State of South Carolina
In the Court of Appeals

Appeal from Richland County
Honorable Thomas William McGee III, Circuit Court Judge

Breonte Alexandria Glasgow Appellant

V.

The State Repondent

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SC Court of Appeals

Appellate Case # 2025-001004

Pro Se Brief of Appellant

Breonte A Glasgow #397466
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Statement of Issue on Appeal

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Statement of the Case

Appellant was indicted in Richland County for Homicide by child abuse and two counts of unlawful conduct towards a child and on May 12th 2025, was tried before the Honorable Thomas William McGee III. Eric Fox and Emily Coley represented the appelant. Anna Browder, Kathryn Cavanaugh and Morgan Monroe represented the state. The jury convicted appellant. Judge McGee sentenced her to forty-five years imprisonment for HBCA and concurrent sentences of ten years imprisonment for the unlawful conduct charges.

Argument

The trial court erred in having appellant in shackles throughout her trial despite making no specific findings that such shackling was necessary.

The trial court erred in denying the pretrial motion regarding the video that the state is seeking to introduce despite appellant not visible in the video

- The trial court erred in introducing pictures and photos not admissible under Rule 403
- The trial court erred in denying the motion for a direct verdict on the homicide by child abuse charge.
- The trial court erred in introducing a chain of custody that was broken when the investigator ~~s~~testified he gave the phone to another investigator that was not listed on the chain of custody form.

Appellant became pregnant with quadruplets, three of which survived at pregnancy. The triplets were born severely premature at twenty-four weeks gestation. Infant One was smaller than 95 out of 100 other babies who were born at twenty-four weeks.

The children stayed in NICU in Charlotte NC for eleven weeks and then were transferred to Prisma Baptist in Columbia SC. The triplets were discharged after another month at different times in October 2022. Infant One was the last to be discharged due to complications.

On March 11, 2023 appellant called 911 for Infant One. She was upset and attempting CPR on Infant One. Firemen and eventually EMTs administered CPR and took the child to the hospital. The emergency room doctors were unable to revive him and pronounced him dead.

The pathologist opined Infants One's cause of death was "complications of non-accidental blunt head trauma. However the State presented no direct evidence that the appellant caused the blunt head trauma. To prove the extreme indifference element of Homicide by Child abuse, the state relied on a video taken 2 months prior to infant ones death. The state was allowed to play five of the 18 minute video. Although all four children appeared in the video no one was harmed and appellant is not visible on the video. Appellant also testified that a baby sitter and the baby sitters older daughter had access to her phone.

The state did not produce any direct evidence that appllant caused the injuries to Infant Ones head. Appellant testified at a family court proceeding that she hired a baby sitter. Appellant worked doubles and hired the babysitter six days a week to help care for the Children Appellant testified she did not see the child's injuries nor did she know how Infant One sustained his injuries. #1 Pretrial Motion regarding the video that the state is seeking to introduce (pg 35) (pg. 83-86) Arguement about Rule 404(B) Bad Prior Acts

The identity exception is to prove the identity of the person that committed the crime. The State wanted to use the video to identify the appellant within the video, to tie her to the

alleged criminal crime. See Martucci or absence of accident the video the state used does not show a crime being done. It does not show evidence of numerous fractures that were testified to. It certainly doesn't show blunt force head trauma. that the indictment stated was the cause of death. It doesn't show infant one in a malnourished or neglected state. The video shows no clear and convincing evidence of a crime being committed. Under 403 Analysis its very clear, relevant evidence may be excluded if it's probative value is substantially outweighed by the danger of unfair prejudice or needless presentation of cumulative evidence.

The main reason the state wanted to use or introduce the video was to inflame the passion of the jury to return a verdict based on their emotions rather than the evidence. (pg 97) The trial Judge agreed that the video was too prejudicial just to show the appellant a terrible parent. Regardless, the video was cut and played to be shown to the court and jury. It was also entered into evidence. In order to admit evidence of prior bad acts not resulting in a conviction, the trial court must determine whether the proffered evidence is relevant [State v. Clasby, 685 S.E. 2d 892] If the trial Judge finds the evidence is relevant the Judge must then determine whether the bad act evidence is admissible under Rule 404(B). If the testimony is relevant and proffered for a permissible purpose, the trial court must conduct a balancing test pursuant to Rule 403 to discern whether the probative value is substantially outweighed by the danger of unfair prejudice and trial court may exclude evidence if the probative value is substantially outweighed by the danger of unfair prejudice. [State v. Gilliams, 646 S.E. 2d 870] Inadmissible prejudicial prior bad acts evidence violates Rule 404(B) SCRE. Prior bad acts evidence is inadmissible to show criminal propensity or to demonstrate that the accused is guilty of the crime Charged. [State v. Bell, 845 S.E. 2d 514] Rule 404(B) Reads: Evidence of other crimes, wrongs or acts are not admissible to prove the character of a person in order to show action n conformity there with. Here in this case the appellant was charged with homicide by child abuse and (2) counts of neglect towards a child. The video evidence admitted was inadmissible under Rule 404(B) because it showed no evidence of a crime being committed. [State v Lyle, 118 S.E. 2d. 83]

