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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HAMPTON COUNTY
Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

Respondent,

vs.

TONYA MCALHANEY,

Appellant.

APPELLATE CASE NO. 2014-000255

SUPPLEMENTAL
RECORD ON APPEAL

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Testimony of Roma Muller
Direct Examination by Mr. Wright
February 4, 2014

ROMA MULLER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q. Ms. Muller, where do you live?

A. I live -- my mailing address is Post Office Box
Fourteen One in Lexington and my physical address is 422
Tom Draft Circle [phonetic], Gilbert.

Q. Okay. Do you own any property here in Hampton
County?

A. Yes, sir.

I'm part owner of 108 Plywood Street. That was
my mother, Beatrice Deloach's, home and my father's, Aiken
Deloach's. When he passed away in 1970, it was my mom's
from then on.

And my brother, Charles Deloach, lived with my
mother. And my mother passed away two years ago, January
25th. My brother had cancer at the time and she had a
massive heart attack. His son had lived with them. He
finished raising his son, Chuck Deloach, who died with
cancer this coming weekend will be five years ago. And
then my brother was very sick there, and he stayed at 108
Plywood Street.

And I retired, June a year ago, to come help my

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1 brother. I was executive secretary, bookkeeper, at the
2 school and so I started helping him pay his bills and all.

3 Q. Okay.

4 A. And I didn't really answer your question. I'm
5 sorry.

6 My mother left the home, in her will, to us
7 three children, my brother, my sister and I. So we've not
8 probated that because my brother had cancer and he was
9 sick and we just didn't want him to have to deal with all
10 that, because it was enough to deal with my mom's passing.

11 So that's still in probate. But I do own a
12 third of that home.

13 Q. Was anybody using the house as a place to stay
14 overnight at the time of this incident?

15 A. Yes, sir.

16 My niece, my brother's only living child, has
17 three children. And because of my brother's situation, us
18 having to care for him, she had changed her children to
19 home schooling before he passed away. She lives in
20 Campobello and so he -- she couldn't just come at the drop
21 of a hat or take the children out of school, so she
22 changed them to home school. And so she would come and
23 stay. And my sister and I would stay.

24 And when my brother passed away, he still had
25 his business running and my niece stayed for several weeks

Testimony of Roma Muller
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February 4, 2014

1 after he passed away. And he passed away September 16th,
2 2013. And she stayed two weeks straight. And then she
3 went home to get some things and then she came back.

4 And she was back and forth because she was the
5 one having to deal with running the business. It was
6 still open and she had people helping her. But she was
7 able to stay during the week or the weekend, or however
8 long, because she was home-schooling her children. And
9 she did that with them there. She would come with those
10 three children.

11 Q. Okay. So as one of the owners of the property,
12 was it your understanding that in November of 2013, most
13 specifically on the 23rd, that the house was still being
14 used as a dwelling by your niece? Was that your
15 understanding?

16 A. Yes, sir. Yes, sir.

17 It was hers off and on because she was
18 responsible for my brother's everything because she's his
19 only living child.

20 Q. Does she have electricity in the house?

21 A. Yes, sir.

22 It's still there. The electricity is still on.

23 Q. Water?

24 A. Yes, sir.

25 Q. Does she have furniture in the house?

Testimony of Roma Muller
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1 number that Jessica said to call and it was a police
2 officer. And I explained to him where I was. And he said
3 he would meet me at the house if I would call and let him
4 know that I was within thirty minutes of the home, and
5 that they would meet us. And they did. And they had the
6 items in their vehicle.

7 Q. Do you remember some of the items that they had?

8 A. Yes, sir.

9 One of my mom's broaches was in the items, and
10 some knives that were my brother's, and belt buckles, and
11 some Christmas ornaments.

12 I can't think right now what else but --

13 Q. I'm going to --

14 A. -- all of the items they had belonged in the
15 home.

16 MR. WRIGHT: Permission to approach, Your Honor?

17 THE COURT: Sure.

18 A. And they had one paper that they had taken the
19 papers out of the hospital bag that we took my brother to
20 the hospital with. And the people that had made the
21 robbery were trying to burn those papers. And they had a
22 piece of it, which I recognized because I took my brother
23 to the doctor at MUSC all the time for treatments.

24 Q. [Mr. Wright] Yes, ma'am.

25 A. And it was burnt, but it still had my brother's

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1 name on it.

