The Supreme Court of South Carolina

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July 16, 2014

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: The State v. Nathaniel Murray
Lower Court Case No. 2009GS4001532, 2009GS4001531, 2009GS4001533
Appellate Case No. 2012-212289

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

Brenda F. Shealy

CHIEF DEPUTY CLERK

cc: Dayne C. Phillips, Esquire
David A. Spencer, Esquire
Carmen Vaughn Ganjehsani, Esquire
Daniel Edward Johnson, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State, Respondent,

v.

Nathaniel Murray, Petitioner.

Appellate Case No. 2012-212289

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Richland County
L. Casey Manning, Circuit Court Judge

Memorandum Opinion No. 2014-MO-030
Heard June 24, 2014 – Filed July 16, 2014

DISMISSED AS IMPROVIDENTLY GRANTED

Assistant Public Defender Dayne C. Phillips and Appellate Defender Carmen V. Ganjehsani, both of Columbia, for Petitioner.

Attorney General Alan M. Wilson, Assistant Deputy Attorney General David A. Spencer, and Solicitor Daniel E. Johnson, all of Columbia, for Respondent.

PER CURIAM: We granted Nathaniel Murray's petition for a writ of certiorari to review the court of appeals' decision in *State v. Murray*, Op. No. 2012-UP-228 (S.C. Ct. App. filed Apr. 18, 2012). We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED.

TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Nathaniel Murray, Appellant.

Appeal From Richland County
L. Casey Manning, Circuit Court Judge

Unpublished Opinion No. 2012-UP-228
Heard March 1, 2012 – Filed April 18, 2012

AFFIRMED

Assistant Appellate Defender Elizabeth Franklin-Best, of Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney General John McIntosh, Assistant Deputy Attorney General Salley E. Elliott, Assistant Attorney General David Spencer, Staff Attorney Julie Kate Keeney, and Solicitor Daniel E. Johnson, all of Columbia, for Respondent.

PER CURIAM: Nathaniel Murray appeals his convictions of two counts of armed robbery and one count of failure to stop for a blue light. He contends because the State had not shown his being shackled was necessary, the trial court erred in having him remain shackled and be seated at the witness stand when the jury entered the courtroom so they could not view his shackles. We affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities:

1. As to whether the trial court erred in requiring Murray to remain shackled during his testimony: Deck v. Missouri, 544 U.S. 622, 628 (2005) ("Courts and commentators share close to a consensus that, during the guilt phase of a trial, a criminal defendant has a right to remain free of physical restraints that are visible to the jury; that the right has a constitutional dimension; but that the right may be overcome in a particular instance by essential state

interests such as physical security, escape prevention, or courtroom decorum."(emphasis added)); id. at 629 ("Thus, the Fifth and Fourteenth Amendments prohibit the use of physical restraints visible to the jury absent a trial court determination, in the exercise of its discretion, that they are justified by a state interest specific to a particular trial. Such a determination may of course take into account the factors that courts have traditionally relied on in gauging potential security problems and the risk of escape at trial." (emphasis added)); State v. Patterson, 367 S.C. 219, 228, 625 S.E.2d 239, 243 (Ct. App. 2006) ("An error not shown to be prejudicial does not constitute grounds for reversal."); State v. Reeves, 301 S.C. 191, 193-94, 391 S.E.2d 241, 243 (1990) ("No definite rule of law governs [finding an error harmless]; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case."); State v. Jolly, 304 S.C. 34, 37, 402 S.E.2d 895, 897 (Ct. App. 1991) ("Errors are harmless where they could not reasonably have affected the result of the trial."); State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991) (stating an appellate court "will not set aside a conviction due to insubstantial errors not affecting the result").

2. As to whether the trial court erred in failing to swear in Murray in front of the jury: State v. Jones, 392 S.C. 647, 655, 709 S.E.2d 696, 700 (Ct. App. 2011) ("'An issue may not be raised for the first time on appeal. In order to preserve an issue for appeal, it must be raised to and ruled upon by the trial court.'" (quoting In re Michael H., 360 S.C. 540, 546, 602 S.E.2d 729, 732 (2004))).

AFFIRMED.

PIEPER, KONDUROS, and GEATHERS, JJ., concur.