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Oct 14 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTERA TORACE SIRIWAT,

APPELLANT

APPELLATE CASE NO. 2025-001617

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

I. Did the trial court err by admitting video and photo evidence that showed the bloodied body of decedent over defense counsel's Rule 403, SCRE objection where the minute probative value of this evidence was substantially outweighed by undue prejudice?

II. Did the trial court err by refusing to suppress appellant's statement where he was improperly induced to give a written statement after unequivocally invoking his right to counsel?

STATEMENT OF THE CASE

On February 16, 2022, a Kershaw County grand jury indicted appellant for murder and possession of a weapon during the commission of a violent crime. Indictments. On March 17, 2025, appellant appeared before the Honorable Thomas W. McGee for an Immunity hearing. March 17, Tr. 1. Kris Hines and Andrew Privette represented appellant. March 17, Tr. 2. Dale Scott, Michael Bradbury, and Curtis Pauling, III, prosecuted for the state. March 17, Tr. 2. Judge McGee denied appellant's motion for Immunity from Prosecution pursuant to the Protection of Persons and Property Act.¹ March 17, Tr. 216-220. Following the hearing appellant's case went to trial before Judge McGee, and a jury. After deliberating the jury was deadlocked and Judge McGee declared a mistrial. March 17, Tr. 777—779.

On August 4-6, 2025, appellant's case was called to trial before the Honorable Heath Taylor, and a jury. Tr. 1. Kris Hines and Andrew Privette represented appellant. Tr. 1. Dale Scott and Michael Bradbury prosecuted for the state. Tr. 1.

The jury found appellant guilty as indicted. Tr. 600, l. 17—601, l. 4. Judge Taylor gave appellant a life sentence. Tr. 616, ll. 10-16.

This appeal follows.

¹ S.C. Code Ann. § 16-11-450

STATEMENT OF FACTS

On December 17, 2020, appellant shot and killed his mother's boyfriend, Vidal Bastian, in self-defense. Early that morning appellant's mother, Melania Hudson, got off work and he, Hudson, and Bastian were drinking together and talking. Tr. 366, ll. 15-22; 367, l. 13—368, l. 2. Bastian and appellant got into a debate about anime characters that became heated. Tr. 368, ll. 7-22. During the verbal argument Bastian threatened to punch appellant in the face. Tr. 369, ll. 4-8. Appellant and Bastian moved to different rooms in the house but continued to bicker back and forth. Tr. 368, l. 22-369, l. 2. After Bastian verbally threatened appellant, appellant went to his bedroom and got his handgun. Tr. 373, ll. 2-12. At some point Bastian began throwing things around the Hudson's bedroom.² Tr. 370, ll. 3-23. Hudson asked Bastian to leave twice and he refused. Tr. 371, ll. 2-15. Appellant also asked Bastian to leave and offered to take him and his belongings elsewhere. Tr. 371, l. 20—372, l. 5; 375, ll. 17-24. As appellant crossed the room to gather Bastian's belongings Bastian lunged at him and grabbed him. Appellant at that moment fearing for his life shot Bastian. Tr. 377, l. 3-382, l. 5. After shooting Bastian appellant called 911 and helped direct officers to Bastian when they arrived. Tr. 382, ll. 15-17; 383, ll. 1-23.

Appellant was twenty-two at the time of the incident. Tr. 365, ll. 6-8. Testimony at trial demonstrated Bastian was large and weighed 200 pounds more than appellant. Tr. 299, ll. 15-21; 377, l. 22-378, l. 1; 391, ll. 8-14.

Hudson's testimony corroborated appellant's version of events leading up to the shooting. Tr. 351-355; 362-363. She contended Bastian refused to leave when asked. Tr. 352, l. 7—353, l. 5. However, Hudson was not in the house when the physical altercation happened resulting in the shooting. Tr. 363, l. 14—364, l. 4.

² The state alleged Bastian lived in the home, but appellant and Hudson testified he just stayed there frequently.

The state alleged appellant murdered Bastian because he called appellant a liar during their argument over anime characters. Tr. 456, ll. 13-19; 457, ll. 2-24. Appellant initially lied to police and told police another man was the shooter. Tr. 448, l. 13—449, l. 13. He continued this story until confronted by Investigator Jarrett Greenway with multiple facts including that Bastian named him as the shooter in the ambulance. Tr. 460, l. 14—461, l. 16.

