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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from Dorchester County
Honorable Diane Schafer Goodstein, Trial Judge
Honorable Robert J. Bonds, Post-Conviction Relief Judge
Appellate Case No. 2026-001166

HERBERT LEROY HOLMES,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF ISSUE ON APPEAL

“Whether the Court of Appeals erred in affirming the admission of decades-old DNA evidence, where there were significant problems with the chain of custody to include evidence from the rape kit going missing, the whereabouts of the evidence at times being unclear, a problematic 1993 inventory, and questions regarding the storage of the evidence and who handled it, since the integrity of the evidence was not ensured?”

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did the Court of Appeals correctly affirm on appeal when the trial court properly ruled that the State had established the chain of custody as far as practicable and, as a result, correctly denied Holmes’s motion seeking the suppression of the DNA evidence linking him to the heinous crimes he committed decades earlier?

STATEMENT OF THE CASE

Procedural History

In February of 2011, Petitioner Herbert Leroy Holmes was arrested following a cold case investigation into a brutal rape that had been perpetrated in October of 1984. In May of 2011, the Dorchester Grand Jury indicted Holmes for first-degree criminal sexual conduct and kidnapping. On April 22, 2013, a jury trial was commenced in the Dorchester County Court of General Sessions with the Honorable Diane Schafer Goodstein, circuit court judge, presiding. At the conclusion of the multi-day trial, the jury convicted Holmes as indicted. Following the verdict, the trial judge sentenced Holmes to terms of imprisonment of life for kidnapping and thirty years for first-degree criminal sexual conduct. In imposing those sentences, the trial judge ordered them to run concurrently to one another *and* consecutively to a life sentence Holmes was already serving at the time of his most-recent arrest.¹ Holmes—through trial counsel—then timely initiated an appeal.²

On appeal, the Court of Appeals—based on how the notice of appeal was phrased—mistakenly believed the appeal was initiated after Holmes had pled guilty to his charges. As a result of that misunderstanding, the Court of Appeals ultimately dismissed the appeal due to

¹ Prior to being convicted in April of 2013, Holmes had previously been convicted of a number of offenses, including first-degree burglary and multiple counts of first-degree criminal sexual conduct in 1989, and had received a life sentence. (App’x pp. 434-437). During the sentencing proceedings, the solicitor explained Holmes’s 1989 convictions stemmed from an incident in which Holmes “pried open the livingroom window of a house at approximately 3:30 in the morning and went inside and sexually assaulted a 71 year old grandmother and her 18 year old granddaughter.” (App’x p. 434).

² The records from the appellate proceedings in the Court of Appeals in connection to Holmes’s attempted direct appeal are presently available through the South Carolina Appellate Public Index. Appellate Records for State v. Herbert Holmes, South Carolina Appellate Court Public Index, <https://ctrack.sccourts.org/public/caseView.do?csIID=53739>.

Holmes’s failure to make a sufficient showing there was an issue that could properly be reviewed on appeal. On June 27, 2013, remittitur was issued.

Subsequent to the issuance of the remittitur, Holmes filed an application for post-conviction relief (“PCR”) in November of 2017, and, in response, the State filed a return requesting an evidentiary hearing along with the summary dismissal of all Holmes’s claims except his claim for belated appellate review. On May 19, 2022, an evidentiary hearing was conducted in the Orangeburg County Court of Common Pleas with the Honorable Robert J. Bonds, circuit court judge, presiding.³ At the conclusion of the hearing, the PCR judge orally granted belated appellate review and denied all Holmes’s other claims. Thereafter, on September 20, 2022, the PCR judge issued a written order memorializing his earlier oral ruling. Holmes then timely filed a notice of appeal⁴

After initiating his appeal, Holmes filed both a petition for a writ of certiorari and a brief pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974), with the Supreme Court, and the State filed both a return and a brief of its own.⁵ Following that, the Supreme Court transferred the matter to the Court of Appeals, and the Court of Appeals issued an unpublished opinion in which it partially granted Holmes’s petition for a writ of certiorari, conducted review of his direct appeal issue, and affirmed. Holmes v. State, 446 S.C. 276, 919 S.E.2d 37 (Ct. App. 2025).

