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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County
The Honorable B. Alex Hyman, Circuit Court Judge
Appellant Case No. 2025-000135

THE STATE, RESPONDENT,

v.

CHARLES WILLIAM MURPHY, JR, APPELLANT

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. The trial judge erred in denying Appellant's motions for directed verdicts on the murder and weapon charges filed against him because there was insufficient substantial circumstantial evidence presented by the state to convict on the charged offenses in the case.

2. The trial judge erred in allowing inflammatory photographs into evidence at trial, particularly where the prejudice was exacerbated by the existence of insufficient substantial circumstantial evidence presented by the state in the case, and where the jurors in effect acknowledged an absence of proof of guilt on the charges via two inquiries raised regarding whether a retrial would result if not guilty verdicts were found and whether an appeal would follow any guilty verdicts.

RESPONDENT'S COUNTERSTATEMENT OF ISSUES ON APPEAL

1. Did the trial judge err in denying Appellant his motion for directed verdict when the court is obligated to view the evidence in the light most favorable to the State, and the court also must look at the existence of evidence and not its weight? Was there plenty of circumstantial evidence revealed by the State for the court to allow this case to go to the jury for a verdict?

2. Did the trial court err in allowing autopsy photographs into evidence when the probative value greatly outweighed any prejudice that might have occurred, and the photographs corroborated the testimony of the medical examiner as to the method and cause of death of the victim?

STATEMENT OF THE CASE

On June 29, 2022, Charles William Murphy, Jr. (Appellant) was arrested and charged with the offenses of murder and possession of a weapon during the commission of a violent crime. The Horry County Grand Jury indicted the Appellant for both offenses on November 9, 2022.

On January 14, 2025, the Appellant along with his counsel Kia Wilson appeared before the Honorable B. Alex Hyman for a jury trial on both offenses. Representing the State of South Carolina were Assistant Solicitors James Stanko and Anthony DiChiara of the Fifteenth Circuit Solicitor's Office.

After two days of testimony, a jury of his peers found the Appellant guilty of both charges. After the reading of the verdict the Appellant appeared before the trial judge for sentencing. The trial judge proceeded to sentence the Appellant to a term of incarceration for the remainder of his natural life for murder and five years for possession of a weapon during the commission of a violent crime. (R. p. 229 l. 21-25). These sentences are to be served concurrently.

While serving his sentence the Appellant filed a timely notice of appeal in this Court. The brief of the Respondent supporting their argument follows.

STATEMENT OF THE FACTS

On Monday, May 9, 2022, Corporal Kenneth Canterbury of the Horry County Police responded to a scene of a person shot. When Corporal Canterbury arrived, EMS informed him that Teresa Lischer, (victim) was deceased lying in the floor in the master bedroom. The Appellant was in the house sitting on a couch in the living room. (R. p. 19 l. 10-11). The Appellant told Corporal Canterbury that he last saw the victim that Friday night May 6. During the investigation law enforcement got the Appellant to go to police headquarters where he gave officers his shirt, shoes, hat, and all of the contents in his pockets to be tested for gunshot residue (GSR). (R. p. 55 l. 9-12). Law enforcement also requested from the United States Marshalls a K-9 trained in explosives and firearm location. (R. p. 58 l. 1-6). While searching the house, law enforcement also found a t-shirt in the washing machine, it was also taken into evidence for GSR testing as well. (R. p. 60 l. 9-11).

Even though the Appellant told law enforcement the last time he saw the victim was that Friday, video from the Ring camera from a neighbor's house revealed Appellant was at the house that Saturday. (R. p. 36 l. 11-14). There was also testimony from the victim's best friend Valerie Wandtke, who stated that she spoke with the victim on the phone that Saturday evening. (R. p. 66 l. 10-13). Ms. Wandtke stated that during the call she could hear the Appellant yelling in the background. (R. p. 67 l. 3-14). Ms. Wandtke also testified that the victim told her that the Appellant was yelling in the background. (R. p. 67 l. 15-16). Ms. Wandtke also heard smashing and the Appellant yelling. (R. p. 68 l. 2-4).

