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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHARLES MAURICE HARRISON BRELAND,

APPELLANT

APPELLATE CASE NO. 2025-002391

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUE ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
STANDARD OF REVIEW	3
ARGUMENT	
The trial court erred admitting multiple photographs of appellant holding a gun where the probative value of the evidence was substantially outweighed by the danger of undue prejudice in violation of rule 403, SCRE.....	4
CONCLUSION.....	8

TABLE OF AUTHORITIES

South Carolina Cases

<i>State v. Alexander</i> , 303 S.C. 377, 401 S.E.2d 146 (1991).....	7
<i>State v. Brockmeyer</i> , 406 S.C. 324, 751 S.E.2d 645 (2013)	3
<i>State v. Cheeseboro</i> , 346 S.C. 526, 552 S.E.2d 300 (2001)	7
<i>State v. Cross</i> , 427 S.C. 465, 832 S.E.2d 281 (2019).....	8
<i>State v. Gilchrist</i> , 329 S.C. 621, 496 S.E.2d 424 (Ct. App. 1998).....	6
<i>State v. Gray</i> , 408 S.C. 601, 759 S.E.2d 160 (Ct. App. 2014).....	6
<i>State v. Hatcher</i> , 392 S.C. 86, 708 S.E.2d 750 (2011)	3
<i>State v. King</i> , 422 S.C. 47, 810 S.E.2d 18 (2017).....	7
<i>State v. Lee</i> , 399 S.C. 521, 732 S.E.2d 225 (Ct. App. 2012).....	6
<i>State v. Lyles</i> , 379 S.C. 328, 665 S.E.2d 201 (Ct. App. 2008)	6
<i>State v. Pagan</i> , 369 S.C. 201, 631 S.E.2d 262 (2006)	3
<i>State v. Orozco</i> , 392 S.C. 212, 708 S.E.2d 227 (Ct. App. 2011).....	6, 7

Other Authorities

<i>United States v. Bonds</i> , 12 F.3d 540 (6th Cir. 1993).....	6
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Rules

Rule 403, SCORE.....	1, 4, 5, 6
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STATEMENT OF ISSUE ON APPEAL

Did the trial court err admitting multiple photographs of appellant holding a gun where the probative value of the evidence was substantially outweighed by the danger of undue prejudice in violation of rule 403, SCORE?

STATEMENT OF THE CASE

On August 7, 2023, a Colleton County grand jury indicted appellant for murder. Indictment. Appellant's case was called to trial before the Honorable Robert Bonds, and a jury on November 17-20, 2025. Tr. 1. Charlie Johnson represented appellant. Tr. 1. Tameaka Legette prosecuted for the state. Tr. 1.

The jury found appellant guilty as indicted. Tr. 822, ll. 10-14. Judge Bonds sentenced appellant to forty-two years imprisonment. Tr. 836, ll. 11-17.

This appeal follows.

STANDARD OF REVIEW

The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion.” *State v. Hatcher*, 392 S.C. 86, 91, 708 S.E.2d 750, 753 (2011) (quoting *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)). “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.*; see also *State v. Brockmeyer*, 406 S.C. 324, 340, 751 S.E.2d 645, 653 (2013).

ARGUMENT

The trial court erred admitting multiple photographs of appellant holding a gun where the probative value of the evidence was substantially outweighed by the danger of undue prejudice in violation of rule 403, SCRE.

Introductory facts

Early in the morning of February 18, 2023, Lamontre Green was shot and killed in a Waffle House in Colleton County. Evidence recovered from the scene revealed two guns were fired. Tr. 507, ll. 1-16. There were multiple witnesses to the shooting, most of them claimed they did not see who shot Green. Tr. 627, ll. 9-14; 675, ll. 11-21.

In the days following the shooting two eyewitnesses, Kya Byrams and Sakasia Byrams spoke to police about the incident, and their statement was recorded on Officer Kinard's body worn camera. Defense exhibit 1.¹ In that statement the Byrams sisters both name Jordan Glover, Kya Byrams former girlfriend, as the sole shooter. Tr. 212, ll. 3-7; 270, ll. 4-22; Defense exhibit 1 at 2:57-4:55. The Byrams mentioned other persons present during the incident, including appellant. Defense exhibit 1. However, neither Kya nor Sakasia named appellant as having been involved in the shooting of Green. Defense exhibit 1; 220, ll. 1-18.

The Byrams sisters testified at trial. When shown a video of the shooting, state's exhibit 2,² they each claimed that they saw appellant shooting at Green in the video. Tr. 218, ll. 10-13; 241, ll. 18-20. Sakasia Byrams asserted that after she spoke to police, she remembered seeing appellant shooting Green. Tr. 248, ll. 2-9

Relevant facts

¹ Defense exhibit 1, Kinard's body worn camera recording is on file with the Court.

² State's exhibit 1, Waffle House surveillance video, is on file with the Court.

During a search of appellant's home, a photograph of appellant holding a gun was found and seized. Tr. 118, l. 21—119, l. 12. The solicitor wanted to enter the photograph during their firearms expert's testimony and the expert would opine "that if the guns are, in fact, real, they appear similar to Glock manufactured guns." Tr. 119, ll. 14-18. The solicitor also contended that shell casings found at the scene "could have been fired by a Glock." Tr. 120, ll. 15-23.