2 Q. Yes, ma'am.

3 MR. WRIGHT: I'm going to put this bag here.

4 And if you could, we need to identify the items that
5 you pull out. So you'll have to bear with me. We're
6 going to put some tags on them as you --

7 THE WITNESS: Okay.

8 MR. WRIGHT: -- identify them.

9 So, you know, if you could, look in the bag. If
10 you don't -- if you don't recognize the item, please
11 do not pull it out of the bag but only if you
12 recognize the item as something that was shown to you
13 after the incident and that belonged in the house.
14 Okay?

15 THE WITNESS: Should I stand?

16 MR. WRIGHT: Yes, ma'am. If you don't mind.

17 A. This was my brother's watch and --

18 Q. [Mr. Wright] Slow down.

19 A. Sorry.

20 MR. WRIGHT: Would it be better, Your Honor, to
21 identify the whole bag of items or each -- I don't
22 think it's necessary to do every particular item. We
23 can do the whole bag as one exhibit, if it's okay with
24 everybody.

25 THE COURT: It depends on whether there's an

Testimony of Roma Muller
Continued Direct Examination by Mr. Wright
February 4, 2014

CONTINUED DIRECT EXAMINATION

BY MR. WRIGHT:

Q. I think we were almost done. I had a couple other questions for you.

Specifically, you said you remembered the items that you looked at; correct?

A. Yes, sir.

Q. I'm going to bring to you what's been previously marked for identification purposes as Plaintiff's -- State's Exhibit 1. I would like for you to look at these items. And, first, tell me if you recognize the items contained in here. Don't pull anything out. Just look in there and see. Do you recognize those items?

A. Yes, sir.

MR. WRIGHT: All right. At this time, Your Honor, I would like to move these items into the record as Plaintiff's [sic] Exhibit 1.

It's previously been shown to defense counsels.

And this person, this witness, says that she recognizes those items as items that were taken out of -- were submitted to her from law enforcement as items taken out of the house.

THE COURT: Is that what she said?

MR. WRIGHT: Well, earlier we did before we --

THE COURT: All right.

Testimony of Roma Muller
Continued Direct Examination by Mr. Wright
February 4, 2014

1 MS. SMART-GITTINGS: No objection from this
2 defendant, Your Honor.

3 MR. PLEXICO: No objection.

4 THE COURT: All right. Defendant 1 [sic] is
5 admitted without objection.

6 [Whereupon, State's Exhibit Number 1 is admitted
7 into evidence by the Court]

8 MR. WRIGHT: Can she have permission to publish
9 them to the jury and show them what they are and how
10 she recognizes them?

11 THE COURT: Sure.

12 MR. WRIGHT: Please just --

13 THE WITNESS: Do I --

14 MR. WRIGHT: If you can put this on the floor
15 and then show -- or put it here on -- stand here. Put
16 them on the chair and just stand up here and show them
17 to the jury.

18 THE WITNESS: Okay.

19 A. This was my brother's container.

20 And these were his keys.

21 And these are belt buckles that he had in his
22 room. He had several, lot's of, the belt buckles. And he
23 had -- this was one of his that he put on his belt.

24 This is -- this is some of his medicine. As I
25 said, I retired and stayed with him a lot. He had cancer.

Testimony of Roma Muller
Continued Direct Examination by Mr. Wright
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1 And this was part of the medicine. There was a lot of
2 medicine. There was a whole lot of medicine in his room
3 that was taken. That's some of it. Because we -- he had
4 just passed away and we hadn't gotten everything cleaned
5 out.

6 And these are two of his watches.

7 This was from my mom's room.

8 And this had a little wallet thing that was his.

9 And we carried a bag to the doctor every time we
10 went for his treatments or for his doctor appointments so
11 that if I was taking him, or my niece and my sister, we
12 knew what the last record was. And we kept it in like a
13 Ziplock-bag thing with all of his records in there. And
14 we kept -- because he threw up a lot, we kept the bags and
15 a change of clothes and that kind of stuff.

16 And they had taken everything out of that bag,
17 all of his medical papers. And the police showed me these
18 that had burned. They had tried to burn the papers. But
19 some of it had his name and his numbers on it. They
20 showed us that.

21 And this is one of my mom's broaches that they
22 had taken. They had dumped all this stuff out of her top
23 drawer and threw her Bible on the floor. And the Bible
24 was open --

25 MR. PLEXICO: Objection, Your Honor. That would

Testimony of Roma Muller
Continued Direct Examination by Mr. Wright
February 4, 2014

1 be inadmissible -- to emotion, Judge.