Dr. Angelina Phillips forensic pathologist also testified as to the means and cause of death of the victim. Dr. Phillips was found qualified as an expert in the field of forensic pathology. (R. p. 163 l. 10-11). Dr. Phillips testified that there was bruising on the victim's upper abdomen. (R. p. 165 l. 13-14). This bruising was caused by a blunt object. (R. p. 165 l. 18-20). Dr. Phillips noted

that there were three defects on the side of the victim's head. These were gunshot wounds from shotgun pellets. (R. p. 166 l. 15-20). Dr. Phillips found that the injuries on the side of the victim's head were gunshot wounds that went through the skull into the cranial cavity injuring the brain. (R. p. 169 l. 21-24). Dr. Phillips testified that the injuries to the victim's brain would have caused death within seconds. (R. p. 170 l. 18-19). Dr. Phillips's conclusion was that the victim's cause of death was a shotgun wound to the head. (R. p. 170 l. 22-23).

ARGUMENTS

1. **The trial judge did not err in denying Appellant's motion for a directed verdict since the court is obligated to review the evidence in the light most favorable to the State and the court must look at the existence of evidence and not its weight and there was ample circumstantial evidence for this case to be given to the jury for a decision regarding innocence or guilt.**

Relevant Facts

At the conclusion of the State's case, Appellant made a motion for a directed verdict. It was his position that the State failed to reveal any competent evidence revealing that he was the person that actually killed the victim. (R. p. 173 l. 9-11). The Appellant felt that the State presented bits and pieces of evidence but none of the evidence directly linked him to the killing of the victim. (R. p. 173 l. 11-13). The Appellant further argued that there were multiple witnesses, however, none of them directly tied the Appellant to this murder. (R. p. 174 l. 7-9). At the conclusion of this argument the trial judge decided that in looking at the evidence in the light most favorable to the State, and based on the evidence presented, though it was circumstantial, the jury could find the Appellant innocent or guilty from the evidence provided. (R. p. 174 l. 14-19). The trial judge decided to deny Appellant's motion for a directed verdict.

Standard of Review

In criminal cases the appellate court sits to review errors of law only. *State v. Wilson,* 345 S.C. 1, 5, 545 S.E.2d 827 (2001). When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence not its weight. *State v. Morgan,* 352 S.C. 359, 364, 574 S.E.2d 203, 205 (Ct. App. 2002). On appeal from the trial court's denial of a motion for a directed verdict, the appellate court may only reverse the trial court if there is no evidence to support the trial court's ruling. *State v. Lindsey,* 355 S.C. 15, 20, 583 S.E.2d 740, 742 (2003). When reviewing a denial of a directed verdict at the trial level, the appellate court, "views the evidence and all reasonable inferences in the light most favorable to the State," *State v. Bennett,* 415 S.C. 232, 235, 781 S.E.2d 352, 353 (2016). In criminal cases, the appellate court is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Blackwell-Selim,* 392 S.C. 1, 3, 707 S.E.2d 426 (2011). Trial court's decision will not be disturbed on appeal absent a clear showing of an abuse of discretion. *Mitchell Supply Co. v. Gaffney,* 297 S.C. 160, 162-63, 375 S.E.2d 321, 322-23 (Ct. App. 1988). An abuse of discretion occurs when the trial court's order is controlled by an error of law or when there is no evidentiary support for the trial court's factual conclusions. *Stokes – Craven Holding Corp. v. Robinson,* 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016).

Discussion

Appellant argues that the trial judge should have granted his directed verdict. The Appellant argues that he was denied a directed verdict wrongfully due to the fact there was insufficient circumstantial evidence proving that he committed this murder. The Respondent argues that there was sufficient circumstantial evidence that was presented to allow the jury to make a decision regarding innocence or guilt. The Appellant argued that there was no direct evidence revealing

proof that he killed the victim. However, there was a magnitude of circumstantial evidence pointing to no one else but the Appellant as the person who committed this crime.

During the trial Corporal Kenneth Canterbury testified that when he arrived at the scene the victim was lying in the doorway with feet inside of the master bedroom and with her head pointing toward the bedroom. (R. p. 22 l. 12-14) There was a pool of blood under her head that appeared to be dried. (R. p.24 l. 21-23). The victim's dog was present in the house. However, no dog feces or urine was found in the house. It appeared as though the dog was not left alone all weekend. (R. p. 23 l. 20-25). Appellant informed Corporal Canterbury that he had not seen the victim since that Friday night. (R. p. 23 l. 8-11).

