and that while "people lie, videos can't." Counsel stated that he was renewing his objection based on the chain of custody because it is unclear where the plastic bag containing the drugs came from since it did not come from Sergeant Spry. R. 103, l. 9 – 105, l. 15.

The assistant solicitor argued that at seven minutes and thirty seconds into the body camera video, one can see Sergeant Spry open up the center console and pick up the plastic bag containing the drugs. Sergeant Spry then hears another officer say that Appellant is running. According to the solicitor, the video shows Spry putting the drugs back down where he found them and quickly going to help capture Appellant. She maintained that Spry testified that he is the one who collected the drugs and put them in the evidence locker. The solicitor argued that pursuant to State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011), the state did not have to establish how the drugs got to the top of Spry's patrol car. She further asserted that Appellant admitted on scene after he was advised of his rights pursuant to Miranda v. Arizona, 384 U.S. 436 (1966), that he knew the drugs were in the center console. R. 105, l. 17 – 106, l. 13.

Defense counsel replied, "The problem . . . is - - he [Spry] picks up and puts back down and then runs off. So when he's off, how do the drugs get from supposedly the center console to sitting on top of the car when he gets back? That's a complete fabrication." R. 106, ll. 14-18.

After watching the body camera video, the court again overruled the objection and denied Appellant's motion for a directed verdict. R. 107, ll. 12-14.

Discussion

The trial court abused its discretion by admitting the drug evidence supposedly found in the center console of Appellant's car when the state failed to establish the chain of custody as far as reasonably practicable. More specifically, the state did not present any evidence as to who allegedly found the drugs in the center console of Appellant's car and moved to drugs to the top of Sergeant Spry's vehicle during the course of the traffic stop.

"A party offering into evidence fungible items such as drugs or blood samples must establish a complete chain of custody as far as practicable." State v. Hatcher, 392 S.C. 86, 91,

708 S.E.2d 750, 753 (2011) (quoting State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205 (2007)) (internal quotation marks omitted); See also Benton v. Pellum, 232 S.C. 26, 33, 100 S.E.2d 534, 537 (1957) (stating "it is generally held that the party offering such specimen is required to establish, at least as far as practicable, a complete chain of evidence"). "Where the substance analyzed has passed through several hands the evidence must not leave it to conjecture as to who had it and what was done with it between the taking and the analysis." Id. (quoting Benton, 232 S.C. at 33-34, 100 S.E.2d at 537). "Testimony from each custodian of fungible evidence, however, is not a prerequisite to establishing a chain of custody sufficient for admissibility." Id. (quoting Sweet, 374 S.C. at 7, 647 S.E.2d at 206); See State v. Taylor, 360 S.C. 18, 27, 598 S.E.2d 735, 739 (Ct. App. 2004). "Where other evidence establishes the identity of those who have handled the evidence and reasonably demonstrates the manner of handling of the evidence, our courts have been willing to fill gaps in the chain of custody due to an absent witness." Id. (quoting Sweet, 374 S.C. at 7, 647 S.E.2d at 206).

"Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete." Id. at 92, 708 S.E.2d at 753 (quoting State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001)). "In applying this rule, [our Supreme Court has] found evidence inadmissible only where there is a missing link in the chain of possession *because the identity of those who handled the [substance] was not established at least as far as practicable.*" Id. (quoting Carter, 344 S.C. at 424, 544 S.E.2d at 837) (emphasis in original). However, the Court has "never held the chain of custody rule requires every person associated with the procedure be available to testify or identified personally, depending on the facts of the case." Id. at 93, 708 S.E.2d at 754 (quoting South Carolina Dep't of Soc. Servs. v. Cochran, 364 S.C. 621, 629, 614 S.E.2d 642, 646 (2005)).