STANDARD OF REVIEW

I. “The admission of evidence is within the circuit court's discretion and will not be reversed on appeal absent an abuse of that discretion.” *State v. Dickerson*, 395 S.C. 101, 116, 716 S.E.2d 895, 903 (2011). “A trial court has particularly wide discretion in ruling on Rule 403 objections.” *State v. Lee*, 399 S.C. 521, 527, 732 S.E.2d 225, 228 (Ct. App. 2012); see also *State v. Dial*, 405 S.C. 247, 260, 746 S.E.2d 495, 502 (Ct. App. 2013) (“A trial judge's decision regarding the comparative probative value and prejudicial effect of relevant evidence should be reversed only in exceptional circumstances.” (citation omitted)).

II. “On appeal, the conclusion of the trial judge on issues of fact as to the voluntariness of a confession will not be disturbed unless so manifestly erroneous as to show an abuse of discretion.” *State v. Rochester*, 301 S.C. 196, 200, 391 S.E.2d 244, 247 (1990); see also *State v. Reed*, 332 S.C. 35, 43, 503 S.E.2d 747, 751 (1998). Put another way, the reviewing court will reverse a trial judge’s ruling on the voluntariness of the confession when the ruling is “so erroneous as to constitute an abuse of discretion.” *State v. Myers*, 359 S.C. 40, 47, 596 S.E.2d 488, 492 (2004). “In criminal cases, appellate courts are bound by fact finding in response to preliminary motions where there has been conflicting testimony or where the findings are supported by the evidence and not clearly wrong or controlled by an error of law.” *State v. Asbury*, 328 S.C. 187, 193, 493 S.E.2d 349, 352 (1997).

ARGUMENT

I. The trial court erred by admitting video and photo evidence that showed the bloodied body of decedent over defense counsel's Rule 403, SCRE objection where the minute probative value of the evidence was substantially outweighed by undue prejudice.

Relevant facts

Defense counsel objected to the state's admission of state's exhibit 2, a body worn camera video depicting Bastian still alive, bleeding, and moaning in pain. Counsel asserted if there were any probative value in the video it would be substantially outweighed by undue prejudice to appellant. Tr. 34, l. 15—35, l. 4. The solicitor asserted the video was probative because the layout of the room was “extremely important” and the state was trying “to depict what the room looked like” and how Bastian was positioned. He contended there were no photographs of Bastian in that position. Tr. 35, ll. 6-21; 36, l. 2—37, l. 8. Defense counsel suggested there were photographs of the room that did not include Bastian bleeding and moaning. Tr. 37, ll. 10-23.

The trial court permitted the video but redacted the audio. The court ruled the video was not as graphic as autopsy photographs and “any prejudicial value to the defendant is not outweighed by the probative value.” Tr. 38, ll. 6-18.

The video was admitted and played for the jury during former officer Meagan Wilson's testimony over defense counsel's objection. Tr. 142, l. 4—143, l. 13. The video was played again during officer Michael Hinson's testimony. Tr. 190, l. 24—191, l. 14.

Later, defense counsel objected to state's exhibit 26, photograph, under Rule 403, SCRE. Counsel argued the graphic photograph of Bastian was unduly prejudicial and should be excluded. Tr. 240, l. 22—241, l. 6. The solicitor argued it was “quite relevant” because of the

distance between the bed and the television in the room. Tr. 241, ll. 8-16. The court admitted the photograph finding there was not “anything of any gruesome or horrific nature.” Tr. 17-23.

Discussion

Neither the video nor the photograph have any probative value in this case. As much as the state endeavored to make the position of Bastian’s body an issue it was not at issue in this trial. It is uncontroverted that Bastian was still alive for a few hours after he was shot and therefore was likely moving a bit on the bed in the room where he was found by police. The photograph shows two officers attempting to help Bastian. Thus he was no longer in the same position as he was found. Neither was the size of the room or the distance between the bed and the televisions at issue in this case. The sole factual dispute for the jury to resolve was whether appellant shot and killed Bastian in self-defense. This evidence served one singular purpose, to stir the emotions of the jury and encourage a decision on an improper basis.

“Photographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are irrelevant or unnecessary to substantiate material facts or conditions.” *State v. Torres*, 390 S.C. 618, 623, 703 S.E.2d 226, 228 (2010) (citing *State v. Brazell*, 325 S.C. 65, 78, 480 S.E.2d 64, 72 (1997)). Rule 403 of the South Carolina Rules of Evidence provides that even relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.” Photographs are unfairly prejudicial when they have a “tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.” *Id.* (citing *State v. Franklin*, 318 S.C. 47, 55, 456 S.E.2d 357, 361 (1995)).

In *State v. Collins*, 409 S.C. 524, 763 S.E.2d 22 (2014), autopsy photographs of a child who had been killed by defendant’s dog were admitted. In that case, the Court found that the trial court did not abuse its discretion in admitting the photographs because the photographs were

highly probative, corroborative, and material in establishing the elements of the offenses charged.” *Collins*, 409 at 535, 763 at 28. *Collins* is distinguishable from this case because neither state’s exhibit 2 or state’s exhibit 26 were necessary to substantiate a material fact or condition. There was no factual dispute that appellant shot and killed decedent only whether appellant shot in self-defense. Thus this video and photo have little to no probative value.

In *State v. Middleton*, 288 S.C. 21, 24, 339 S.E.2d 692, 693 (1986), the Court held the trial court erred in admitting three color autopsy photographs of one of the victims in this capital murder trial. Although the photographs were used to corroborate other evidence, the trial judge erred in permitting their introduction because they were unfairly prejudicial. “[T]he information contained within the photographs was not really at issue.” Additionally, “any arguable evidentiary value of the photographs” was negated by the forensic pathologist’s testimony. *Id.*

In a more recent case the South Carolina Supreme Court found it was reversible error for autopsy photographs to be admitted over defense counsel’s Rule 403, SCRE objection where the photographs had little probative value as to any disputed fact. *State v. Nelson*, 440 S.C. 413, 891 S.E.2d 508 (2023). The *Nelson* Court analogized that case with *Middleton*, “wherein this Court noted the autopsy photographs in question had little, if any, evidentiary value because the information depicted in the photos was not in dispute and the scant evidentiary value they did contain was negated by the forensic examiner’s testimony.” *Nelson*, 440 S.C. at 424, 891 S.E.2d at 513 (citing *Middleton*, 288 S.C. at 24, 339 S.E.2d at 693).

The video and picture in this case are not from the autopsy but they do depict Bastian bloodied and a bloody scene. The trial court abused its discretion by admitting state’s exhibits 2, video and 26, photograph, because they were not probative and their only purpose was to create an emotional response in the jurors and suggest a decision on an improper basis.

II. The trial court erred by refusing to suppress appellant's statement where he was improperly induced to give a written statement after unequivocally invoking his right counsel.

Relevant facts

Prior to the start of trial a *Jackson v. Denno*,³ hearing was held to determine the admissibility of appellant's verbal and written statements to police. Tr. 42-83. Investigator Jarrett Greenway testified that he spoke with appellant both at the scene and then later at the sheriff's office. Tr. 46, ll. 1-6. Greenway testified that he explained to appellant his *Miranda*⁴ rights and appellant agreed to continue to speak with him. Tr. 46, ll. 18—49, l. 13. However, when he confronted appellant about searching his bag appellant requested an attorney. When asked by the solicitor if appellant “invoke[d] his right to counsel,” Greenway responded, “he does.” Greenway claimed he did not ask appellant anymore questions at this point. However, Greenway did hand appellant a statement form and told him, four times, that he could write a statement. Tr. 54, l. 12—56, l. 1; 63, l. 10—68, l. 4. While Greenway was out of the room appellant began writing but ultimately crumpled up the form and threw it in the trashcan where Greenway later recovered it. Tr. 55, ll. 15-25.

Defense counsel argued that the written statement should be suppressed because it came after appellant unequivocally asked for a lawyer. Greenway continued the conversation with appellant, pressuring him numerous times to write a statement. Tr. 72, l. 21—73, l. 8. The solicitor responded that it was not an unequivocal request for counsel and that regardless appellant abandoned the written form by throwing it in the trash. Tr. 76, l. 8—78, l. 9. The trial

³ 378 U.S. 368 (1964).

⁴ *Miranda v. Arizona*, 384 U.S. 436 (1966).

trial court found appellant knowingly and intelligently waived his rights and that the statements were voluntary and admissible. During appellant's testimony state's 34, written form, was admitted over defense counsel's objection. Tr. 466, ll. 1-8.

