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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Thomas William McGee, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAQUAN WASHINGTON,

APPELLANT

APPELLATE CASE NO. 2026-000262

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

I.

The trial court erred and abused its discretion in denying the defense the opportunity to conduct re-cross examination of a police officer who revealed prejudicial information regarding items observed at the execution of a search warrant of appellant's residence.

II.

The lower court erred in allowing witness Coakley to give identification testimony in court regarding an out-of-court show-up identification into evidence at trial because this identification was unreliable and produced under suggestive circumstances, and was therefore prejudicial to the defense.

III.

The trial judge erred in sentencing appellant to the equivalent of a life sentence because the same violated the cruel and unusual punishment clause of the Eighth Amendment where the sentence was disproportionate to the offenses charged in light of appellant's juvenility and characteristics associated with his youth and the circumstances of the case.

STATEMENT OF THE CASE

Appellant Jaquan Malik Washington was convicted of murder and criminal conspiracy during the July 2025 term of the Charleston County General Sessions Court before Judge Thomas W. McGee, III, who sentenced him to an aggregate prison term of forty-years.¹ Attorneys Dana Fields and Daniel Summa represented appellant at trial, and Assistant Solicitors Thomas Finch and Casey Knox prosecuted the case.

Appellant appealed. This brief follows.

¹ A New Trial Motion Hearing was held on September 11, 2025. Appellant was sentenced on January 27, 2026.

STANDARD OF REVIEW

An abuse of discretion occurs when the trial court's ruling is based on an error of law, or when grounded in factual conclusions, is without evidentiary support. State v. Black, 400 S.C. 10, 732, S.E.2d 880 (2012); State v. Jennings, 394 S.C. 473, 716 S.E.2d 91 (2011).

The decision to admit an eyewitness identification is in the trial judge's discretion and will not be disturbed on appeal absent an abuse of discretion, or the commission of prejudicial legal errors. State v. Brown, 356 S.C. 496, 502, 589 S.E.2d 781, 784 (Ct. App. 2003).

When considering whether a sentence violates the Eighth Amendment's prohibition against cruel and unusual punishment in juvenile cases, the appellate court's standard of review extends only to the correctness of errors of law. Therefore, the appellate court will not disturb a circuit court's findings absent a manifest abuse of discretion. An abuse of discretion occurs when the circuit court's findings are based on an error of law or grounded in factual conclusions without evidentiary support. State v. Mack, 441 S.C. 526, 894 S.E.2d 800 (2023).

QUESTION I

The trial court erred and abused its discretion in denying appellant the opportunity to conduct re-cross examination of a police officer who revealed prejudicial information regarding items observed at the execution of a search warrant of appellant's residence.

This case emanated from a shooting event. On July 19, 2021, Dontae Green was shot while sitting in the driveway of a home in a particular Charleston County residential area. Appellant and co-defendant Javar Mitchell were arrested and charged with the murder of Dontae Green. At trial, Oran Middleton and Rico Ancrum testified that they were both riding in a Black Ram truck along with appellant and the co-defendant on the day in question while looking for “opps,”² specifically one “opp” named Angelo. At some point, the men spotted a male (later identified as Green) whom appellant and co-defendant believed to be Angelo. Apparently, Middleton and Ancrum advised that this male was not Angelo, but nonetheless both appellant and co-defendant fired gunshots at this male who was ultimately identified as Dontae Green. Tr. 541; Tr. 629.

There were no statements made by neither appellant nor the co-defendant that were entered into evidence at trial. The state's case against appellant lacked forensic evidence establishing guilt. The state's case hinged on the testimony of Middleton and Ancrum, both of whom lacked veracity and credibility.

At trial, Officer Timothy McCauley testified that he was dispatched to the crime scene on the day in question and processed the area for evidence. Subsequently, the truck that the four men were in on the day that the crimes occurred was located nearby and processed for evidence. No forensic evidence processed from the crime scene linked or identified appellant as a

² The word “opps” referenced adversaries, i.e. people with whom they had a “beef” with mostly.

perpetrator. Also, no forensic evidence processed from the crime scene linked or identified appellant as a perpetrator. A gun that was found was not linked to being owned or possessed by appellant. Note that appellant was questioned in the case. Tr. 360-392.

