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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM COLLETON COUNTY
Court of General Sessions

Clifton Newman, Circuit Court Judge

Appellate Case No. 2026-000656

The State,

Respondent,

Rita M. Pangalangan,

Petitioner.

BRIEF OF PETITIONER

Dayne C. Phillips, Esq.
SC Bar No. 77712
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, SC 29201
(803) 807-0234

Attorney for Petitioner

INDEX

TABLE OF AUTHORITIES	ii
QUESTION PRESENTED	1
STATEMENT OF THE CASE.....	2
RELEVANT FACTS	4
STANDARD OF REVIEW	7
ARGUMENT	8
1. THE COURT OF APPEALS ERRED IN FINDING THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN ADMITTING UNFAIRLY PREJUDICIAL PHOTOGRAPHS OF HER DAUGHTER’S CORPSE WITH A WHITE SHEET AND CORONER’S TAG AND IN FINDING PETITIONER DID NOT PRESERVE THE ERROR ADMITTING AN IRRELEVANT PHOTOGRAPH OF AN GUN, FOUND IN THE VEHICLE WHEN THE PHOTOS SERVED NO LEGITIMATE PURPOSE AND WERE CALCULATED TO AROUSE THE SYMPATHIES AND PREJUDICES OF THE JURY	8
CONCLUSION.....	14

TABLE OF AUTHORITIES

Cases

<i>State v. Alexander</i> , 303 S.C. 377, 401 S.E.2d 146 (1991)	8
<i>State v. Benton</i> , 443 S.C. 1, 901 S.E.2d 701 (2024)	9, 11
<i>State v. Franklin</i> , 318 S.C. 47, 456 S.E.2d 357 (1995)	8
<i>State v. Heyward</i> , 441 S.C. 484, 895 S.E.2d 658 (2023)	8, 9, 10, 12
<i>State v. Jones</i> , 440 S.C. 214, 891 S.E.2d 347 (2023)	8, 9, 12
<i>State v. Kornahrens</i> , 290 S.C. 281, 350 S.E.2d 180 (1986)	8
<i>State v. Middleton</i> , 288 S.C. 21, 339 S.E.2d 692 (1986)	9
<i>State v. Nelson</i> , 440 S.C. 413, 891 S.E.2d 508 (2023)	8, 11
<i>State v. Sweet</i> , 374 S.C. 1, 647 S.E.2d 202 (2007)	7
<i>State v. Torres</i> , 390 S.C. 618, 703 S.E.2d 226 (2010)	9

Rules

Rule 401, SCORE	8, 12
Rule 403, SCORE	8, 12

Other Authorities

National Institutes of Health, <i>Hyperthermia: too hot for your health</i> , https://www.nih.gov/news-events/news-releases/hyperthermia-too-hot-your-health-1 (last visited on September 6, 2024)	4
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QUESTION PRESENTED

Did the Court of Appeals err in finding the Trial Court did not abuse its discretion in admitting unfairly prejudicial photographs of her daughter's corpse with a white sheet and coroner's tag and in finding Petitioner did not preserve the error admitting an irrelevant photograph of an gun found in the vehicle when the photos served no legitimate purpose and were calculated to arouse the sympathies and prejudices of the jury?

STATEMENT OF THE CASE

On August 6, 2020, the Colleton County Grand Jury indicted Petitioner, Rita Pangalangan, for murder. (App. pp. 839 – 840). The Colleton County Grand Jury also indicted Petitioner for great bodily injury on a child (“GBIC”) on October 6, 2022, and Criminal Conspiracy on November 3, 2022. (App. pp. 841 – 844). The Grand Jury also indicted Petitioner’s Co-Defendant, Larry King, for the same offenses.

On August 28, 2023, Petitioner and her co-defendant proceeded to a joint trial before the Honorable Clifton Newman and a jury. (App. p. 6).¹ Dayne Phillips represented Petitioner, John Loy and Gil Gatch represented co-defendant King, and Solicitors Duffie Stone and Sean Thornton prosecuted the case for the State.

On September 1, 2023, the jury returned guilty verdicts against Petitioner and co-defendant King for murder and GBIC, and not guilty verdict for criminal conspiracy. (App. p. 771, line 12 – p. 772, line 25). The Trial Court sentenced Petitioner to thirty-seven years imprisonment for the murder conviction and twenty years imprisonment on the GBIC conviction. (App. p. 818, line 7-10). The Trial Court imposed concurrent sentences. (App. p. 818, lines 11-12).