2 THE COURT: Overruled. Go ahead.

3 A. And they took some of his mail. This was his
4 envelope that was in part of that. Hopewell Baptist
5 Church sent him a get-well card just about every week from
6 their Wednesday night group, and that was in that.

7 This is one of his medical records that they
8 took. It has his name from the hospital.

9 And this little picture is a picture of my
10 nephew, my sister's baby. He's the baby grandchild. My
11 brother dearly loved him. He's twenty-one now, plays the
12 guitar. And my brother thought that was just wonderful.

13 Q. [Mr. Wright] That's the bulk of those items?

14 A. Sir?

15 Q. And that's everything that's in there?

16 A. Yes, sir, that's everything that's in here.

17 Q. All right. I'm going to show you another
18 exhibit in a second, but let me ask you a couple of
19 questions while you're putting that -- when you get done.
20 You can go ahead and put it back in there.

21 A. [Witness complies]

22 Q. And when you answer this next question, please
23 don't give me any type of description or character. I
24 just want you to answer the question the way I ask it. Is
25 that okay?

Testimony of Roma Muller
Continued Direct Examination by Mr. Wright
February 4, 2014

1 MR. WRIGHT: All right. Put them back.

2 THE WITNESS: [Witness complies]

3 MR. WRIGHT: Madam Court Reporter, I'm going to
4 put them over here, just to be out of your way.

5 THE COURT REPORTER: Thank you.

6 Q. [Mr. Wright] I believe you said that you knew
7 Travis Hair and Tonya McAlhaney. Did you give them
8 permission, as one of the owners of the house, to go to
9 your house?

10 A. No, sir.

11 MR. WRIGHT: Court's indulgence.

12 Please answer any questions that defense
13 attorneys have for you.

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Testimony of Amanda Deloach Brown
Direct Examination by Mr. Wright
February 4, 2014

AMANDA DELOACH BROWN,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q. 108 Plywood Street, Hampton County, South
Carolina. Did you stay there on a regular basis?

A. Yes.

Q. Please explain to the jury what you mean by
that.

A. My father had been fighting cancer for several
years. Originally, that was the home my father, my
grandmother and my brother and I lived in.

When my brother passed away, my grandmother and
father were still there. And then my grandmother passed
away while my dad was battling cancer. So I was the only
one left to take care of him, so I pretty much moved in
with him.

Once his cancer took a turn for the worse and we
got back from clinical trials, I took my kids out of
school and started home-schooling so I could stay down
here full time and only went home one or two days to see
my husband.

So I was living in the house with my children so
that I could run the business, once daddy passed away, so

Testimony of Amanda Deloach Brown
Direct Examination by Mr. Wright
February 4, 2014

1 that I could keep the station open --

2 Q. In close proximity to November 23rd, 2013, were
3 you still staying in the place --

4 A. Yes.

5 Q. -- on a regular basis?

6 A. I lived there that week, with the children,
7 spending the night.

8 And I left I believe it was Tuesday, the 19th.
9 And I was going to be gone for a few days. And that was
10 known to the business that I was running. The employees
11 knew that I would be gone for a few days, and I guess that
12 information was used.

13 Q. Explain what you mean information was used,
14 employees.

15 A. Mr. Larry Crosby and Mr. Travis Hair both --
16 now, Mr. Larry Crosby did not work for me. But he did
17 come up to the store and he knew a lot of people in
18 Hampton and hung out at the store, at the business, during
19 the day. And they heard -- they were there when I -- I'm
20 sorry.

21 Q. Let's stay away from character -- I don't want
22 to stumble across anything --

23 A. What was the --

24 Q. -- that may be objectionable.

25 Just you said that Travis Hair and Larry

Testimony of Amanda Deloach Brown
Direct Examination by Mr. Wright
February 4, 2014

1 Crosby --

2 A. Knew.

3 Q. -- may -- knew. Explain --

4 A. They knew.

5 Q. -- that part.

6 A. They knew. They -- I told my other associate in
7 front of them that I had to be out of town for a few days,
8 consistently, because my son had a dental appointment, he
9 had to have some teeth removed, so I believed I would be
10 gone for that time frame.

11 Q. So this defendant, Travis Hair, over -- was
12 there when you told someone else that?

13 A. Yes.

14 Q. All right. The other big question. Were you
15 moving out of the house?

16 A. No.

17 Q. Explain what was being moved, because I think it
18 was alleged today something was being moved. What was
19 going on?