Discussion

The trial court abused its discretion by admitting appellant's written statement where Greenway continued the conversation and improperly pressured appellant to write a statement after he invoked his right to counsel.

Under the Fifth Amendment, custodial interrogation may not occur if an accused invokes his right to have counsel present during the interrogation. A valid waiver of the right to counsel will not be presumed simply from the silence of the accused after *Miranda* warnings are given. The record must show an accused was offered counsel but intelligently and knowingly rejected the offer. *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). **"If the accused invokes the right to counsel, interrogation must cease and police may not conduct interrogation unless the accused initiates communication, exchanges, or conversations with the police."** *State v. McCray*, 332 S.C. 536, 547, 506 S.E.2d 301, 306 (1998); *Edwards v. Arizona*, 451 U.S. 477 (1981).

"A criminal defendant is deprived of due process if his conviction is founded, in whole or in part, upon an involuntary confession." *State v. Pittman*, 373 S.C. 527, 565, 647 S.E.2d 144, 164 (2007) (citing *Jackson v. Denno*, 378 U.S. 368, 377 (1964)), cert. denied, 552 U.S. 1314 (2008). In *State v. Miller*, this court instructed:

The process for determining whether a statement is voluntary, and thus admissible, is bifurcated; it involves determinations by both the judge and the jury. First, the trial judge must conduct an evidentiary hearing, outside the presence of the jury, where the State must show the statement was voluntarily made by a preponderance of the evidence. *Jackson v. Denno*, 378 U.S. 368,

376 (1964). If the statement is found to have been given voluntarily, it is then submitted to the jury, where its voluntariness must be established beyond a reasonable doubt. *State v. Washington*, 296 S.C. 54, 56, 370 S.E.2d 611, 612 (1988).

State v. Miller, 375 S.C. 370, 380, 652 S.E.2d 444, 448 (Ct. App. 2007); *Arrowood*, 375 S.C. at 366, 652 S.E.2d at 442. See also *Lego v. Twomey*, 404 U.S. 477, 489, 92 S.Ct. 619, 30 L.Ed.2d 618 (“[T]he prosecution must prove ... by a preponderance of the evidence that the confession was voluntary.”); *State v. Smith*, 268 S.C. 349, 354, 234 S.E.2d 19, 21 (1977) (“It has been uniformly held, a confession may be introduced upon proof of its voluntariness by a preponderance of the evidence.”); *State v. Neeley*, 271 S.C. 33, 40, 244 S.E.2d 522, 526 (1978) (“[T]he burden is on the State to prove by a preponderance of the evidence that [these] rights were voluntarily waived.”).

In *State v. Pittman*, 373 S.C. 527, 647 S.E.2d 144 (2007), this Court instructed:

In determining whether a confession was given “voluntarily,” this Court must consider the totality of the circumstances surrounding the defendant's giving the confession. *Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973). As the United States Supreme Court has instructed, the totality of the circumstances includes “the youth of the accused, his lack of education or his low intelligence, the lack of any advice to the accused of his constitutional rights, the length of detention, the repeated and prolonged nature of the questioning, and the use of physical punishment such as the deprivation of food or sleep.” *Id.* (internal citations omitted). Furthermore, no one factor is determinative, but each case requires careful scrutiny of all the surrounding circumstances. *Id.*

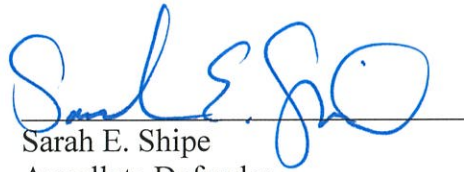
Pittman, 373 S.C. at 566, 647 S.E.2d at 164.

It is clear from Greenway’s own testimony that he understood appellant had clearly and unequivocally invoked his right to counsel. Despite knowing that Greenway continued speaking with appellant and urging him to write a statement. Greenway said multiple times I am not going to ask you any questions. However, pressing appellant to write a statement after he asked for a

lawyer is no different than continuing the interrogation. The trial court erred by refusing to suppress appellant's written statement taken after he requested a lawyer.

CONCLUSION

For the foregoing reasons, appellant's convictions and sentence should be reversed, and this case remanded to the Kershaw County Court of General Sessions for a new trial.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of October, 2026.