On September 8, 2023, Petitioner filed a Notice of Appeal. (App. p. 851). Petitioner filed its Final Brief of Appellant on March 25, 2025. (App. 854). The State then filed its Final Brief of Respondent on March 26, 2025. (App. p. 888).

On January 21, 2026, the South Carolina Court of Appeals affirmed Petitioner’s convictions and sentences. *State v. Rita Pangalangan*, Op. No. 2026-UP-018 (S.C. Ct. App. filed January 21, 2026). (App. p. 923). Petitioner filed a Petition for Rehearing on February 5, 2026. (App. p. 929).

¹ There are a significant number of errors in the transcript (e.g., incorrectly listing the speaking party and providing the wrong word that is similar to the correct word).

The Court of Appeals issued an Order denying the Petition for Rehearing on February 9, 2026. (App. p. 934).

On March 31, 2026, Petitioner filed a Petition for Writ of Certiorari to the Court of Appeals. The State filed its Return to the petition on May 8, 2026. This Court issued an Order granting the certiorari “on Petitioner’s Question II as to the photographs of the victim and denied [certiorari] on the remaining questions” on August 12, 2026.

RELEVANT FACTS

On August 5, 2019, Petitioner's thirteen-year-old disabled daughter died from hyperthermia² after being inside Petitioner's car for over five hours in the front yard of co-defendant King's residence. Specifically, co-defendant King asked Petitioner to leave his residence after a disagreement and put her daughter in the car for them to go home. (App. pp. 574 – 575). Co-defendant King testified that the car engine was running, and he believed the air-conditioner was on, or he would not have left Petitioner's daughter in the car. (App. p. 577, lines 4-9).

It is undisputed that Petitioner and co-defendant King left his residence to get another key fob after being unable to open the car doors several hours later, and co-defendant King called a local locksmith for help to unlock the car. (App. p. 618 – 624). Co-defendant King further testified that Petitioner did not want her daughter to die. (App. p. 612). Notably, co-defendant King's home surveillance cameras recorded this incident.

Pre-trial, Petitioner objected to the admission of unfairly prejudicial photographs. (App. p. 200, lines 2-7). The State indicated that they were only going to present photographs of the crime scene. (App. p. 201, lines 9-13; App. p. 202, lines 1-2). Petitioner moved to suppress those photographs:

Specifically, our position is that we move for suppression of the evidence . . . based - - that the photos have little to no probative value, as to any disputed fact, or to an element of murder. . . . [U]nder our 403 objection another case that was recently decided by our Supreme Court, *State v. Jones*, that was filed on March 29th, . . . 'It is well settled - - or well established that photographs that are calculated to arouse the sympathies and prejudice of the jury are excluded, if they're irrelevant and unnecessary with the issues at trial.

And, of course, . . . that the jury would make a decision based on an

² Hyperthermia is an abnormally high body temperature caused by a failure of the heat-regulating mechanisms of the body to deal with the heat coming from the environment. See National Institutes of Health, *Hyperthermia: too hot for your health*, <https://www.nih.gov/news-events/news-releases/hyperthermia-too-hot-your-health-1> (last visited on September 6, 2024).

improper basis, not based on the evidence.

Seeing the photos alone would invoke such a response, that the jury would not base their decision on - - their verdict solely on the evidence, but based on the graphic nature of the photographs, that any probative value of those photographs are substantially outweighed.

(App. p. 204, line 6 – p. 205, line 4). Petitioner further explained the objection to the identified photographs, “[O]ur specific issue is just that a pathologist will be able to testify, explain the injuries, that the State will have other means of evidence that they can present through testimony of the pathologist [and] through the people that were present at the scene.” (App. p. 205, lines 13-21). The Trial Court responded, “All right, we’ll address that issue in the course of the trial.” (App. p. 205, lines 24-25).

At trial, Petitioner renewed the prior objection to the admission of these photographs *in camera*. (App. p. 280, line 15 – 281, line 12). The Trial Court held, “[State’s] Exhibits Number 2 and 4 are admitted over objection, that depict the scene at the time the officers arrived, and being further described through testimony, and that the pictures are not of such a nature the prejudice exceeds probative value.” (App. p. 283, line 25 – p. 284, line 5; State’s Exhibits 2 and 4).

