

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

R. Knox McMahon, Circuit Court Judge

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**RECEIVED**  
DEC 17 2015  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KENNETH MURRAY,

APPELLANT

APPELLATE CASE NO. 2014-000051

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SUPPLEMENTAL RECORD ON APPEAL

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1 MS. PENN: ---where the fruit is the statement and the  
2 search warrant is the poisonous tree. we'd like to  
3 incorporate those arguments into our motions to suppress the  
4 BB gun found at 2627 Linnen Lane with the fruit in this case  
5 being the gun, the poisonous tree being the search warrant  
6 without having to redo everything, but---

7 THE COURT: All right.

8 MS. PENN: ---we would just like to make that motion.

9 THE COURT: Certainly.

10 All right. And I would, I would renew my previous  
11 rulings in that regard.

12 MS. PENN: Thank you, Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. PENN: We would also like to clarify for the record  
15 that we would, during cross and perhaps direct, ask  
16 questions -- we would ask questions about Mount Pleasant's  
17 interrogation of Mr. Murray the first day he was arrested on  
18 the 28<sup>th</sup> of July, but that it's our understanding that the  
19 Court's ruling is that if we do that we have opened the  
20 door. It's our position that we could bring out those  
21 facts, the facts of that first interrogation, without  
22 opening the door and with respect to the Court's decision,  
23 it's our position that our inability to do so violates his  
24 right to a fair trial and his ability to present a defense  
25 under the Fourteenth Amendment to the U.S. Constitution.

1           THE COURT: Well, I don't know any law that says a  
2 motion in limine ruling violates someone's due process  
3 rights because it's not a final ruling. I think I said --  
4 you asked the question and the solicitor can object or not  
5 object. I can't anticipate what question you may ask and  
6 what objections the solicitor may or may not make.

7           So, I have, I have not ruled. I did say that it was  
8 very difficult to segregate the, the statement and it was  
9 misleading to the jury to have the jury think that Detective  
10 Sergeant Hembree interviewed the defendant for ten hours on  
11 28 July of '11 and, and then, thereafter, four or five days  
12 later, the defendant confessed to -- in a three hour  
13 interview conducted at his request on a different crime on  
14 the Pizza, Pizza Hut crime.

15           It's like In Re: Master. I mean it's, it's part and  
16 parcel perhaps of the, of the totality of the circumstances,  
17 but, in my opinion, we can not pick and choose what parts of  
18 the 28<sup>th</sup> that you want to use.

19           Again, that's a motion in limine. The motion in limine  
20 is not a final ruling. You, you know that. Many times  
21 attorneys hear a motion in limine and then they don't  
22 contemporaneously object at the time the testimony is  
23 presented in the courtroom and, of course, it, it's not  
24 preserved for public review, but a motion in limine is not a  
25 final ruling, and I'm not gonna give an anticipatory ruling

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

December 17th, 2015

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ATTORNEY FOR APPELLANT

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**SC Court of Appeals**

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CERTIFICATE OF SERVICE

I certify that a true copy of the Supplemental Record on Appeal in the above referenced case has been served upon Amie L. Clifford, Esquire, at PO Box 11549, Columbia, SC 29211 this 17th day of December, 2015.

Cruise Mitchell  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 17th day of December, 2015.

(L.S.)

Notary Public for South Carolina  
My Commission Expires: October 30, 2022.