On cross-examination of Officer McCauley the defense elicited testimony from Officer McCauley that no cell phone data taken from the truck connected appellant to the crimes charged against him. Tr. 459, 1.18-p. 460, 1.20. Also, no fingerprints lifted from the truck connected appellant to the crimes charged against him. Tr. 474, 1.11-17. Additionally, the gun discovered was found to have belonged to Michael Boynton. Tr. 460, 1.21-22. Furthermore, the buccal swabs of appellant did not reveal any matches from the evidence connected to the crimes. Tr. 484, 1.9-22. Moreover, McCauley testified that a search warrant was obtained for appellant's house and executed thereafter and that no evidence was found therein that linked appellant to the crimes committed in the case. Tr. 475, lines 13-p. 476, 1.19.

At the close of Officer McCauley's testimony, the solicitor argued that appellant's counsel opened the door regarding what was seen in appellant's residence during the search in an attempt to corroborate proof that the search yielded no evidence linking appellant to the crime; and that as a result, defense counsel opened the door to the details of exactly what was seen pursuant to the search of appellant's residence and that re-direct examination regarding the matter was allowable at that point. Apparently, the following was found in appellant's home per the search: a box of 5.56 ammunition for individual 5.56 rounds, a box of 7.62 x 39 ammunition; a black pistol magazine containing twelve 9-mm rounds, a silver magazine containing one .380 round. Tr. 485, 1.21-489, 1.5. Defense counsel argued that ammunition had nothing to do with the crimes charged, and that the only question asked about the search/search warrant referenced no specificity regarding guns, and that the testimony would be unfairly prejudicial because typically

guns and ammunition go together hand in hand. Tr. 502, 1.24-p. 504, 1.23. The trial judge ruled that defense counsel opened the door in the matter, and that the state could re-examine the officer on re-direct regarding the contents seen in appellant's home per the search in question. Also, the trial judge court ruled that there would be no re-cross examination by the defense as a follow up to the state's re-direct examination in the matter. The court ruled as follows regarding the issue of re-cross examination by the defense:

DEFENSE COUNSEL: But the guns go with the ammunition, right? So—you can see, unfairly prejudicial that oh, my gosh, you've got, like, high-powered ammunition found at a house with this. But my point is, Your Honor, I still don't know—the 9-mm and the .380, I understand that it is the same caliber, but the bullets at the scene were Hornadys and Lugers. I don't even know what brand this is because it's not marked anywhere in any of the evidence. And I very much doubt Sergeant McCauley, when I asked him that question on recross, I don't think he's going to remember because I wouldn't.

THE COURT: Well, there's no such thing as re-cross; there's not going to be any re-cross. Re-direct is only—he can only ask on redirect what was addressed on cross. And so, he's only allowed to go into things that were raised on cross-examination. If he goes outside of what was asked on cross-examination, y'all can object as to beyond the scope of redirect, but there is no recross. And so I will agree with Ms. Fields that the other ammunition will not be referenced, but the 9-mm and .380 can be. And I know that you said that, you know, you're not going to go into all that, but I think that it's unfair to point out what was found in that search.

On re-direct examination by the solicitor, Officer McCauley testified that a search of appellant's residence yielded “a black pistol magazine containing twelve 9-mm rounds and a silver magazine containing one .380 round.” Tr. 516, lines 17-19.

No re-cross examination by the defense was allowed to follow-up on the state's re-direct examination of Officer McCauley.

During the hearing of post-trial/new trial motions, defense counsel objected again to the Court's ruling disallowing re-cross examination and cited to U.S. v. Riggi. See New Trial Motion Transcript dated Tr. 20-27.

In all criminal prosecutions, the accused shall enjoy the right to be confronted with the witnesses against him. U.S. Const. Amend. VI; Pointer v. Texas, 380 U.S. 400 (1965). The Sixth Amendment is applicable to the states via the Fourteenth Amendment. The Confrontation Clause guarantees that a criminal charge may be answered through the calling of and interrogation of witnesses, and the cross-examination of adverse witnesses, particularly the right of cross-examination. Davis v. Alaska, 415 U.S. 308 (1974); Douglas v. Alabama, 380 U.S. 415 (1965). State v. Graham, 314 S.C. 383, 444 S.E.2d 525 (1994) quoting Douglas v. Alabama, *supra*.