Officer Stephenson, the crime scene investigator, testified that he found no forced entry in any door of the house. (R. p. 72 l. 18-20). He also found the barrel of a 12-gauge shotgun under the bed in the master bedroom. (R. p. 90 l. 4-5). Dr. Phillips, the forensic pathologist who performed the autopsy, testified that she recovered from the victim three round projectile fragments consistent with shotgun pellets. (R. p. 170 l. 2-3; l. 8). Officer Stephenson also obtained the Appellant's tan hat, yellow t-shirt, a pair of shorts, a pair of tennis shoes, and a black t-shirt. (R. p. 92 l. 4-11). After doing a preliminary GSR examination he found GSR on the Appellant's hat, shorts, and black t-shirt. (R. p. 93 l. 18-23). Nicole Wildeboer, who was found qualified as an expert in gunshot residue analysis, also tested these items. Agent Wildeboer found GSR on the Appellant's shorts and the exterior of his hat. (R. p. 154 l. 24 – p.155 l. 3; l. 16-17)

The Appellant informed law enforcement that he got into an argument with the victim on Friday and left her house and was gone all day Saturday. (R. p. 182 l. 23 – p. 183 l. 1). Petitioner informed the officers that he did not return to the victim's house until Sunday evening around 7:00 pm to 8:00 pm. (R. p. 183 l. 1-4). However, a neighbor of the victim Mr. Phillip Greene, knew

Appellant lived with the victim. (R. p. 28 l. 17-20). On Saturday, May 7, 2022, Mr. Greene's ring camera revealed the Appellant getting out of his vehicle at the victim's residence. Mr. Greene testified that the person getting out of the vehicle was wearing a fluorescent-colored shirt which was what the Appellant always wore. (R. p. 36 l. 11-14). Victim's friend Valerie Wandtke testified that in the past she had multiple conversations with the Appellant in person and on the phone, so she knew what the Appellant's voice sounded like. (R. p. 65 l. 20-24). Ms. Wandtke stated that she called the victim on Saturday evening and she heard the Appellant yelling. (R. p. 67 l. 3-14). The victim also told her the person in the background yelling was the Appellant. (R. p. 67 l. 15-16). Ms. Wandtke also testified that she heard smashing and the Appellant yelling. (R. p. 68 l. 2-4). Agent Robert Carrillo of the United States Marshall's office testified that he did see broken glass when he entered the victim's home. (R. p. 134 l. 16-17).

Agent Carrillo, who works in the explosive's detection K-9 unit was requested to bring his dog "Mam" to the crime scene. Agent Carrillo was brought in to detect any GSR or weapon that may have been in the Appellant's vehicle. Agent Carrillo testified that his dog discovered the scent of a weapon in the Appellant's vehicle. (R. p. 131 l. 21-22). The dog alerted to the smell of GSR at the hatchback and gear shift of the Appellant's vehicle. (R. p. 132 l. 17-19; 133 l. 3-4).

Though all circumstantial, the State presented sufficient evidence for this case to be presented to the jury. Circumstantial and direct evidence inherently possess the same probative value. *State v. Cherry,* 361 S.C. 588, 600, 606 S.E.2d 475, 483 (2004). Though this case relies totally on circumstantial evidence, the amount of evidence pointing to the Appellant's guilt is overwhelming. When a motion for a directed verdict is made in a criminal case, where the State relies exclusively on circumstantial evidence, "the trial judge is required to submit the case to the jury if there is any substantial evidence which reasonably tends to prove guilt of the accused, or

from which his guilt may be fairly and logically deduced." *State v. Lollis,* 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001), *quoting, State v. Mitchell,* 341 S.C. 406, 535 S.E.2d 126 (2000).