³ Around the same time the hearing was scheduled to begin, Holmes—through PCR counsel—submitted an amendment to the PCR application. (App’x p. 462).

⁴ The records from the appellate proceedings in the Court of Appeals in connection to Holmes’s PCR appeal are presently available through the South Carolina Appellate Public Index. Appellate Records for Herbert Leroy Holmes, South Carolina Appellate Court Public Index, <https://ctrack.sccourts.org/public/caseView.do?csIID=77210>.

⁵ The State acknowledges the deeply-appreciated work of Assistant Attorney General L. David Leggett, who previously represented the State in Holmes’s case and prepared the State’s return and brief at the Court of Appeals. (Supp. App’x pp. 23-38). In its return to Holmes’s current petition, the State has now incorporated a substantial portion of the earlier brief.

Thereafter, Holmes petitioned the Court of Appeals for rehearing, and the petition was denied. Holmes then filed another petition for a writ of certiorari in the Supreme Court.

Factual History

In October of 1984, Holmes's victim ("Victim") was held at gun point and instructed to perform oral sex on her attacker, who then anally and vaginally raped her, while she was working at a bookstore. (App'x pp. 82-95; p. 553). During Holmes's eventual trial in connection to that disturbing incident, Holmes objected to the admission of Dr. Kenneth Bogan's testimony regarding DNA testing. (App'x pp. 274-287). Holmes objected to the chain of custody regarding the evidence and argued that the State had not fulfilled its obligations under State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011). (App'x pp. 274-287). The trial court overruled the objection and admitted the evidence. (App'x p. 298).

The DNA evidence in question was collected from clothing and various swabs of Victim's body ("clothing" and the "rape kit"), all of which were collected at the Medical University of South Carolina on the night of the assault. (App'x pp. 89-90; pp. 99-117; pp. 119-129; p. 553). Michelle Aimes Vevon and Lisa Cox Schafer were nurses working at MUSC in the trauma unit at the time of Victim's exam. (App'x p. 99; p. 120). Neither nurse remembered the Victim's exam at the time of the trial in 2011, but Vevon recognized her own handwriting on the documentation from the exam. (App'x p. 103; p. 105). Cox testified that she collected evidence during the exam based upon her signature on certain items. (App'x p. 127). During the exam, Victim's clothes were collected along with several swabs and washes (collectively, the "rape kit"). (App'x pp. 89-90; pp. 99-117; pp. 119-129; p. 553).

Detective James Knight collected the clothes and rape kit from the hospital. (App'x p. 135; p. 582). Detective Knight then transported the evidence to Lieutenant Dale Nevins. (App'x

pp. 136-137). Lieutenant Nevins placed the evidence in the Dorchester Sheriff Office evidence locker. (App'x pp. 155-156). In January 1985, the evidence was transported to SLED for testing by Lieutenant Nevins. (App'x pp. 159-160). The rape kit was transported on January 2, 1985, and the clothing was transported on January 31, 1985. (App'x p. 581; pp. 583-584). The evidence was tested, and some of it was returned to the Sheriff's Office by Sergeant Burt Salvely. (App'x p. 161). Other evidence was returned by Joseph Rivers in April 1988. (App'x p. 163). In July 1988, evidence was sent back to SLED for additional testing. (App'x p. 165; pp. 313-314; p. 585). The evidence was returned to the Sheriff's Office on December 19, 1989, by Emory Rush. (App'x pp. 165-166; p. 586).

In 1993, Lieutenant Nevins left the Sheriff's Office and custody of the evidence was transferred to Earl Absell. (App'x p. 167). In 1994, the Sheriff's Office moved. (App'x pp. 204-205). During and after the move, Absell maintained custody of the evidence. (App'x p. 206).