The right to, and scope of, re-cross-examination is within the sound discretion of the trial court. State v. Johnson, 338 S.C. 114, 525 S.E.2d 519 (2000). Rule 611(d) SCRE. Liberty Mutual Ins. Co v. Gould, 266 SC 521 224 S.E.2d 715 (1976). See also Rule 611(d), SCRE. A trial judge may impose reasonable limits on cross-examination and upon concerns about harassment, prejudice, confusion of the issues, witness safety or interrogation that is repetitive or only marginally relevant. See Rule, SCRE, below:

Rule 611, SCRE, provides the mode and of interrogation and presentation stating:

(a) Control by Court. The court shall exercise reasonable control over the mode and order of interrogation witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of Cross-Examination. A witness may be cross-examined on any matter relevant to any issue in the case, including credibility.

(c) Leading Questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

(d) Re-examination and Recall. A witness may be re-examined as to the same matters to which he testified only in the discretion of the court, but without exception he may be re-examined as to any new matter brought out during cross-examination. After the examination of the witness has been concluded by all the parties to the action, that witness may be recalled only in the discretion of the court. This rule shall not limit the right of any party to recall a witness in rebuttal.

See United State v. Riggi, 951 F.2d. 1368, where the Court reversed because the district court barred re-cross examination where new matter was elicited on redirect examination. See also United States v. Stoehr, 196 F.2d 276 (3rd Cir. 1952).

In the case at bar, there was no valid reason to deny appellant re-cross examination on the new matter presented, i.e. the observation of ammunition seen during the execution of the search at appellant's residence as this was new information, i.e. the detailed findings via the search that were not addressed previously. The prejudice of linking appellant to the murder/crime charged because firearm ammunition had been seen at his home was greater than any probative value of the same since the normal tendency is to connect a gun magazine and gun ammunition and infer guilt on appellant's behalf despite the fact that there was no forensic evidence linking appellant to the murder save the questionable and incredible testimony of Middleton and Ancrum, both of whom were not credible witnesses. Note that the gun used to commit these crimes did not belong to appellant and was not connected to appellant. To seal the existence of reasonable doubt by not allowing re-cross examination of Officer McCauley by appellant to somehow explain or clarify the presence of ammunition found in appellant's residence constituted a denial of the Sixth

Amendment right to confront and cross examine a witness in a case. The trial judge abused its discretion in denying the defense an opportunity to re-cross examine Office Cauley as outlined above.

QUESTION II

The lower court erred in allowing witness Coakley to give identification testimony in court regarding an out-of-court show-up identification into evidence at trial because this identification evidence was unreliable and produced under suggestive circumstances, and was therefore prejudicial to the defense.

State's witness D'Ajanay Coakley testified that on the day in question, she was present at Jawan Smith's mother's residence when "Daddy," Rico Ancrum, and two other guys arrived there in a truck. Coakley stated that a bright orange glove was in the truck and said that she later learned that "Daddy" is appellant. Tr. 331, l.25-p. 335, l.3.

Coakley stated that Charleston police approached were in person after the shootings and showed her four pictures whereinafter she identified one male's picture as being a photograph of "Daddy," i.e. appellant, and identified another picture as being a photograph of Rico Ancrum but there were no markings as to whom she identified as "Daddy." Tr. 111, l. 20 – p. 112, l. 3; Tr. 335, lines 4-p. 338, l.19.

Prior to trial, the defense objected to allowing the jury to hear testimony regarding Coakley's out of court identification of appellant's photograph as contained in the group of suspects' photographs presented to her after the event in question occurred and moved to suppress Coakley's identification and any testimony regarding the same therein because it appeared that she knew not who "Daddy" was, and that there was no inquiry as to the identification of clothing or what time of day or what she saw to establish the integrity of her

identification, and that she never identified “Daddy,” but merely responded “uh huh” when asked by police if the picture was one of “Daddy.” Tr. 111, l. 4 – p. 112, l. 25. Coakley admitted that she did not know “Daddy” other than by the moniker. Tr. 114, lines 5-13. Also, there was no information as to how Coakley was familiar with “Daddy.” Appellant indicated that he didn’t know Coakley. Tr. 117, l. 12- p. 118, l. 1; Tr. 181, l.15 - p. 182, l.21. Counsel stated that under the totality of the circumstances, this was clearly a single photo identification that yielded an unreliable identification in the case. Tr. 118, l. 16 – p. 119, l.19.