#2 Pictures and photos not admissible under Rule(403)(pg. 110 line 18-19) objection (pg 427 continuing objection) Under State v. Brazwell the court held initially the photographs calculated to arouse sympathy or prejudice of the jury should be excluded if they are irrelevant or not necessary to substantiate material facts that they are concidered unfairly prejudicial because they would be admitted on an improper basis that would suggest an emotion or an emotional response to the jury in effect. [State v. Nelson 891 S.E. 2d 508] while photos of a victim may be inadmissible in the guilt phase of a capital trial, they are likely to be relevant in the sentencing phrase to show the circumstances of the crime and the character of the defendant. The sole issue in this case is the admissibility of autopsy photos. The trial court erred in admitting gruesome child autopsy photos in contravention of Rule(403) SCRE. The photos admitted into evidence in this case surpassed the outer limits of what our law permits a jury to consider. The defendent set forth several reasons why it was errors to admit the autopsy photos but the one we find most compelling is that the photos had little probative value as to any disputed facts in this case. [State v. Edwards 10. S.E 2d. 587] Although photos may be used to corroborate other evidence, it is well-established that photos calculated to arouse the sympathy and prejudies of the jury are to be excluded if they are irrelevant or unnecessary to the issues at trial. Appellants counsel offered

to stipulate to any relevant information contained in the photos and it is clear the information was not really at issue. Futher more the testimony of the forensic pathologist negated any arguable evidentiary value of the photos. The prejudice created by the value of the photos clearly outweighed and evidentiary value. [State v. Waitus 77 S.E 2d 256] Beginning with the opening statements at trial it was clear that the only issues for the jury to decide was did the defendant commit the homicide by child abuse or a criminal neglect towards a child. The courts error to admit the photos because of their minimal probative value was substantially outweighed by the danger of unfair prejudice [State v. Kornahren 350 SE 2d 180] [State v Rosemond 518.SE. 2d 588]

#3 objection to the highy prejudicial of shackling (pg. 250-265) (pg 254) Trial counsel asked the Judge to allow the defendant to be shackled free (line-21) (pg 263) The Judge ordered that shackles be left on (pg 265) Trial counsel argued again about shacktes of the defendant be removed. The Judge didn't make a ruling or give a reason to why the appellant remained in shackles through out the trial. [State v. Heyward 852 S.E. 2d 452) South Caroling of Appeals The Court stated to require a prisoner during the process of their trial before the judge and jury to appear and remain with chains, shacktes upon their limbs, without evident necessity for such restraint was a direct violation of the common-law Rule and of statutory provisions to the effect that a person charged with a public offense shall not be subjected before conviction to any more restraints than is necessary for his detention to answer the charge [State v. Tucker 320 S.C 206] [Deck v. Missouri, 125 S.Ct 2007] In deciding whether a defendant is restrained during trial, the trial Judge is to balance the prejudicial effect of shackling with the considerations of court room decorum and security. Trial court abused its discretion by denying the defendant request to remove the shackles during the jury trial where the record was devoid of any reason why such shackles should not be removed. Where a court without adequate justification orders the defendant to wear shackles that will be seen by the jury the defendant need not to 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. [Reese v. State 894. S.E. 2d 295] [Ryals v. State 886 SE 2d 239] The constitution forbids the use of visible shackles during the guilt phase of the trial unless that use is justified by an essential state interest Propriety and prejudicial effect of gossing, shackling or other wise physically restraining accused during course of state criminal trials. The court noted that the state trial Judge had never considered a reasonable alternative method to shackling in order to provide for the security of the courtroom. Noting that it was prejudicial for a defendant on trial to be shackled in the courtroom the court held that it was an abuse of judicial discetion to compel the accused to be shackled during trial. [Illinois v. Allen, 90 S.Ct, 1057] [State v. Gray 759 SE 2d 160] [Chapman v. California 875 Ct. 824]

#4 motion for Direct Verdict on charges of homicide by child abuse (pg 730 (line 9-17) Rule 19(A) requires the trial Judge to direct a verdict in favor

of the defendant where there is an absence of competent evidence tending to prove the charge listed within the indictment. The defendant argues that the trial court improperly refused her motion for a direct verdict on the charge of homicide by child abuse. When considering a motion for a directed verdict in a criminal case, the trial court is concerned with the existence or non-existence of evidence, not its weight. [State v. Burdette 515 S.E.2d 505] [State v. Morgan 319 S.E.2d 259] In cases where the State has failed to present evidence of the offense charged a criminal defendant is entitled to directed verdict. Evidence was not sufficient to support jury's determination in finding defendant guilty of homicide by child abuse. The trial court should grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty as suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.