On March 6, 2009, the evidence was again submitted to SLED for DNA testing. (App'x p. 317). Dr. Bogan at SLED, who had previously tested the evidence, extracted DNA from the Victim's panties and skirt. (App'x p. 321). Dr. Bogan identified a DNA mixture from at least two individuals. (App'x p. 322). Dr. Bogan then received a reference sample of Holmes's DNA, developed a profile, and compared it to the DNA extracted from Victim's body and clothing. (App'x p. 324). Dr. Bogan eventually determined that Holmes's DNA matched the DNA found on the Victim's panties. (App'x p. 331).

Notably, every law enforcement officer and SLED technician who testified stated that the evidence was sealed when they received it and did not contain any signs of tampering. (App'x p. 135; p. 162; p. 198; p. 206; p. 227; p. 238; p. 307; p. 314; p. 317). That included Detective

Knight, Lieutenant Nevins, Rush, Absell, Buster Edwards, Stephanie Stanley, and Dr. Bogan.

(App'x p. 135; p. 162; p. 198; p. 206; p. 227; p. 238; p. 307; p. 314; p. 317).

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 on appeal, the appellate court gives great deference to the trial judge because the reception or exclusion of evidence is a matter left largely to the trial judge's sound discretion. 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. Patterson, 425 S.C. 500, 507, 823 S.E.2d 217, 221 (Ct. App. 2019) (citation and internal quotations omitted); see United States v. Summers, 666 F.3d 192, 197 (4th Cir. 2011) (instructing an appellate court will not find a trial judge's ruling constituted an abuse of discretion unless it was arbitrary and irrational).

ARGUMENT

Just as the Court of Appeals correctly concluded, the trial court properly ruled that the State had established the chain of custody as far as practicable and, as a result, correctly denied Holmes’s motion seeking the suppression of the DNA evidence linking him to the heinous crimes he committed decades earlier.

In affirming the trial court’s ruling admitting the DNA evidence, the Court of Appeals found the chain of custody had been established as far as practicable in Holmes’s case because: (1) “the State identified nearly every individual who handled the DNA evidence, and each witness who testified indicated the evidence was properly sealed and secure when it was received”; (2) “[t]he only unidentified individuals in the chain of custody were receptionists at the South Carolina Law Enforcement Division (SLED) who accepted deliveries of the items” and “agent Kenneth Bogan—a SLED analyst who tested the evidence on every occasion it was transported to the agency—testified that when the items were delivered, he picked up the items from the secretaries, filled out the intake forms, and observed that the items were sealed and lacked evidence of tampering”; and (3) “the discrepancies with the documentation of some of the State’s evidence” only went to the weight—but not the admissibility of—the evidence. (Supp. App’x pp. 40-43).

Now, through his latest petition for a writ of certiorari, Holmes contends the Court of Appeals reversibly erred by finding the DNA evidence was, in fact, properly admitted. As support for that contention, Holmes again maintains the chain of custody was insufficient. To the contrary and just as both the trial judge and the Court of Appeals correctly recognized, the State established the chain of custody as far as practicable, and there was no evidence of tampering or contamination of the evidence. Therefore, the DNA evidence was properly admitted by the trial court during trial, and the Court of Appeals correctly affirmed on appeal. Holmes’s petition for a writ of certiorari should be denied.

Generally speaking, evidence must be authenticated before it can be admitted. State v. Aragon, 354 S.C. 334, 336, 579 S.E.2d 626, 627 (Ct. App. 2003); see Rule 901(a), SCRE (“The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.”). And, importantly, “[t]he ‘chain of custody’ rule is but a variation of the principle that real evidence must be authenticated prior to its admission into evidence.” United States v. Howard-Arias, 679 F.2d 363, 366 (4th Cir. 1982). Like the general authentication requirement itself, that rule’s “ultimate goal” is “simply to ensure that the item is what it is purported to be.” State v. Hatcher, 392 S.C. 86, 95, 708 S.E.2d 750, 755 (2011); see Howard-Arias, 679 F.2d at 366 (“The purpose of this threshold requirement is to establish that the item to be introduced, i.e., marijuana, is what it purports to be, i.e., marijuana seized from the ‘Don Frank.’ ”). Resultantly, “[c]ourts have abandoned inflexible rules regarding the chain of custody and the admissibility of evidence in favor of a rule granting discretion to the trial courts.” Hatcher, 392 S.C. at 94, 708 S.E.2d at 754.