A criminal defendant may be deprived of due process of law by an identification procedure conducted that is unnecessarily suggestive and conducive to irreparable mistaken identification; and this is most likely the case if an in-court identification of an accused was the result of a suggestive out of court identification procedure that created a substantial likelihood or irreparable misidentification. See State v. Moore 343 S.C. 282, 540 S.E.2d 445(2000), citing to Manson v. Brathwaite, 432 U.S. 98 (1977). There is a two prong inquiry to determine if an out of court identification is admissible in court that consists of the following: 1.) whether the identification was unduly suggestive, and 2.) whether the out-of-court identification was nevertheless unreliable (yielding substantial likelihood of misidentification). Neil v. Biggers 409 U.S. 188 (1972). Note that one on one (single) show-up identifications are disfavored, inherently suggestive, and many times unduly suggestive, and are excluded if under the totality of the circumstances it appeared as though mis identification resulted. State v. Moore, supra, citing to Neil v. Biggers, supra. The totality of the circumstances factors follow:

[T]he opportunity of the witness to view the criminal at the time of the crime, the witness’s degree of attention, the accuracy [**449 of the witness’s prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation and the length of time between the crime and the confrontation. Neil v. Biggers, 409 U.S. at 199, 93 S.Ct. at 382; State v. Stewart, 275 S.C. at 450, 272

S.E.2d at 629. Only after a determination as to the reliability of a witness' identification has been made by the trial court may the witness testify before the jury. State v. Patterson, 337 S.C. 215, 522 S.E.2d 845 (Ct.App.1999).

In the case at bar, Coakley was not entirely clear in her association with "Daddy," and appellant initially. The submission of a picture by police was a one on one showing, which was unduly suggestive because she knew not the identity of "Daddy" originally until the police appeared with his photograph and asked her questions. This show-up presentation of pictures only provided affirmation of what was originally a questionable identification by Coakley. This identification was unreliable based on an unduly suggestive origin and should not have been admissible at trial. The prejudice came about because the identification testimony was used as corroborative evidence in support of the two incredible witnesses, i.e. Middleton and Ancrum, upon which the case hinged. This identification offered in court constituted inadmissible evidence that should have been suppressed, and the result was prejudice to the defense.

QUESTION III

The trial judge erred in sentencing appellant to the equivalent of a life sentence because the same violated the cruel and unusual punishment clause of the Eighth Amendment where the sentence was disproportionate to the offenses charged in light of appellant's juvenility and characteristics associated with his youth and the circumstances of the case.

In Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), the Court cited to Miller v. Alabama³ and Graham v. Florida⁴ in support of the rule that when a life sentence is considered

³ In Miller v. Alabama, 567 U.S. 460 (2012), the U.S. Supreme Court held that the Eighth Amendment forbade states from imposing on juveniles mandatory sentences of life without the possibility of parole for homicide offenses.

⁴ In Graham v. Florida, 560 U.S. 48 (2010), the U.S. Supreme Court held that the Eighth Amendment prohibited the imposition of a life without parole sentence on a juvenile offender who did not commit a non-homicide offense.

in juvenile cases, the judge must assess the factors of youth, which include immaturity, irresponsibility, impetuosity, recklessness, and the impact of family and peer pressure, and also a child's diminished capacity, and the capacity to change as well. The Court in Miller and Graham held that children are constitutionally different from adults for sentencing purposes, and as such, the factors that should be taken into consideration prior to sentencing a juvenile are listed below:

- 1.) The chronological age of the offender and hallmark features of youth, including immaturity, impetuosity, and the failure to appreciate risks and consequences;
- 2.) The family and home environment that surrounded the offender;
- 3.) The circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures might have affected him;
- 4.) The incompetencies associated with youth—for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender's] incapacity to assist his own attorneys; and
- 5.) The possibility of rehabilitation.

What was in effect a life sentence given to appellant in the case at bar violated the Eighth Amendment because such a sentence was a disproportionate sentence in light of the evidence presented at the sentencing hearing.

1. The chronological age of the offender and hallmark features of youth included in immaturity, impetuosity, and failure to appreciate the risks and consequences

Appellant was seventeen years old when the crimes were committed. Dr. Sussman, who interviewed appellant, reported that neurobiological tests results show that one's brain (pre frontal cortex) does not develop until age twenty five, and that before that age juveniles typically engage in risky behavior due to immaturity where there is poor impulse control and there is no ability to engage in the foreseeability and consequences of negative behavior, which traditionally

reduces culpability in juveniles charged with criminal offenses. Sentencing Hearing Tr. 13-14. The cognitive reasoning and functioning of the frontal lobe of juveniles is not fully developed in individuals under age twenty-five. At that age, juveniles are lacking in adequate decision making skills. Note that in addition to being under the age of twenty five when the crimes occurred, appellant suffered from and was diagnosed with PTSD, distorted perception, and psychosis, which was exacerbated by his use of marijuana that began around the age of fifteen. Sentencing Transcript p. 13.