A) homicide by child abuse subsection [16-3-85(A)(1)] of the South Carolina Code provides that a person is guilty of homicide by child abuse when they cause the death of a child while committing child abuse. Child abuse is defined as an act or omission by any person which causes harm to the childs physical health or welfare. [16-3-85(B)(1)] and harm occurs when a person inflicts or allows to be inflicted upon the child physical injury [16-3-85(B)(2)(d)] The state evidence consisted of the following testimony: (1) the child died from intentionally inflicted blunt force trauma to the head. (2) The child suffered fractures from the femur

Under South Carolina Law an indictment must function as a notice document and fairly apprise the accused of the nature of the charge so the defense can prepare and avoid suprises at trial [Carrier v. State 895.S.E.2.d 679] [State v. means S.C.t (2006)] Supports the principle that the charging document must give meaningful notice and recognizes that prejudice can arise when the proof varies from the allegations within the indictment where the indictment broadly alleges blunt force trauma but the medical examination does not support that mechanism of death, the discrepancy creates a material variance and a due process problem, because the defendant is forced to defend against an unclear or inconsistent theory of causation. For that reason the court should have dismiss the indictment or alternatively require the State to provide a bill of particulars identifying the specific factual basis for the charge. On (pg. 716-717) Trial counsel cross-examinated Dr Young about the autopsy report, radiograph x-rays, and microscopic examinations done upon the victim in which was the cause of death. (line 12-21) (pg 716) states that from x-rays its a possible skull fracture left parietal and a possible distal femur. (line 23) states that a further examination did occur. (pg 717) (line 4-13) pg 5 under section marked microscopic description there are two red marks what does it say about the skull fracture after a microscopic examination. (line 9-13) states left parietul skull does not demonstrate fracture (line 12-13) states distal femur sections do not demonstrate fracture.

SEE: Indictment true bill, cause of death is blunt force trauma, homicide by child abuse

Because the indictment alleges the death was caused by blunt force trauma, and the microscopic finding stated that there was no skull fracture demonstrated. There has been an inconsistency in the material variance and charge of proof. The indictment charges one mechanism of death but the medical evidence does not support that allegation. Where the States charging language and the Autopsy evidence materially diverges, the discrepancy creates a material variance that violated Due Process under the South Carolina and United States Constitution. Amendment (14th) The defendant in this case states that because of such clear violations and probative evidence the trial Judge should have granted the motion for a direct verdict This should have been done under Rule 19(A) where there's

an absence of competent evidence tending to prove the charge within the indictment.

#5 Objection to chain of custody

During testimony from Investigator Mastrianni on(pg283)(line 14) the state asked "what did you do with that phone?(line 15)(pg283) states" I gave the phone to Investigator Smith However on the chain of custody it does not have those transfers listed or accounted for.(pg286)(line 17) Mr. Mastrianni was asked "Okay. at any time did yall look at I guess as the investigation keeps going, you do these phone dawnloads, do yall eventually come to the decision to arrest Ms Glasgow? (line 21)(pg286) states We do. [306][line 23-25] States "Investigator Smith your testiony is that was the only phone, the pink glitter iphone was the only one that you ever dealt with, ever handled? (pg307)(line 1-3) "yes sir" asked "Okay no one ever gave you another galaxy phone" "no sir" Both testimonies are inconsistant and the chain of custody does not reflect the where abouts of the items in questioned.

Chain of custody purpose rule is to insure that items offered into evidence is in substantially the same condition as it was at the time proponent of evidence came into its possessions. To establish chain of custody proponent must trade the continous whereabouts of the item in qucstion.

Conclusion

For the foregoing reasons, this court should reverse appellant's convictions and sentence and remand a lesser charge and/or for a new trial.

Breonte A Glasgaw #397466

Pro Se Brief

This 4th day of September, 2026

Proof of Service

I, Breonte Alexandria Glasgow #397466 state that I am sending a copy of my Pro Se brief to The South Carolina Court of appeals and to the address 1220 Senate Street Columbia SC 29201 On this day September 4th 2026.

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Breonté Glasgow #397466

This 4th day of September, 2026

Sworn and subscribed
Jashunda Swinyard
exp date: 11-05-2035

September 4 2026

Re: Breonte A Glasgow v The State
Appellant Case # 2025-001004

Dear Ms Harrison:

Thank you for taking the time to inform me of my right to file a pro se brief. I have enclosed my pro se brief I have sent within 45 days of August 4th 2026.

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Thank you
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