Defense counsel objected to the admission of this photograph, state's exhibit 301,³ at trial arguing first that it could not be authenticated and also it was inadmissible pursuant to Rule 403, SCRE. Tr. Tr. 122, ll. 2-25; 367, ll. 1-4. Counsel averred the photograph had no probative value because there was never a gun recovered in this case and furthermore the photograph was unduly prejudicial. Tr. 122, ll. 5-22. The court overruled defense counsel's objection to the photograph finding that although it may be "highly prejudicial" the probative value was not outweighed by that fact and the evidence would not suggest a decision on an improper basis. Tr. 123, ll. 1-25; 125, ll. 8-14; 367, ll. 5-18.

State's exhibit 301, photograph, was admitted over objection during Investigator Charles Shipp's testimony. Tr. 408, ll. 2-13. The state's firearms expert, Suzann Cromer, testified the firearm had "markings consistent with a Glock firearm." Tr. 513, ll. 15-25. Directly after this testimony Cromer testified the evidence collected in this case was consistent with having been fired by a Glock. Tr. 514, ll. 8-21.

During eyewitness Chamel Aiken's (Chico) testimony state's exhibits 317-328, photographs, were admitted over defense counsel's objections. Tr. 636, l. 13-637, l. 5; 638, ll. 10-17. These photographs were described by the witness as photographs from a social media account that he posted on the evening before the incident. Chico told the jury these were images

³ State's exhibit 301, photograph is on file with this Court.

of him “recording in a video with guns.” Tr. 636, ll. 1-12; 638, ll. 2-4.

During her closing arguments the solicitor brought up the social media posts and the photograph found during the search of appellant’s home multiple times. Tr. 733, l. 1-25; 737, ll. 3-8; 747, ll. 3-17.

Discussion

The photograph taken from appellant’s home and the photographs taken from Chico’s social media accounts were inadmissible where the probative value of these exhibits was substantially outweighed by the potential for undue prejudice and the trial court erred admitting them at trial.

Relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.” Rule 403, SCORE; *see also State v. Orozco*, 392 S.C. 212, 218, 708 S.E.2d 227, 230 (Ct. App. 2011). The first step requires a determination of the probative value of the evidence.⁴ The second step requires an evaluation of the danger of unfair prejudice resulting from the introduction of the evidence.⁵ The third step requires balancing of the probative value and unfair prejudice. “When juxtaposing the prejudicial effect against the probative value, the determination must be based on the entire record and will turn on the facts of each case.” *State v. Lyles*, 379 S.C. 328, 338, 665 S.E.2d 201, 206 (Ct. App. 2008). Unfair prejudice means an undue

⁴ “‘Probative’ means ‘[t]ending to prove or disprove.’” *State v. Gray*, 408 S.C. 601, 609, 759 S.E.2d 160, 165 (Ct. App. 2014). According to this Court, “[p]robative value” is the measure of the importance of that tendency to the outcome of a case.” *Id.* at 610, 759 S.E.2d at 165. The probative value of evidence is directly related to the how important that evidence is in assisting the jury in rendering a verdict. *Id.* Thus, when analyzing the probative value of evidence, the court must consider the importance of the evidence as it relates to the issues presented in the case. *State v. Lee*, 399 S.C. 521, 528, 732 S.E.2d 225, 228 (Ct. App. 2012).

⁵ “‘Unfair prejudice does not mean the damage to a defendant’s case that results from the legitimate probative force of the evidence; rather it refers to evidence which tends to suggest [a] decision on an improper basis.’” *State v. Gilchrist*, 329 S.C. 621, 630, 496 S.E.2d 424, 429 (Ct. App. 1998) (quoting *United States v. Bonds*, 12 F.3d 540, 567 (6th Cir. 1993)).

tendency to suggest a decision on an improper basis, commonly, but not necessarily, an emotional one. *Orozco*, 392 S.C. at 218, 708 S.E.2d at 230 (citing *State v. Cheeseboro*, 346 S.C. 526, 547, 552 S.E.2d 300, 311 (2001)); see also *State v. Alexander*, 303 S.C. 377, 382, 401 S.E.2d 146, 149 (1991)(providing that “[e]vidence is unfairly prejudicial if it has an undue tendency to suggest a decision on an improper basis, such as an emotional one”).

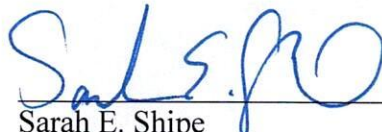
In *State v. King*, 422 S.C. 47, 810 S.E.2d 18 (2017), the Supreme Court held that the judge abused his discretion in admitting fifteen minutes of jail calls from King without listening to them first. The Supreme Court also found the jail calls should not have been admitted against King because of their limited probative value being outweighed by their undue prejudice. The jail calls were riddled with racial slurs and profanity.

These photographs, as with the jail calls in *King*, had the undue tendency to suggest a verdict on an improper basis. The photographs were of little probative value as none of them proved any fact at issue. The photographs of appellant only showed that at some point appellant held a gun and that his friends recorded him. The photographs did not prove that he shot a gun in the Waffle House that morning and killed Green. Instead, the evidence posed a high danger of unfair prejudice as it was used to demonstrate appellant was a bad guy. The trial court acknowledged this evidence posed the high danger of unfair prejudice but allowed it to be admitted over defense counsel’s objection. These photographs telegraphed to the jury that appellant was a criminal with a gun. The admission of this evidence allowed the jury to render a verdict on an improper one – a reaction to the image of appellant holding a gun.

Balancing the low probative value of the photographs against the extremely high danger of unfair prejudice required exclusion of the evidence. The danger of unfair prejudice substantially outweighed the probative value.

CONCLUSION

Based on the arguments above appellant respectfully requests this court reverse his conviction and sentence and remand his case for a new trial.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 28th day of October, 2026.