2. The family and home environment that surrounded the offender.

Appellant lived in North Carolina with his father at around age 7 or 8 and experienced abuse from his father. Appellant reported that he was beaten by his father every five days, mostly while he was wet as he showered, and that he was tortured by his father's threats to stab him with forks and knives, and that his father threw him against a wall when he was 10 or 11, after which time he received no medical attention for his back pain thereafter and after his wrist injury. Appellant stated that his father withheld food from him and cut off all his hair as a form of punishment. Then, when appellant finally moved back to South Carolina where his mother lived, he had to live with his uncle and sister because his mother was incarcerated at that time. Note that appellant's father also had an incarcerative history. Appellant's home life was filled with trauma and adverse circumstances. For example, appellant witnessed intimate violence between his parents and experienced neglect at home, and he was bullied at school, all of which resulted in him developing nightmares, mood disorders, distrust of people, paranoia, and poor impulse control. Appellant had no control over his environment and because subject to peer pressure. Sentencing Transcript p. 12, p.15, and p. 16, p. 27. Appellant never had a secure relationship with a caregiver so he had deficits in emotion regulation attention behavior development, and

decision making, all of which fostered a transient decision making mindset. These adverse experiences impacted appellant to the extent that he was vulnerable to negative peer pressure easily. Tr.13, Tr. 27.

3 .) The circumstances of the homicide offense, including the offender's participation in the conduct and how familial and peer pressure might have affected him.

Appellant was emotionally affected by his life of neglect and also by the death of a peer during this time according to Officer Kevin Carter (school resource officer) who worked with and attempted to help appellant. Officer Carter was aware of negative events that impacted his life and in effect made him susceptible to inappropriate peer pressure in his life.

4 .) The incompetencies associated with you—for example, (the offender's) inability to deal with police officers or prosecutors (including on a plea agreement) or (the offender's incapacity to assist his own attorneys.

Appellant has no prior criminal record or contact with the legal system prior to these instant charges lodged against him.

5 .) The possibility of rehabilitation

Appellant's rehabilitation is likely and promising. First, note that appellant repeatedly requested admission into educational classes while in detention, but was denied entry due to the nature of the charges against him. Also, appellant declared that he wanted to make something of himself and desired to be a productive citizen, and admitted that he did not take school seriously. Sentencing tr 17. Clearly, appellant's brain continues to develop and mature as studies show that as juveniles age, then less risky behavior results. Furthermore, rehabilitation is likely because access to mental health treatment would tend to reduce recidivism. Moreover, appellant has access to and has been compliant with his medication particularly since he will have access to

vocational and academic programs. Sentencing Tr. 37 and 39. Sentencing Tr, p. 18 and 37. Dr. Sussman stated that no one is the same at age seventeen as they are at age twenty one (appellant was twenty one at the time of sentencing), and that maturity and growth happens during the aging process, and that there is a capacity to change as brain development occurs and risky and anti-social behavior decreases as teens evolve in life. Sentencing Tr. 14 and 17 and 27-28. Dr. Sussman found that appellant was not irreparably corrupt and pointed out that appellant had never been in legal trouble beforehand as evidenced by the fact that there was no prior criminal record on him, and that since this was appellant's first time in the legal system that this also indicated that he is not at high risk for recidivism. Sentencing Tr. 17. Dr. Sussman concluded that appellant was a good candidate for rehabilitation and able to get back on the right course. Sentencing Tr. 17 and 40-41.

The trial judge erred in sentencing appellant to what was in effect a life sentence because this violated the cruel and unusual punishment clause of the Eighth Amendment, particularly where the sentence was disproportionate to the offenses charged in light of appellant's juvenility and characteristics associated with his youth and the circumstances of the case.

CONCLUSION

Based on the foregoing arguments, appellant's case should be remanded to the lower court for a new trial and sentencing hearing.



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ATTORNEY FOR APPELLANT

This 28th day of October, 2026.