Petitioner subsequently argued for the suppression of State’s Exhibit Numbers 1 and 3:

Based on Your Honor’s decision to admit those two [State’s Exhibits 2 and 4], our argument would be, again, that there’s nothing that testimony can’t provide that’s not already contained within those two photographs that would be highlighted by those.

That is not how she was found at the scene. As the Coroner’s tag has a sheet behind her, [the other photograph] is, obviously, an enhanced photograph with the injuries. These photos are nothing more than to inflame the passion and prejudice of the jury, to have them make a decision on an improper basis, not the evidence themselves[.]

And to me those additional two photographs - - I mean the probative value would be substantially outweighed by its prejudicial effect.

(App. p. 286, lines 5-23; State’s Exhibits 1 and 3) (emphasis added).

The Trial Court ultimately held, “These two photographs 1 and 2 [State’s Exhibit Numbers 1 and 3] are admitted, over objection, to show the bruising on the child, and it further shows the condition at the time. They will be admitted over objection.” (App. p. 288, lines 17-21; App. p. 289, lines 17-24). The Trial Court also admitted photographs, over objection, of an unrelated gun located in a bag that was found in the car and allowed testimony about the gun being loaded. (App. p. 304, lines 21-25; App. p. 306, lines 15-23; App. p. 307, lines 3-7; State’s Exhibits 10 and 11).

During the trial, the State played the *entire* surveillance video recordings for the jury, presented evidence from an expert witness regarding the potential temperatures inside the car at different time intervals, a pathologist to explain the cause and manner of her the Child’s death, and an expert witness to explain the potential effects of methamphetamine use on cognitive impairment and behavior. The State argued that Petitioner and Co-Defendant King were high on methamphetamine at the time of this incident, and that the jurors could infer malice based on reckless conduct.

STANDARD OF REVIEW

“Decisions regarding the admissibility of evidence . . . are within the discretion of the trial court and will not be reversed on appeal absent an abuse of discretion.” *State v. Sweet*, 374 S.C. 1, 4-5, 647 S.E.2d 202, 204 (2007). “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.*, 374 S.C. at 5, 647 S.E.2d at 204-05.

ARGUMENT

- I. **THE COURT OF APPEALS ERRED IN FINDING THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN ADMITTING UNFAIRLY PREJUDICIAL PHOTOGRAPHS OF HER DAUGHTER'S CORPSE WITH A WHITE SHEET AND CORONER'S TAG AND IN FINDING PETITIONER DID NOT PRESERVE THE ERROR ADMITTING AN IRRELEVANT PHOTOGRAPH OF AN GUN FOUND IN THE VEHICLE WHEN THE PHOTOS SERVED NO LEGITIMATE PURPOSE AND WERE CALCULATED TO AROUSE THE SYMPATHIES AND PREJUDICES OF THE JURY.**

Law

Evidence is relevant if it “ha[s] any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 401, SCRE. However, relevant evidence may be excluded where its probative value is substantially outweighed by the danger of unfair prejudice. *See* Rule 403, SCRE. *See State v. Nelson*, 440 S.C. 413, 891 S.E2d 508 (2023) (reversing murder conviction due to the prejudice caused by erroneous admission of gruesome autopsy photographs).

Gruesome photographs are generally relevant if they “depict the bodies of the murder victims in substantially the same condition in which the defendant left them.” *State v. Kornahrens*, 290 S.C. 281, 289, 350 S.E.2d 180, 185 (1986). Relevant photographs, however, are unfairly prejudicial if they “create a ‘tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.’” *State v. Franklin*, 318 S.C. 47, 55, 456 S.E.2d 357, 361 (1995) (quoting *State v. Alexander*, 303 S.C. 377, 382, 401 S.E.2d 146, 149 (1991)). “Rule 403 requires the trial court to balance the probative value of the evidence against the danger of unfair prejudice.” *State v. Heyward*, 441 S.C. 484, 503, 895 S.E.2d 658, 668 (2023).