Pursuant to our state’s practical and no-longer-inflexible chain of custody requirements, “the establishment of a strict chain of custody is not required” when a party seeks the admission of non-fungible evidence during trial. State v. Freiburger, 366 S.C. 125, 134, 620 S.E.2d 737, 741 (2005); see State v. Glenn, 328 S.C. 300, 305, 492 S.E.2d 393, 395 (Ct. App. 1997) (“[W]here the issue is the admissibility of non-fungible evidence—that is, evidence that is unique and identifiable—the establishment of a strict chain of custody is not required[.]”). Non-fungible evidence is “evidence that is unique and identifiable[.]” Freiburger, 366 S.C. at 134, 620 S.E.2d at 741. “If the offered item possesses characteristics which are fairly unique and readily identifiable, and if the substance of which the item is composed is relatively impervious

to change, the trial court is viewed as having broad discretion to admit merely on the basis of testimony that the item is the one in question and is in a substantially unchanged condition.” Id. at 134, 620 S.E.2d at 741-742; see United States v. Cardenas, 864 F.2d 1528, 1531 (10th Cir. 1989) (“If the proffered evidence is unique, readily identifiable and relatively resistant to change, the foundation need only consist of testimony that the evidence is what its proponent claims.”); cf. State v. Rogers, 361 S.C. 178, 186, 603 S.E.2d 910, 914 (Ct. App. 2004) (concluding a purse was a non-fungible item); Glenn, 328 S.C. at 305, 492 S.E.2d at 395 (finding a porcelain fragment was a non-fungible item).

Meanwhile, when a party seeks the admission of fungible evidence like drugs or a blood sample during trial, a complete chain of custody must be established *as far as practicable*. State v. Governor, 362 S.C. 609, 612, 608 S.E.2d 474, 475 (Ct. App. 2005); see Hatcher, 392 S.C. at 95, 708 S.E.2d at 755 (“The State need not establish the identity of every person handling fungible items in all circumstances; rather, the standard is whether, in the discretion of the trial judge, the State has established the chain of custody as far as practicable.”). However, the proof of the chain of custody need *not* exclude every possibility of tampering. State v. Smith, 326 S.C. 39, 41, 482 S.E.2d 777, 778 (1997). Instead, to satisfy the requirements for establishing a sufficient chain of custody, the evidence and testimony presented during trial must simply *reasonably* identify who was in possession of the fungible item and what was done with it between its seizure and analysis. State v. Johnson, 318 S.C. 194, 196, 456 S.E.2d 442, 443 (Ct. App. 1995); see Hatcher, 392 S.C. at 95, 708 S.E.2d at 755 (“[W]e have consistently held that the chain of custody need be established only as far as practicable, and we reiterate that every person handling the evidence need not be identified in all cases.”); State v. Taylor, 360 S.C. 18, 27, 598 S.E.2d 735, 739 (Ct. App. 2004) (en banc) (explaining the testimony of each person in a

chain of custody is not required under all circumstances so long as the identities of the individuals who handled the evidence and the manner of handling are *reasonably* demonstrated). Ultimately, if consideration of the following factors—the nature of the evidence, the details surrounding its preservation and custody, and the likelihood intermeddlers tampered with it—leads to a conclusion there is a “reasonable probability the article has not been changed in important respects,” the fungible evidence can properly be admitted. Hatcher, 362 S.C. at 94-95, 708 S.E.2d at 754-755; see State v. Pulley, 423 S.C. 371, 379, 815 S.E.2d 461, 465 (2018) (explaining “a perfect chain of custody is not required” even for fungible evidence).