In other cases where courts have determined that a directed verdict should have been granted, no evidence existed linking the defendant to the crime. *State v. Schrock,* 283 S.C. 129, 322 S.E.2d 450 (1984) (Directed verdict should have been granted when no evidence at the crime scene of an arson could be linked to the defendant). *State v. Bostick,* 392 S.C. 134, 708 S.E.2d 774 (2011) (Trial court erred in not granting a directed verdict when items from the victim found in a burn pile could not be linked to the defendant). *State v. Odems,* 395 S.C. 582, 720 S.E.2d 48 (2011) (Directed verdict should have been granted when the only evidence was the defendant being found with the stolen items ninety minutes after the burglary occurred). In the present case there was sufficient evidence linking the Appellant to the crime. The Appellant stated to law enforcement that he was away from the residence from Friday evening until Sunday evening however, there is a video of him being at the residence on Saturday, and the victim's best friend heard him in the background during a phone conversation on Saturday evening. GSR was found on the Appellant's clothing and inside of his vehicle. And the victim was found near a barrel of a 12-gauge shotgun at the crime scene. The victim was killed by a shotgun. There was also no evidence of forced entry. South Carolina law is clear that for a directed verdict the court must look at the evidence in favor of the non-moving party, which is the State in criminal cases. The law also states that the court must look at the existence of evidence and not its weight. If evidence of guilt exists, and that evidence was properly presented in order to make a determination as to innocence or guilt, that determination should not be taken from the jury. The trial judge was correct in the denial of a directed verdict in the present case.

2. **The trial court did not err in allowing autopsy photographs into evidence because the probative value of these photographs outweighed any prejudice that it might have caused and these photographs corroborated the testimony of the medical examiner as to the manner and cause of death of the victim.**

Relevant Facts

The State attempted to get into evidence State exhibits #33, and 80-83. Exhibit #33 was a photograph of the victim lying on the floor of her home in the hallway near the master bedroom. Exhibits #80-83 were autopsy photographs of the victim. The Appellant did not want any of the photos into evidence because he thought that these photos were only being introduced to inflame the jury's emotions. Appellant argued that these photographs were more prejudicial than probative. At the conclusion of his argument the trial judge allowed exhibits #33 and 80 a photo of the stippling marks from the gun on the victim's face into evidence. The trial judge ordered that out of exhibits 80-83 only one would be allowed into evidence and that that photo had to be in black and white. The State decided to admit photo 83A, a black and white closeup photo of the victim's gunshot wounds without the victim's face being visible in the photo.

Standard of Review

The materiality, relevance and admissibility of evidence are within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion. *State v. Rosemond,* 335 S.C. 593, 596, 518 S.E.2d 588, 589 (1999). An abuse of discretion occurs when the conclusions of the trial court lack evidentiary support or are controlled by an error of law. *State v. Anderson,* 386 S.C. 120, 126, 687 S.E.2d 35, 38 (2009). A trial judge's decision regarding comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. *State v. Collins,* 409 S.C. 524, 763 S.E.2d 22, 28 (2014). The relevancy, materiality and admissibility of photographs as evidence are matters left to sound discretion of the trial court. *State v. Nance*, 320 S.C. 501, 508, 466 S.E.2d 349, 353 (1996). If the offered photograph

serves to corroborate testimony, it is not an abuse of discretion to admit it. *Id.* A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. *State v. Lyles,* 379 S.C. 328, 338, 665 S.E.2d 201, 207 (Ct. App. 2008)(internal quotations marks omitted).

Discussion

Appellant argued that the photographs introduced into evidence were more prejudicial than probative. Appellant also argues that these photos were too, "explicit for presentation," (15 R. p. 138 l. 6-7) and were not a proper for presentation for the jury. The victim was shot at close blank range with a shotgun, so this murder was gruesome as most murder cases are. But within the gruesomeness is evidence of the very element of malice that the State must prove. The more essential the evidence, the greater its probative value. *State v. Gray,* 408 S.C. 601, 759 S.E.2d 160, 165 (Ct. App. 2014), *quoting, United States v. Stout,* 509 F.3d 796, 804 (6th Cir. 2007) (internal quotation marks omitted). These photos corroborate the testimony of Dr. Phillips, the forensic examiner, and reveal the element of malice that must be revealed by the State to prove murder. Therefore, these photos are relevant and admissible.