“[I]t is well-established that photographs calculated to arouse the sympathies and prejudices of the jury are to be excluded if they are irrelevant or unnecessary to the issues at trial.” *State v. Jones*, 440 S.C. 214, 891 S.E.2d 347 (2023) (quoting *State v. Middleton*, 288 S.C. 21, 24,

339 S.E.2d 692, 693 (1986)). This Court has repeatedly admonished Prosecutors for seeking to admit gruesome photographs: “We have long warned the State not to overplay its hand in criminal trials by seeking to admit shockingly graphic photographs that have scant probative value in violation of Rule 403, SCRE, just to inflame the passions of the jury.” *State v. Benton*, 443 S.C. 1, 901 S.E.2d 701 (2024); *see Heyward*, 441 S.C. at 500-03, 895 S.E.2d at 667-68 (explaining “this Court has consistently recognized since at least 1986 that gruesome autopsy photographs carry the inherent tendency to cause an emotional reaction on the part of the jury. . . . In recent years, this Court has scrutinized the admission of gruesome autopsy photographs more and more closely. We will continue to do so.”); *see also State v. Torres*, 390 S.C. 618, 624, 703 S.E.2d 226, 229 (2010) (“Today, we strongly encourage all solicitors to refrain from pushing the envelope on admissibility in order to gain a victory which, in all likelihood, was already assured because of other substantial evidence in the case.”).

A. The Court of Appeals erred in finding the Trial Court did not abuse its discretion in admitting unfairly prejudicial photographs of her daughter’s corpse with a white sheet and coroner’s tag when the photos significantly contributed to the verdict.

In this case, the Court of Appeals erred in finding the Trial Court did not abuse its discretion in admitting unfairly prejudicial photographs of her daughter’s corpse with a white sheet and coroner’s tag when the photos served no legitimate purpose and were calculated to arouse the sympathies and prejudices of the jury, thereby influencing the jury’s verdict on an improper basis. (App. p. 283, line 25 – p. 284, line 5; App. p. 288, lines 17-21; App. p. 289, lines 17-24). *See generally Heyward*, 441 S.C. 484, 895 S.E.2d 658; *Benton*, 443 S.C. 1, 901 S.E.2d 701; *Jones*, 440 S.C. 214, 891 S.E.2d 347.

Petitioner properly moved for suppression of the photographs based on the photos having little-to-no probative value as to any disputed fact, and because the danger of unfair prejudice

substantially outweighed the scant probative value under Rules 401 and 403, SCRE. (App. p. 204, line 6 – p. 205, line 4; App. p. 205, lines 13-21; App. p. 280, line 15 – p. 281, line 12; App. p. 286, lines 5-23; State’s Exhibits 1 and 3). *See generally Heyward*, 441 S.C. at 500-03, 895 S.E.2d at 667-68 (noting “[i]n two recent cases—*Jones* and *Nelson*—we found the trial court erred in admitting gruesome photos because the inherent tendency of the photos to cause unfair prejudice substantially outweighed what we found was very little probative value.”).

Petitioner moved to suppress the photographs and argued as follows:

Specifically, our position is that we move for suppression of the evidence . . . based - - that the photos have little to no probative value, as to any disputed fact, or to an element of murder. . . . [U]nder our 403 objection another case that was recently decided by our Supreme Court, *State v. Jones*, that was filed on March 29th, . . . ‘It is well settled - - or well established that photographs that are calculated to arouse the sympathies and prejudice of the jury are excluded, if they’re irrelevant and unnecessary with the issues at trial.

And, of course, . . . that the jury would make a decision based on an improper basis, not based on the evidence.

Seeing the photos alone would invoke such a response, that the jury would not base their decision on - - their verdict solely on the evidence, but based on the graphic nature of the photographs, that any probative value of those photographs are substantially outweighed.

(App. p. 204, line 6 – p. 205, line 4). Petitioner further explained the objection to the proposed photographs, “[O]ur specific issue is just that a pathologist will be able to testify, explain the injuries, that the State will have other means of evidence that they can present through testimony of the pathologist [and] through the people that were present at the scene.” (App. p. 205, lines 13-21).

Petitioner also provided the following argument for the exclusion of State’s Exhibit Numbers 1 and 3:

Based on Your Honor’s decision to admit those two [State’s Exhibits 2 and 4], our argument would be, again, that there’s nothing that testimony can’t provide that’s not already contained within those two

photographs that would be highlighted by those.

That is not how she was found at the scene. As the Coroner's tag has a sheet behind her, [the other photograph] is, obviously, an enhanced photograph with the injuries. These photos are nothing more than to inflame the passion and prejudice of the jury, to have them make a decision on an improper basis, not the evidence themselves[.]

- And to me those additional two photographs - - I mean the probative value would be substantially outweighed by its prejudicial effect.

(App. p. 286, lines 5-23; State's Exhibits 1 and 3) (emphasis added).