With that standard in mind, the testimony and evidence presented during trial in Holmes’s case established the following:

- Following the sexual assault, a medical exam was performed on Victim during which her clothes and a “rape kit” containing various swabs and specimens were collected. (App’x p. 90).
- On October 25, 1985, Detective Knight collected Victim’s clothing and the rape kit from the Medical University of South Carolina. (App’x pp. 135-136; p. 582). Detective Knight coordinated with Lieutenant Nevins to place those items in the Dorchester County Sheriff’s Office evidence locker. (App’x pp. 135-136).
- On January 2, 1985, Lieutenant Nevins delivered the rape kit to SLED for testing. (App’x pp. 158-160). On January 31, 1985, Lieutenant Nevins delivered the clothing to SLED for testing. (App’x pp. 158-160). Notably, the evidence was sent in two separate trips.
- Dr. Kenneth Bogan of SLED analyzed the evidence and found sperm cells. (App’x p. 308).
- On May 6, 1985, Sergeant Burt Salvely returned some of the evidence to the Dorchester County Sheriff’s Office. (App’x p. 161).
- On April 28, 1988, Joseph Rivers returned some of the evidence to the Dorchester County Sheriff’s Office. (App’x p. 163).
- On July 21, 1988, Lieutenant Nevins transported evidence, including a woods lamp, saliva filter paper, vaginal wash, oral wash, and an additional vaginal wash. to SLED for DNA testing. (App’x p. 165; p. 585; p. 587).

- On July 24, 2988, Dr. Bogan of SLED determined that the evidence was not suitable for DNA testing. (App’x p. 314).
- On December 19, 1989, SLED discharged an envelope to Emory Rush, who returned it to the Dorchester County Sheriff’s Office, where it was kept by Lieutenant Nevins. (App’x p. 166; p. 586).
- In 1993, Lieutenant Nevins signed over custody of all evidence at the Dorchester County Sheriff’s Office to Earl Asbell. (App’x p. 167).
- In 1994, the Dorchester County Sheriff’s Office moved buildings, and, both during and after the move, Earl Asbell maintained custody of the evidence. (App’x p. 205).
- On March 6, 2009, evidence technician Buster Edwards transported evidence for this case to and from SLED. (App’x pp. 228-229).
- While the evidence was at SLED, Dr. Bogan performed additional DNA testing on the panties and was able to develop a DNA profile. (App’x p. 322). That DNA profile was eventually matched to Herbert Holmes. (App’x p. 331).

Beyond that, every law enforcement officer and SLED technician who testified stated that the evidence was sealed when they received it and did not contain any signs of tampering. (App’x p. 135; p. 162; p. 198; p. 206; p. 227; p. 238; p. 307; p. 314; p. 317).

Notably, the investigation in this case took place over 29 years. During that time, law enforcement—based on the evidence and testimony presented—maintained custody of the evidence and kept it secure. While the chain of custody might not be as robust as seen in many modern investigations, none of the issues raised by Holmes challenge that the items are what they were purported to be. Given the “the nature of the article[s]” and “the circumstances surrounding the preservation and custody of [them],” the likelihood of intermeddlers tampering with them is incredibly low. Hatcher, 392 S.C. at 94-95, 708 S.E.2d at 754-755. To hold otherwise would require a finding that an individual accessed these items, which were under law enforcement control, and resealed them in a manner which was undetectable by law

enforcement. Additionally, the intermeddler would have had to add or modify the evidence with items which were so similar to the original evidence that the change went unnoticed by law enforcement. The trial court was satisfied that the article had not been changed in important respects and permitted its introduction in evidence. There was evidentiary support for the trial court's ruling, and that supported ruling did not constitute an abuse of discretion. State v. Pagan, 369 S.C. at 208, 631 S.E.2d at 265.

