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THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Edgar W. Dickson, Circuit Court Judge

Opinion No. 2014-UP-480 (S.C. Ct. App. filed Dec. 23, 2014)

State of South Carolina,.....Respondent,

v.

Richard Lanard Sprinkle,.....Petitioner.

REPLY TO RETURN TO PETITION FOR A WRIT OF CERTIORARI

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ARGUMENT

The Court of Appeals erred in holding that the violation of the defendant's Sixth Amendment right to fully cross-examine witnesses against him was harmless beyond a reasonable doubt.

The State's return to the petition for writ of certiorari highlights the need for this Court's review of the Court of Appeals's decision. The State is unable to show how the limitation on cross-examination in violation of the defendant's Sixth Amendment right was harmless error. This is the State's burden, and the State has failed to meet it.

The State concedes that the testimony of its star witness, Sean Echols, was important to the State's case against Sprinkle. (Return p. 19.) The State attempts to downplay the importance of this testimony by arguing that the testimony of the two victims, Wright and Rumph, is sufficient to overcome any constitutional error in limiting the cross-examination of Echols. But the testimony of the two victims was contradictory, leaving the testimony of Echols as the tie breaker. One victim, Rumph, was not even able to identify Sprinkle in a line-up or at trial. (R. p. 142, line 24 – p. 143, line 2.) The other victim, Wright, was able to identify Sprinkle, but the jury did not believe Wright's testimony that Sprinkle assaulted him. (R. pp. 108-11; 332-33.) Instead, the jury convicted Sprinkle of assaulting Rumph, a person who was not even able to identify Sprinkle. (R. pp. 331-32.)

The jury reached this conclusion because of the testimony of Sean Echols. (R. pp. 209-12). Without Echols's testimony, the jury could not have reached the conclusion that Sprinkle assaulted Rumph or that he went to the house that night to commit a burglary. Echols was the only person who testified that Sprinkle assaulted Rumph and the only person who testified that Sprinkle went to the house with the intent to commit a burglary. (R. pp. 206-07; 212.) Without

Echols's testimony, the State did not have a case against Sprinkle. There was no physical evidence linking Sprinkle to the crimes and no additional testimony to support his conviction.[1]

Given the importance of Echols's testimony to the State's case, Sprinkle should have been able to fully cross-examine him, as acknowledged by the Court of Appeals, and the limitation on cross-examination was not harmless error. Where there is *any possibility* that the failure to allow a defendant to fully cross-examine a witness about potential bias, prejudice, or credibility could affect the decision of even a single juror, the error cannot be harmless beyond a reasonable doubt. *See Dionas v. State*, 80 A.3d 1058, 1066 (Md. 2013); *State v. Alvarez-Lopez*, 98 P.3d 699 (N.M. 2004); *Clark v. O'Leary*, 852 F.2d 999 (7th Cir. 1988). The burden is on the State to demonstrate that the error was harmless beyond a reasonable doubt. *See Chapman v. California*, 386 U.S. 18, 23-24 (1966) (holding that there was no difference between previous precedent and "requiring the beneficiary of a constitutional error to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained"). The State needed Echols's testimony to make the case against Sprinkle. Given the critical nature of the testimony, any limitation on Echols's testimony—particularly a limitation that would show bias—could not have been harmless beyond a reasonable doubt.

Courts in other jurisdictions have held that the failure of a trial judge to allow cross-examination on plea negotiations does not constitute harmless error. *Cruz v. State*, 437 So.2d 692, 695 (Fla. Ct. App. 1983), *disapproved on other grounds by Edwards v. State*, 548 So.2d 656

[1] The State asserts that its case is corroborated by a prior out-of-court statement by Sprinkle that he was present at the home at the time the crime was committed. (Return p. 20.) Mere presence at the scene of a crime is not sufficient to convict an individual of that crime. *State v. Mattison*, 388 S.C. 469, 481, 697 S.E.2d 578, 585 (2010) (noting that "mere presence" is insufficient to sustain a conviction). Further, Sprinkle stated that he fled the scene as soon as he realized what was happening. (R. pp. 187, 190, 193, 197.). Thus, Sprinkle's out-of-court statement does not provide evidence for the charges against him.

