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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRANDON LEE CORDER,

APPELLANT

APPELLATE CASE NO. 2023-001543

SUPPLEMENTAL RECORD ON APPEAL

W. CHANDLER NORVILLE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

W. JOSEPH MAYE
Assistant Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-6307

S. R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit
205 East Main St.
Lexington, SC 29072
(803) 785-8285

ATTORNEYS FOR RESPONDENT

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1 THE COURT: Okay. Let me put your objection on the
2 record to the State's opening, Mr. Stitely.

3 MR. STITELY: Judge, the very --- towards the end of
4 his opening, Mr. McNair told --- he played a justice for
5 Joanie and what I would argue was he's flat out told the
6 jury, only you are in powers to do something about it.
7 What it does it shifts an almost affirmative burden a
8 jury to do something. It's not to find the truth, or
9 find the facts is what a jury really is. He flat out
10 said you have the power, you are the one empowered to
11 give justice for Joanie.

12 I'm going to do some case law research, because I
13 know that there's been a number of times that cases have
14 been overturned when a solicitor argued it's putting an
15 affirmative duty or an affirmative thought on a jury to
16 go do something. Their job is not to go do something.
17 It is to determines facts.

18 THE COURT: Okay. I'm going to get the court
19 reporter to play it back right quick.

20 MR. STITELY: The last minute of his closing.

21 COURT REPORTER: Do you want me to play it back or
22 read it back?

23 THE COURT: Read it back.

24 MR. MCNAIR III: I --- I don't --- that's --- I
25 mean, I don't think that's a misstatement of the law or

1 anything. I mean, it --- only the jury can return a
2 verdict of guilty --- of guilt.

3 MR. STITELY: But he went a step further than that.
4 He didn't say you can return a verdict of guilt. He
5 says, you are the power --- you are empowered to deliver
6 justice is pretty much the way I heard it. But I think
7 we --- and that kind of distinction.

8 THE COURT: Well, let's see what the court reporter
9 reads back to us.

10 COURT REPORTER: Take me a second. Hold on second.

11 Okay. Mr. McNair says justice for Joanie is why
12 we're here. That's a very (unintelligible) of murder,
13 thank you.

14 THE COURT: I don't see where he says that the jury
15 is empowered.

16 MR. STITELY: Well, my argument is he --- he is
17 telling them that they have an affirmative act to
18 complete. And --- and Judge, I --- I'll find some case
19 law on it. I've read so many times in other ones that
20 had this come up. I don't have it in front of me.
21 Didn't anticipate it.

22 (Off the record)

23 MR. STITELY: So she found one case and it's --- and
24 this is kind of like the example as you're arguing it.
25 Is you can say it's a jury's duty to find justice, but

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1 it's not their duty to go out and seek or to convict a
2 defendant. You can't tell a jury it's your duty to
3 convict. You are to deliver a conviction. You can say
4 the facts will lead you to a result, but you can't ---
5 it's all argumentative and subjective on opening
6 regardless.

7 But my specific problem is you can't tell a jury you
8 have a duty to give justice, only you can give justice.
9 They can say you can listen to facts and make a
10 determination by the law whether or not someone's guilty,
11 but I would (unintelligible) to say this is an
12 affirmative burden they placed on the jury.

13 THE COURT: All right.

14 MR. MCNAIR III: I --- I thought --- I thought I
15 said it --- it's within your power to deliver justice.
16 We ask that you find him guilty. I'm not ---

17 THE COURT: Can we read it one for more time. I'll
18 try to write it down.

19 COURT REPORTER: I mean, I can replay the audio, but
20 I'm pretty sure I ---

21 THE COURT: That power is in your hands.

22 COURT REPORTER: Let me see if I can get my audio to
23 play from right there. It's not going to play from here.
24 Okay. Let me --- I'll read it back in. Justice for
25 Joanie is why we're here. That's a very cliché thing to

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1 say, but it's true. We can't undo ---

2 (Missing audio)

3 MR. STITELY: It's that power in your hands and we
4 trust you to use it part that I have a problem with,
5 Judge.

6 THE COURT: Anything from the State?

7 MR. MCNAIR III: I --- I guess every trial I've ever
8 done should have been a mistrial. I mean, I've said that
9 a hundred times, so I ---

10 THE COURT: Okay. I'll just (unintelligible) few
11 minutes. I'll --- I'll be right back.

12 (Off the record)

13 THE COURT: All right. Anything else from the
14 State?

15 MR. MCNAIR III: No, Your Honor.

16 THE COURT: Anything else from the defense?

17 MR. STITELY: No, ma'am.

18 THE COURT: All right. I think that I can do a
19 curative instruction to the jury and not declare a
20 mistrial. That's what I'm going to do. It's not their
21 duty to find justice. I mean, we all have different
22 roles to play, all of us, the lawyers, the judge, and the
23 jury. I'm just going to remind them of what their duty
24 is. And I'm going to tell them it will be your duty to
25 decide from the evidence what the facts are. You and you

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1 alone are the judges of the facts. You will hear the
2 evidence decide what the facts are, and then apply those
3 facts to the law which I give you and that is how they
4 will reach their verdict.