The Court of Appeals erred in finding the Trial Court did not abuse its discretion in admitting unfairly prejudicial photographs because the average juror could understand the extent of the child's gruesome injuries based on the testimony of the responding officer and pathologist (which established an *undisputed fact* that the child died from being inside a hot car for several hours). The only reasonable explanation for admitting those photographs were to highlight the child's horrific injuries and to unfairly enhance the prejudice against Petitioner. Same as in *Nelson*, the photos "could corroborate nothing but the prosecutor's overreach." *Benton*, 443 S.C. at 9, 901 S.E.2d at 705 (referencing *Nelson*, 440 S.C. 413, 891 S.E.2d 508).

Specifically, the photos (1) were not relevant to "depict[] the crime scene", (2) did not aid the State's pathologist in explaining the child's injuries to the jury, (3) did not "assist[] the jury in their task to understand other key evidence" or determining whether Petitioner acted with malice, (4) did not make the credibility of any witness "testimony more believable", and (5) did not give any "important context to the testimony or other evidence about who did what at the scene." *Benton*, 443 S.C. at 9, 901 S.E.2d at 705. Again, the average juror could easily understand the extent of the child's gruesome injuries based on the testimony of the responding officer and pathologist.

The Trial Court also failed to properly engage in balancing "the inherent danger of unfair prejudice posed by these photographs" against the *minimal* probative value, and the record does not

“logically support[] the trial court's finding”. *See generally Heyward*, 441 S.C. at 503, 895 S.E.2d at 668. The Trial provided the following basis in support of its erroneous ruling: “Exhibits Number 2 and 4 are admitted over objection, that depict the scene at the time the officers arrived, and being further described through testimony, and that the pictures are not of such a nature the prejudice exceeds probative value.” (App. p. 283, line 25 – p. 284, line 5; State’s Exhibits 2 and 4). The Trial Court also improperly found, “These two photographs 1 and 2 [State’s Exhibit Numbers 1 and 3] are admitted, over objection, to show the bruising on the child, and it further shows the condition at the time. They will be admitted over objection.” (App. p. 288, lines 17-21; App. p. 289, lines 17-24).

The Trial Court’s erroneous admission of these unfairly prejudicial photographs significantly contributed to the jury’s verdict because the photos of gruesome injuries on a disabled child’s corpse caused from being left in a hot car invoke an unforgettable emotional response that the jury could not ignore and resulted in an decision on an improper basis affecting their verdict. *Jones*, 440 S.C. 214, at 891 S.E.2d at 371 (2023) (“Even if relevant, photographs are unfairly prejudicial if they create a ‘tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.’” (quotation omitted)).

B. The Court of Appeals erred in finding Petitioner did not preserve his objection to an irrelevant photograph of an gun found in the vehicle when it served no legitimate purpose and were calculated to arouse the sympathies and prejudices of the jury.

In this case, the Court of Appeals erred in finding Petitioner did not preserve his objection to an irrelevant photograph of a gun found in the vehicle when it served no legitimate purpose and were calculated to arouse the sympathies and prejudices of the jury. (App. p. 205, lines 5-7; App. p. 304, lines 21-25; App. p. 306, lines 15-23; App. p. 307, lines 3-7; State’s Exhibits 10 and 11). *See* Rules 401 and 403, SCRE. Despite there being absolutely no relevance to the charged criminal offense, the Trial Court erroneously admitted a photograph of an unrelated gun that was located in a bag found in

the car and allowed testimony about the gun being loaded. The State's plan/rationale for admitting the irrelevant photograph of the gun became clear during closing argument: "*If they had walked up to her and shot her, she wouldn't have suffered the pain that she suffered in this case.*" The Trial Court overruled Petitioner's contemporaneous objection. (App. p. 700, lines 2-7) (emphasis added).

Therefore, the Court of Appeals erred in finding the Trial Court did not abuse its discretion in admitting unfairly prejudicial photographs of her daughter's corpse with a white sheet and coroner's tag and in finding petitioner did not preserve the error admitting an irrelevant photograph of an gun found in the vehicle when the photos served no legitimate purpose and were calculated to arouse the sympathies and prejudices of the jury.

CONCLUSION

Based on the foregoing reasons, Petitioner respectfully requests this Court reverse her convictions and sentences and remand the case to the Colleton County Court of General Sessions for a new trial.

Respectfully submitted,

s/ Dayne Phillips



Dayne C. Phillips, Esq.
SC Bar No. 77712
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, SC 29201
(803) 807-0234

Attorney for Petitioner

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