The facts of this case are similar to those in State v. Hatcher, in which this Court upheld the admission of evidence despite similar questions regarding the chain of custody. In Hatcher, crack cocaine was purchased from the defendant by an undercover informant. 392 S.C. at 88-89, 708 S.E.2d at 751. The drugs that were purchased were collected by a law enforcement officer, who testified at trial, placed into a sealed bag, and transported to SLED for testing. Id. at 89, 708 S.E.2d at 751. Once at SLED, the forensic scientist analyzed the substances and confirmed they were controlled substances. Id. at 89, 708 S.E.2d at 752. The bags were then resealed and returned to local law enforcement. Id. The defendant objected to the chain of custody arguing that the chain of custody did not account for every hand-to-hand transfer within SLED. Id. at 90, 708 S.E.2d at 752. The trial court overruled the objection and admitted the evidence. Id. This Court ruled that the trial did not abuse its discretion when admitting the evidence because “[i]t is unnecessary that the police account for ‘every hand-to-hand transfer’ of the item; it is sufficient if the evidence demonstrates a reasonable assurance the condition of the item remains the same from the time it was obtained until its introduction at trial.” Id. at 94, 708 at 754 (quoting State v. Price, 731 S.W.2d 287, 290 (Mo. Ct. App. 1987)). This Court went on to say:

We agree with the Court of Appeals that the mere fact that evidence is sealed upon presentation for testing does not, in itself, establish a sufficient chain of custody. Evidence is still required as to how the item was obtained and how it was handled to ensure

that it is, in fact, what it is purported to be. However, we have consistently held that the chain of custody need be established only as far as practicable, and we reiterate that every person handling the evidence need not be identified in all cases.

Id. at 95, 708 S.E.2d 755. This Court observed that both the officer who collected the drugs and transported them to SLED in tamper-evident bags and the SLED agent who retrieved the drugs from the Log-In Department at SLED (still double-sealed) and tested them testified about the chain of custody and their handling of the drugs and the fact that there was no evidence of tampering. Id.

While there are more officers involved in Holmes's case, the facts are similar. Each officer testified that when he received the evidence, it was sealed. (App'x p. 135; p. 162; p. 198; p. 206; p. 227; p. 238; p. 307; p. 314; p. 317). Further, the State produced documentation establishing when the evidence was transferred from the Sheriff's Office to SLED for testing and back. (App'x pp. 160-164; pp. 581-587). Due to the age of the case and the evolution of police documentation standards, the documentation chain is admittedly weaker than in modern cases. Nonetheless, the documentation and testimony demonstrates that the evidence was in law enforcement custody from the time it was collected to the time it was presented at trial. Thus, there is evidentiary support for the trial court's ruling admitting the evidence.

Holmes's case is also similar to State v. Trapp. In Trapp, drugs were seized from the defendant's bedroom by an investigator. 420 S.C. at 227, 801 S.E.2d at 747. A separate investigator completed a form acknowledging receipt of the drugs and their storage in the evidence locker. Id. The form contained some discrepancies between the search warrant return and the evidence form. Id. at 228, 801 S.E.2d at 748. The drugs were then transported to SLED for testing. Id. at 229, 801 S.E.2d at 748. The defendant objected to testimony regarding the actions of the first investigator, who was unavailable because he had died. Id. at 227, 801 S.E.2d

747 n.4. The defendant also objected to an incomplete chain of custody. Id. This Court held that the State presented sufficient evidence to reasonably demonstrate a complete chain of custody. Id. at 231, 801 S.E.2d at 749. This Court noted “[t]estimony from each custodian of fungible evidence, however, is not a prerequisite to establishing a chain of custody sufficient for admissibility.” Id. (citing State v. Sweet, 374 S.C. 1, 7, 647 S.E.2d 202, 206 (2007)). This Court continued: “Whe[n] 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. at 231, 801 S.E.2d at 749-750 (citing State v. Sweet, 374 S.C. 1, 7, 647 S.E.2d 202, 206 (2007)). At trial, a responding officer had testified that he saw the items which were seized. Id. at 232, 801 S.E.2d at 750. He also testified to the standard procedures regarding the receipt of storage of narcotics. Id. The State then produced evidence regarding the transportation of the narcotics to SLED for testing. Id. This Court also looked to the testimony of the forensic scientist. Id. She stated the items she received were still inside manila envelopes when she removed them from the best evidence kit for testing. Id. Further, the items in the SLED report matched the items that the first investigator certified on the evidence form that he delivered to SLED. Id. This Court found that was evidence from which a juror could reasonably conclude the item was what the State purported it to be. Id. Importantly this Court noted:

Although we are aware that two of the items—a straw and one razor blade—were documented by [the investigator] on the evidence log-in form but not delivered to SLED, we find the care given to these pieces of evidence goes only to the weight of the evidence as opposed to its admissibility.

Id. (citing State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001)).

In Holmes' case, there was testimony regarding the collection of the rape kit and clothing. (App'x p. 116; p. 124). Further, there was testimony regarding their storage at the Sheriff's Office. (App'x p. 136). The State then produced documents and elicited testimony to establish when the evidence was transported to and from SLED for testing. (App'x pp. 581-587). While certain entries lacked clarity regarding what was transported, "precedent does not require the court to account for every minute of the custody and control of the evidence. Rather, [courts] must view the evidence and ascertain whether the State identified the individuals involved in handling the evidence, reasonably demonstrated that the evidence was handled properly, and established that the evidence seized was the same evidence tested." Trapp, 420 S.C. at 233, 801 S.E.2d at 750. All of which was done in Holmes's case.

Finally, Holmes references State v. Cribb, 310 S.C. 518, 426 S.E.2d 306 (1992). In Cribb, two nurses were present for a blood draw. Id. at 309, 426 S.E.2d at 522. One nurse testified that the other nurse administered an IV to Cribb and it was customary for blood to be drawn by the person administering the IV; the other nurse, who administered the IV, did not recall drawing blood from Cribb but assumed she did so because that was her standard procedure. Id. The lab technician did not know who drew Cribb's blood or how it was transferred to the lab. Id. Neither Cribb's medical records nor the label on the blood sample disclosed the person or persons who drew the sample and transported it to the lab. Id. The admission of the blood evidence was an error because "[t]he evidence in the record of this case does not identify those persons who handled the blood from the time it was drawn until the time it was tested." Id.

Significantly, unlike in Cribb, Cox testified in Holmes's case that, based upon her signature, she collected the evidence. (App'x p. 124). From that time forward, testimony and

documentation showed that the evidence was either in the custody of the Dorchester County Sheriff's Office or SLED. Documentation and testimony detail when the evidence was brought back and forth between the two departments. Thus, Holmes's case, unlike Cribb, does have evidence identifying the persons who handled the evidence from the time it was collected until it was tested.

For all those reasons, the trial court correctly held that the State had established the chain of custody as far as was practicable and allowed the evidence to be introduced during trial. And, by doing so, the trial court in no way prevented Holmes from raising any challenges he wished to the weight that evidence should be given by the jury. Indeed, Holmes was able to argue to the jury that they should discount the reliability of the DNA evidence and raised questions regarding the testimony supporting a chain of custody at length. (App'x pp. 274-298). Through cross-examination and argument, Holmes raised these questions so that the jury could then determine what weight to give the evidence and what credibility to assign the witnesses. The jury, however, ultimately found the evidence to be credible and convicted Holmes.

Because the trial court did not abuse its discretion in admitting the DNA evidence, the Court of Appeals correctly affirmed on appeal. Holmes's petition for a writ of certiorari should be denied.

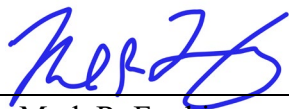
CONCLUSION

For all the foregoing reasons, it is respectfully submitted the petition for a writ of certiorari should be denied.

Respectfully submitted,

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July 20, 2026