5 Now, in the meantime, while I'm deciding what I was
6 doing, I get a note from a juror. And this is juror
7 number 219. And I'm going to make this Court's Exhibit
8 Number 1 --- number 6, I'm sorry. It is
9 Ms. Williamson.

10 I thought the name sounded so similar. I
11 realized while he was speaking I was friends with the
12 victim in high school. I am not sure I can be here
13 question mark.

14 Any thoughts?

15 MR. STITELY: Swap them for an alternate, Judge.

16 MR. MCNAIR III: Swap them.

17 THE COURT: Okay. I'm going to bring her in here.
18 I'm going to excuse her.

19 MR. STITELY: Can we make sure that she didn't make
20 any mention of that knowledge ---

21 (Simultaneous speaking)

22 THE COURT: I absolutely will. Can we bring in
23 juror number 219, please.

24 Is there any objection to the curative from the
25 State?

1 MR. MCNAIR III: No, Your Honor. I mean, I think
2 obviously your initial instructions you said what the
3 attorneys say is not evidence, but ---

4 THE COURT: I --- I --- I know.

5 Any ---

6 MR. STITELY: No, thank you, Judge.

7 THE COURT: Thank you.

8 MR. MCNAIR III: And I --- I guess I would just ask
9 that you're giving that curative instruction that Mr.
10 Stitely not further comment on that comment I made that
11 he objected to in his opening statement.

12 MR. STITELY: Yes. And actually, Judge, I think the
13 cleanest aspect is that you may want to actually give
14 that instruction after I open to remind them that we ---
15 in case I say anything that covers everything. But I
16 don't intend to bring up what he said.

17 THE COURT: Okay.

18 MR. STITELY: So my thought, if --- if you want to
19 give the curative after opening, I would just feel funny.
20 I think that would probably be the best.

21 MR. MCNAIR III: I'm fine with that too.

22 THE COURT: Okay. Y'all agree on that?

23 MR. STITELY: (Unintelligible) reminding us all what
24 we say.

25 THE COURT: We will --- we will do that.

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1 MR. STITELY: That's perfect.

2 THE COURT: Okay. I'll --- I'll issue the
3 instructive afterwards.

4 If you bring in Ms. Williamson.

5 (Ms. Williamson enters the courtroom)

6 THE COURT: Ms. Williamson, I got your note.
7 That --- that's okay. You didn't do anything wrong. I
8 think that would be tough for you to sit on this jury.
9 So I'm --- I'm going to ask you could you be fair and
10 impartial?

11 JUROR: (Inaudible).

12 THE COURT: All right. Well, listen, don't get
13 upset. Because you didn't do anything wrong. I'm ---
14 I'm going to go ahead and excuse you. I'm just going to
15 replace you with an alternate. Okay? And we'll catch
16 you next time on jury duty.

17 JUROR: I'll be here. Thank you.

18 THE COURT: Thank you. Really appreciate you
19 coming.

20 MR. STITELY: Judge, the question about ---

21 THE COURT: Oh. One other thing. Let me ask you,
22 did you mention that you knew the victim to anyone in the
23 jury pool?

24 JUROR: Yes, when I writing down the note, I said
25 something.

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1 THE COURT: Can you tell me what it is that you
2 said?

3 JUROR: I just said, I believe she's someone I went
4 to high school with.

5 THE COURT: Any objection ---

6 MR. STITELY: Judge, can we just follow up just
7 briefly, Judge? Like, can --- can I ask a question or
8 two?

9 THE COURT: Sure.

10 MR. STITELY: And that's --- that's all that was
11 said was that you thought you knew her in high school?

12 JUROR: Yes.

13 MR. STITELY: You didn't make any impressions as to
14 what your relationship was?

15 JUROR: No.

16 MR. STITELY: I have no further questions, Judge.
17 Thank you. I think (unintelligible) from Ms. Yonge real
18 quick, but I have nothing further.

19 THE COURT: Anything from the State?

20 MR. MCNAIR III: No, Your Honor.

21 THE COURT: Okay. Nothing about guilt or innocence?

22 JUROR: No.

23 THE COURT: Okay. She was a nice person or none of
24 that?

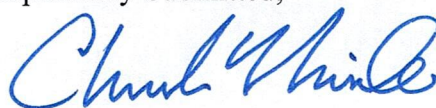
25 JUROR: Yeah. No, ma'am. Was just --- just that I

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

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Respectfully Submitted,



W. Chandler Norville
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3RD DAY OF SEPTEMBER, 2026.