(Fla. 1989); *Fannin v. State*, 581 So.2d 974 (Fla. Ct. App. 1991); *State v. Clark*, 364 S.W.3d 540 (Mo. 2012); *Keys v. State*, 739 So.2d 455 (Miss. Ct. App. 1999). The State attempts to distinguish these cases by arguing that the evidence of Sprinkle's guilt is stronger than the evidence in the cited cases. As discussed above, however, the evidence against Sprinkle was virtually nonexistent without the testimony of Echols. Without Echols, the State had two witnesses—one of whom the jury chose not to believe, and one of whom was not even able to identify Sprinkle as the assailant. This is hardly sufficient evidence to establish guilt and to land someone in jail for thirty-five years.

The fact that Sprinkle sought to expose and that he was prohibited from doing so was that the State had previously offered Echols a plea deal, and although it had expired at the time of trial, a future deal was possible. In fact, *in camera* discussions with the trial judge suggest that Echols allowed the plea deal to expire because "he could be facing life, he was offered 20 [years] and he's looking for ten [years]." (R. p. 237, ll. 17-20.) In ruling on the admissibility of evidence of Echols' plea negotiations with the State, the trial judge noted that Echols was "asking, you know, for ten years" for his testimony against Sprinkle. (R. p. 240, ll. 24-25.) At trial, however, Echols testified that he was testifying out of the goodness of his heart and that he had not been offered anything for his testimony. (R. p. 212, ll. 18-22.) This testimony is important because it left the jury with the impression that there had been *no plea discussions* between the State and Echols, which was not true. In addition, it allowed the State to portray Echols as a repentant criminal who was hoping simply for "*the Court* to have mercy on [him]." (R. p. 212, ll. 23-25.) (Emphasis added.) Had Sprinkle been able to expose the plea discussions with the State, the jury would have seen that Echols was not only not credible, but that he actually had reason to testify *against* Sprinkle. Moreover, Echols testified that he was not

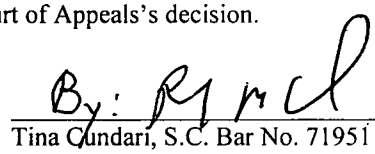
indicted for burglary, presumably because he was cooperating with the State, and yet the jury was not permitted to hear testimony that would have led them to conclude that Echols was cooperating with the State.

Given these facts, the State has failed to prove beyond a reasonable doubt that the testimony of Sean Echols would not have affected the jury's decision.

CONCLUSION

The petition for writ of certiorari should be granted. The trial court's improper limitation on cross-examination violated Sprinkle's constitutional rights and the State has failed to carry its burden of proving the error was harmless beyond a reasonable doubt. The jury should have heard about the plea deal with Sean Echols and should have been able to draw its own conclusions as to why Echols testified the way he did and why it was Sprinkle and not Echols who was charged with burglary. It cannot be said with certainty that evidence of Echols's plea negotiations would not have affected the jury's consideration of the evidence, especially given the importance of Echols's testimony as conceded by the State.

For these reasons, the petitioner respectfully requests that the Court grant the petition for writ of certiorari and review the Court of Appeals's decision.

By: 

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March 23, 2015

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In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Edgar W. Dickson, Circuit Court Judge

Case No. 2011-GS-38-01561 - 01563
Case No. 2013-GS-38-00287
Appellate Case No.: 2013-000784

State of South Carolina,.....Respondent,

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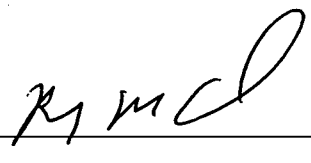
Richard Lanard Sprinkle,.....Appellant.

PROOF OF SERVICE

I certify that I have served the Reply to Return to Petition for Writ of Certiorari on Respondent State of South Carolina on March 23, 2015, addressed to the attorney of record, J. Benjamin Aplin, Assistant Attorney General, Office of the South Carolina Attorney General, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201.

By: 

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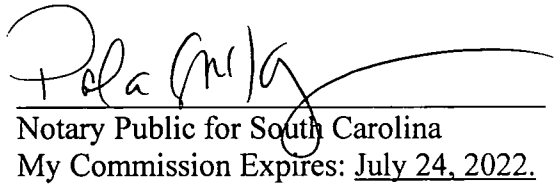
SUBSCRIBED AND SWORN TO
Before me this 23rd day of March, 2015.



Notary Public for South Carolina
My Commission Expires: July 24, 2022.