"To constitute *unfair* prejudice, the photographs must create a 'tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.'" *State v. Kelley*, 319 S.C. 173, 178, 460 S.E.2d 368, 370-71 (1995) (quoting *State v. Alexander*, 303 S.C. 377, 377, 401 S.E.2d 146, 149 (1991))(emphasis added)."The evaluation of probative value cannot be made in the abstract, but should be made in the practical context of the issues at stake in the trial of each case." *Gray*, 408 S.C. at 610, 795 S.E.2d at 165. Here, the photographs were used to specifically demonstrate, explain, and corroborate the evidence of how the victim was murdered

which, in turn, revealed the existence of malice. In discussing similar evidentiary rulings in their cases, the Pennsylvania courts have often quoted:

> A criminal homicide trial is, by its very nature, unpleasant, and the photographic images of the injuries inflicted are merely consonant with the brutality of the subject of inquiry. To permit the disturbing nature of the images of the victim to rule the question of admissibility would result in exclusion of all photographs of the homicide victim and would defeat one of the essential functions of a criminal trial, inquiry into the intent of the actor. There is no need to so overextend an attempt to sanitize the evidence of the condition of the body as to deprive the Commonwealth of opportunities of proof in support of the onerous burden of proof beyond a reasonable doubt. Further, the condition of the victim's body provides evidence of the assailant's intent, and, even where the body's condition can be described through testimony from a medical examiner, such testimony does not obviate the admissibility of photographs.

Com. v. Robinson, 864 A.2d 460, 502 (Pa. 2004) (quoting *Com. v. Rush*, 646 A.2d 557, 560 (Pa. 1994)).

The Georgia courts have concisely rejected an argument on unfair prejudice on the basis of its own paradox: "…a defendant cannot complain about photographs that simply 'portray the havoc wreaked by [his] own hand.'" *McKibbins v. State*, 750 S.E.2d 314, 322 (Ga. 2013) (quoting *Null v. State*, 402 S.E.2d 721 (Ga. 1991)). Appellant's malice in this killing is aptly demonstrated by the photos admitted into evidence.

"Malice, that's hatred, ill will, hostility towards another person… an intent to inflict an injury or under circumstances that the law will infer an evil intent … Malice can be inferred from conduct showing a total disregard for human life." (R. p. 283, line 9 – p. 284, line 3). *See State v. Jones*, 86 S.C. 17, 19-20, 67 S.E. 160, 162 (1910) (approving charge that "[m]alice ... may be implied from brutal conduct on the part of the person committing the crime...."). See also 40 C.J.S. Homicide § 46 (April 2016 Update) ("The fact that cruelty or brutality was manifested in the killing

will raise an inference of malice…."). These photos reveal that what the Appellant did to the victim must be considered malicious.

Further still, the photographs corroborated the forensic examiner's testimony on how the victim was murdered, and how close the murder weapon was to the victim's head when fired, which revealed malice. During the trial Dr. Phillips testified:

> "Yes. So this is a photograph taken at the time of autopsy of the right side of her face looking straight on the right side as she's lying face up. And it is showing some red spots scattered across the right side of her face. And those spots are small abrasions that you see called stippling. They happen with burning gunpower and material coming out the end of a gun getting deposited on the skin, and it gives you a clue as to somewhat imprecise range of how far away the weapon was when it was fired towards her." (R. p. 167 l. 10-18).

Consequently, there were necessary reasons to submit these photographs, namely for the corroborative value. *State v. Torres*, 390 S.C. 618, 623, 703 S.E.2d 226, 229 (2010) ("'If the offered photograph serves to corroborate testimony, it is not an abuse of discretion to admit it.'") (quoting *Nance*, 320 S.C. at 508, 466 S.E.2d at 353); *State v. Martucci*, 380 S.C. 232, 250, 669 S.E.2d 598, 607 (Ct.App. 2008) ("Admitting photographs which serve to corroborate testimony is not an abuse of discretion."). *See also State v. Kelsey*, 331 S.C. 50, 76, 502 S.E.2d 63, 76 (1998) (photographs of various bone and bomb fragments and clothing found at crime scene were admissible in murder prosecution to corroborate testimony concerning condition of victim's body as first discovered by police at crime scene, and location of bone and bomb fragments supported testimony that bomb had been detonated in victim's mouth); *State v. Edwards*, 10 S.E.2d 587, 588 (1940) ("In our opinion the trial Judge did not abuse his discretion in admitting the photograph [depicting head, torso, neck wound, decomposition and maggots] as being relevant, nor can we attach any importance, in view of the facts of this case, to the contention that the photograph prejudiced the jury against the defendant. Everything depicted by the photograph was, subsequent to its

introduction, testified to in detail by the witnesses."). At any rate, the proper question for determining relevance was whether the photographs had "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