"The trial judge's exercise of discretion must be reviewed in the light of the following factors: the nature of the article, the circumstances surrounding the preservation and custody of it, and the likelihood of intermeddlers tampering with it." Id. at 94-95, 708 S.E.2d at 754-55 (quoting United States v. De Larosa, 450 F.2d 1057, 1068 (3d Cir. 1971)) (internal quotation marks omitted). "If upon the consideration of such factors the trial judge is satisfied that in reasonable probability the article has not been changed in important respects, he may permit its introduction in evidence." Id. at 95, 708 S.E.2d at 755 (quoting Gallego v. United States, 276 F.2d 914, 917 (9th Cir.1960)) (internal quotation marks omitted).

In this case, the identity of the person who allegedly found the drugs in the center console of Appellant's car and moved the drugs from the center console to the hood of Sergeant Spry's vehicle was never presented. This unidentified person supposedly found the drugs in Appellant's car and moved them to the top of Spry's vehicle within a short period of time while Sergeant Spry and several other officers were chasing Appellant and returning him to the scene. Because the state failed to show how the drugs were obtained and how they were handled before being placed on Sergeant Spry's car, the state failed to sufficiently establish the chain of custody.

"The ultimate goal of chain of custody requirements is simply to ensure that the item is what it is purported to be." Id. at 95, 708 S.E.2d at 755. Because of the incomplete chain of custody, the record fails to show the drugs received for testing were in fact those allegedly found in Appellant's car "without any alteration, tampering, or substitution." See Id.

Because the trial court abused its discretion by admitting the drugs over Appellant's objection when the state failed to establish the chain of custody as far as practicable, this Court should reverse Appellant's convictions and remand for a new trial.

CONCLUSION

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

Respectfully submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of July, 2026.

RECEIVED
Jul 13 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Marvin H Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WHITNEY BRIAN GRANT,

APPELLANT

APPELLATE CASE NO. 2025-000619

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Whitney Grant states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense and was appointed to represent Appellant.

2. She has reviewed the record of Appellant's trial, which was held on March 24-25, 2025, before the Honorable Marvin H. Dukes, III, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. She has, pursuant to Anders v. California, 386 U.S. 738 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Whitney Grant.

Respectfully Submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of July, 2026.

RECEIVED
Jul 13 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County
Honorable Marvin H. Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WHITNEY BRIAN GRANT,

APPELLANT

APPELLATE CASE NO. 2025-000619

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

(1) Complete Trial Transcript Dated March 24-25, 2025;
(2) State's Exhibit No. 1 (Email Communication);
(3) Court's Exhibit No. 1 (Dash Cam Video);
(4) Court's Exhibit No. 2 (Body Cam Video);
(5) Indictments;
(6) Sentence Sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.

Lara M. Caudy
Senior 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

This 13th day of July, 2026.

CERTIFICATE OF COUNSEL

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

RECEIVED
Jul 13 2026
SC Court of Appeals

Lara M. Caudy
Senior 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

This 13th day of July, 2026.

RECEIVED
Jul 13 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Marvin H Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WHITNEY BRIAN GRANT,

APPELLANT

APPELLATE CASE NO. 2025-000619

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Mark R. Farthing, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on Whitney Grant, #296828, at Trenton Correctional Institution, 84 Greenhouse Road, Trenton, SC 29847, this 13th day of July, 2026.

Lara M Caudy

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

RECEIVED
Jul 13 2026
SC Court of Appeals

From: Mcinnis, Sara
To: Mark Farthing
Cc: Caroline Collins; Caudy, Lara
Subject: 2025-000619 The State v. Whitney B. Grant Anders Brief of Appellant and Record on Appeal
Date: Monday, July 13, 2026 4:25:00 PM
Attachments: 2025-000619 The State v. Whitney B. Grant Proposed Transportation Order.pdf
2025-000619 The State v. Whitney B. Grant Record on Appeal.pdf
2025-000619 The State v. Whitney B. Grant Anders Brief of Appellant.pdf

---

Good afternoon Mr. Farthing,

Attached for service in the above-referenced case are the Anders Brief of Appellant, the Record on Appeal, and a proposed transportation order. These documents will be filed with the Court of Appeals today, July 13, 2026, via email filing.

Thank you,

Sara McInnis
Administrative Assistant
South Carolina Commission on Indigent Defense
Appellate Division
(803) 734-1330