20 A. Yeah. My grandmother passed away while my dad
21 was still sick, so my -- we never divided my grandmother's
22 things up from her room. And we weren't using her room,
23 we were using the back bedroom my brother and I used, and
24 my father's room, the other room. So there was a china
25 cabinet that my grandmother had left me, you know, and I

Testimony of Amanda Deloach Brown
- Direct Examination by Mr. Wright
February 4, 2014

1 was taking that out because my grandmother's things had
2 been divided but my -- the whole rest of the home was left
3 in place. All -- my kids had a bedroom and I had a
4 bedroom. All the beds and everything else was left. So
5 it was just a couple of pieces of antique furniture that I
6 was taking.

7 Q. Okay. Who helped you move that?

8 A. Mr. Travis Hair and Mr. Larry Crosby.

9 Q. So they were inside the home?

10 A. Yes. They were both inside the home.

11 Q. Did you give them consent to go in the house
12 whenever they wanted to?

13 A. Absolutely not.

14 Q. On November 23rd, 2013, did they have consent
15 from you to go into the home?

16 A. No, they did not.

17 Q. Where exactly is this home? I said 108 Plywood
18 Street. But tell the jury exactly where it's at. Which
19 county and things of that nature?

20 A. It's Hampton County.

21 It's down the road from my dad's service
22 station, Deloach Service Station. It's just right across
23 from Malamar [phonetic].

24 Q. So 108 Plywood Street, Hampton, South Carolina,
25 is in Hampton County?

Testimony of Amanda Deloach Brown
Direct Examination by Mr. Wright
February 4, 2014

1 A. Oh, yes.

2 Q. Okay. So what you're telling the jury, as
3 pertains to the residence at 108 Plywood Street, that it
4 was still being occupied? You just happened to not be
5 there that day; correct?

6 A. Yeah.

7 My children's bikes were on the front porch. We
8 had been riding our bikes. The beds were all made.

9 Q. Was there food in the refrigerator?

10 A. Food in the fridge. I mean, TV with DVDs for
11 the kids.

12 Q. Electricity?

13 A. Fully occupied. You know, home-school stuff.
14 Everything was in there.

15 Q. Running water? Electricity?

16 A. Running water, electricity. And I always
17 secured the locks, so --

18 Q. So did you leave the back door open for them to
19 come in?

20 A. No, I did not.

21 MR. WRIGHT: Please answer any question -- I
22 apologize. Beg the Court's indulgence.

23 THE COURT: All right, sir.

24 MR. WRIGHT: Please answer any questions that
25 defendants' attorneys have for you.

Testimony of Amanda Deloach Brown
Cross-Examination by Mr. Plexico
February 4, 2014

1 dental appointment at?

2 A. Pardon me?

3 Q. Where did your child have a dental appointment
4 at?

5 A. In Greenville.

6 Q. All right. And is this the dentist for your
7 other two children?

8 A. No.

9 Q. Okay. Who's the dentist for your other two
10 children?

11 A. The local doctor here. Doctor --

12 Q. All right. Now, so you -- what is the name of
13 the town that you have a home in? Compobello?

14 A. Campobello.

15 Q. All right. And that is in what county?

16 A. That's in Spartanburg County.

17 Q. Okay. And your husband is there?

18 A. Yes, he is.

19 Q. And your regular place of abode is there?

20 A. I'm sorry?

21 Q. Your regular place of abode, where you dwell, is
22 normally there; is that correct?

23 A. Well, actually, this past year it was more here.

24 I was -- if you count the days, I was here more
25 this year than I was at home because of my father's

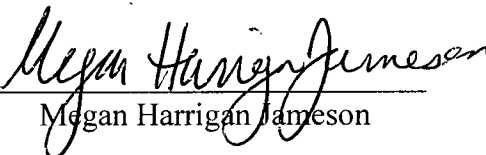
Certificate Of Counsel

The undersigned certifies that this Supplemental Record On Appeal complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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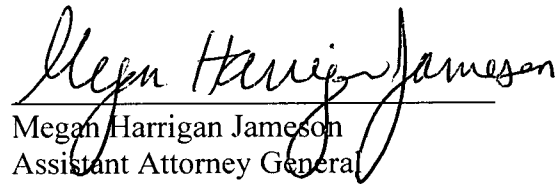
Appellant.

PROOF OF SERVICE

I, Megan Harrigan Jameson, certify that I have served the within Supplemental Record On Appeal on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Tiffany L. Butler, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 5th day of May, 2015.


Megan Harrigan Jameson
Assistant Attorney General
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