It has long been established that "[a] trial judge is not required to exclude relevant evidence merely because it is unpleasant or offensive." *Martucci*, 380 S.C. at 250, 669 S.E.2d at 607. *See also Farris v. State*, 328 So.2d 640, 641 (Ala.Crim.App. 1976) ("The colored photograph in question is clearly ghastly; but, gruesomeness is not grounds for excluding this type of evidence, if relevant. … This photograph was properly admitted into evidence notwithstanding the unpleasant subject matter. We cannot, and should not, gloss over the fact that violent death is itself loathsome."). Simply, gruesomeness alone does not render the photograph inadmissible. *Collins,* 409 S.C. at 535–36, 763 S.E.2d at 28.

Appellant within their brief quoted extensively the South Carolina Supreme Court opinion of *State v. Collins,* 409 S.C. 524, 763 S.E.2d 22 (2014). It was stated in the concurring opinion,

> I fully understand there are circumstances where autopsy photographs are relevant, and that the relevance of the photographs is not substantially outweighed by the danger of unfair prejudice.

Collins, 409 S.C. at 539, 763 S.E.2d at 30 (Kittredge J. Concurring).

The one important feature that the present case has that *Collins* did not was the elements of the crime. In *Collins* Appellant was indicted for involuntary manslaughter and three counts of owning a dangerous animal. *Id.,* 409 S.C. at 529, 763 S.E.2d at 25. Neither of those offenses has malice as an element, therefore, malice was not an element the State was obligated to prove. In murder the State must prove that the Appellant acted maliciously in order for a jury to convict him of murder. In *State v. Torres,* 390 S.C. 618, 703 S.E.2d 226 (2010) a capital murder case, the South Carolina

Supreme Court decided that "autopsy photographs may be presented to the jury in an effort to show the circumstances of the crime and character of the defendant." *Torres,* 390 S.C. at 623, 703 S.E.2d at 229, *citing, State v. Rosemond,* 335 S.C. 593, 597, 518 S.E.2d 588, 590 (1999). In order to prove the element of malice these photos were relevant evidence. These photos revealed the malicious actions of the Appellant. He placed a shotgun near the head of the victim pulling the trigger. During her testimony Dr. Phillips also stated:

> "In general, it can vary the range depending on the weapon and the type of ammunition used. When you see stippling on the skin it can be anywhere from under a foot out towards three feet from the body. So up to 36 inches away, you can still see stippling on the body. So anywhere within that range you'd expect to see stippling." (R. p. 168 l. 8-13).

The actions of the defendant are what is used to prove malice. These photographs were not introduced to inflame the jury's emotions but to prove the malice involved in committing this murder.

The State was also obligated to place these photographs into evidence in order to corroborate the testimony of Dr. Phillips. In *State v. Holder,* 382 S.C. 278, 676 S.E.2d 690 the South Carolina Supreme Court held, "if the offered photograph serves to corroborate testimony it is not an abuse of discretion to admit it." *Id.,* 382 S.C. at 290, 676 S.E.2d at 697, *quoting, Nance,* 320 S.C. at 508, 466 S.E.2d at 353. The testimony of Dr. Phillips was essential to prove malice, Dr. Phillips testified that the victim was shot at close range by a shotgun. It was essential that these photographs were allowed to be introduced in order to corroborate her testimony.

The trial court took great lengths not to make these photographs prejudicial. The State wished to put into evidence more photographs. Some of the photographs were disallowed by the trial judge. The trial judge ordered that the photograph revealing the injuries of the victim could only be allowed into evidence if it was in black and white. These photographs were introduced by

the State not to stir up emotions of the jury, but to prove an essential element of the crime and to corroborate testimony. These are reasons the Court has ruled in past opinions that it is lawful to place such photographs into evidence. Therefore, Appellant has not revealed any error made by the trial judge. The decision to include these relevant non-prejudicial photographs should be affirmed.

CONCLUSION

Based on the foregoing reasons, the State submits the trial judge was correct in the denial of a motion for directed verdict, and allowing relevant photographs into evidence. Respondent respectfully requests the decision of the trial judge be affirmed by this Court.

Respectfully submitted,

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