

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County

Honorable Kristi Lea Harrington, Circuit Court Judge

RECEIVED

AUG 20 2018

SC Court of Appeals

RESPONDENT,

THE STATE,

V.

ANDREW ALLSTON KIRKLAND,

APPELLANT

APPELLATE CASE NO. 2018-000254

ANDERS BRIEF OF APPELLANT

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge abuse her discretion by refusing to admit evidence of the complainant's conduct on the night proceeding the alleged rape pursuant to the Rape Shield Statute, and Rule 402, SCRE, where the purpose of the evidence was not to attack the complainant's character and where the evidence was relevant to show the timeline of events and the complainant's mental capacity?

STATEMENT OF THE CASE

A Charleston County Grand Jury indicted Appellant on November 3, 2015 for criminal sexual conduct, third degree. R. 475-476. His case was called to trial on February 5, 2018 before the Honorable Kristi Lea Harrington, and a jury. R. 1. Assistant Solicitors Andrew Evans and Shannon Elliott represented the state, and Summer Eudy and Joseph C. Good, III represented Appellant. R. 2.

On February 7, 2018, the jury found Appellant guilty. R. 455, ll. 9-16. He was sentenced to five years suspended upon the service of one year imprisonment and four years probation. R. 471, l. 13 – 472, l. 1. He was also ordered to register as a sex offender. R. 472, ll. 1-2.

This appeal follows.

STANDARD OF REVIEW

“In criminal cases, an appellate court sits to review only errors of law, and it is bound by the trial court’s factual findings unless they are clearly erroneous.” State v. Williams, 409 S.C. 455, 463, 761 S.E.2d 770, 775 (Ct. App. 2014) (quoting State v. Black, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012)) (internal quotation marks omitted). “The admission or exclusion of evidence is left to the sound discretion of the trial [court], whose decision will not be reversed on appeal absent an abuse of discretion.” Id. (quoting Black, 400 S.C. at 16, 732 S.E.2d at 884) (internal quotation marks omitted) (alternation in original). “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.” Id. (quoting Black, 400 S.C. at 16, 732 S.E.2d at 884) (internal quotation marks omitted).

STATEMENT OF FACTS

On the evening of December 6, 2014, Lexi Allston and her friend Robyn Dunn drove from Beaufort, where they lived, to Appellant's house in Hollywood. R. 91, l. 20 – 92, l. 13; R. 93, ll. 16-25; R. 177, ll. 8-24. Lexi and Appellant were first cousins. R. 176, l. 22 – 177, l. 4; R. 326, ll. 13-16. The three, along with Appellant's brother, Dewey Kirkland, planned to celebrate Lexi's thirtieth birthday. R. 177, ll. 8-18.

The day before, Lexi and Appellant texted back and forth making arrangements for the evening. Lexi told Appellant that her friend Robyn wanted to come with her and texted Appellant a picture of Robyn. Appellant and Lexi then engaged in "banter" back and forth about Robyn. R. 331, l. 2 – 333, l. 25. Appellant believed Lexi "was setting [him] up with her friend." R. 334, ll. 8-16.

The women arrived at Appellant's house around 7:00 pm. R. 177, ll. 19-24. They all drank liquor at the house, including a "birthday shot" of vodka before heading to a bar in West Ashley called Famous Joe's. R. 94, l. 6 – 95, l. 13; R. 97, ll. 7-21; R. 178, ll. 5-16. The group continued to drink at the bar. R. 179, ll. 20-24. Lexi and Appellant played pool while Robyn and Dewey danced on the dance floor. R. 97, l. 22 – 98, l. 5; R. 123, ll. 8-13; R. 179, l. 25 – 180, l. 11; R. 341, l. 15 – 342, l. 6. After about an hour, the group left and drove back to Appellant's house. R. 98, ll. 20-22. On the way, Robyn, who was sitting in the backseat, threw up on herself. R. 99, ll. 1-11; 181, ll. 20-23. While Robyn denied being intoxicated, Lexi testified Robyn "was pretty drunk at that point."¹ R. 112, l. 17 – 115, l. 19; R. 181, ll. 6-8; 197, ll. 22-23.

¹ Robyn testified that she did not vomit from drinking too much. Over the course of the night, she only had four liquor beverages and a beer, which she admitted was not "a lot for [her]." Instead, she suspected Appellant, his brother, Dewey, or possibly someone else at the bar "put something in [her] drink." R. 114, l. 9 – 115, l. 20. There was absolutely no evidence to support this suspicion. Lexi testified that she "doubted" Robyn had been "drugged." R. 197, l. 22 – 198, l. 11.

When they returned to Appellant's house, Robyn took a shower and put on pajama pants and a shirt. R. 99, l. 22 – 100, l. 12; R. 182, l. 24 – 183, l. 2; R. 184, ll. 18-21. Lexi and Robyn had planned to spend the night and had each packed an overnight bag. R. 93, ll. 10-15; R. 177, ll. 19-21. The group then ate some mash potatoes. R. 100, l. 13-16; R. 183, ll. 9-12. At some point, Dewey went home. R. 186, ll. 17-18. Accounts of what occurred next varied.

Appellant testified that after Robyn took a shower, she came into the living room and sat next to Appellant on the couch. Appellant put his hand on Robyn's leg and the two kissed. R. 345, ll. 3-12. Appellant describe it as a "flirtatious kiss." R. 348, ll. 1-11. Robyn then took a picture of herself or a "selfie" with Appellant's phone and asked Appellant if he wanted her number. Robyn ultimately saved her contact information and the "selfie" she had taken of herself in Appellant's phone. R. 345, l. 13 – 346, l. 7; R. 347, ll. 14-17. This contact information was saved at 1:26 am. R. 345, l. 20 – 346, l. 7.

Appellant testified that he went to bed first. He started drinking more heavily once they had returned to his house and when "the liquor hit [him] all at once" he went to bed. R. 348, l. 13 – 349, l. 9. Lexi and Robyn came to bed shortly thereafter. Appellant remembered they turned the lights on briefly, but he never fully woke up because he was intoxicated. R. 349, l. 10 – 350, l. 4. After Lexi fell asleep, Robyn rolled over and she and Appellant began kissing and "touching on each other." R. 350, l. 8 – 351, l. 24. Appellant testified that Robyn initiated the physical intimacy. R. 351, l. 25 – 352, l. 6. As the contact progressed, Appellant eventually took off Robyn's pants "with her help." R. 352, ll. 8-16. During foreplay, Appellant penetrated her vagina with his fingers and Robyn "jerked" Appellant's penis with her hands. Eventually the two had vaginal intercourse. R. 352, l. 17 – 353, l. 5. After they had sex, the two fell asleep.

Appellant woke up two to three hours later after he was violently pushed off the bed onto the floor. R. 353, l. 19 – 354, 23. He did not know what happened, but he believed Robyn

pushed him. R. 354, l. 20 – 355, l. 22. Appellant was angry about being pushed. He heard a lot of commotion and Robyn crying. Eventually Lexi and Robyn left. R. 356, ll. 13-25.

Robyn claimed that after eating mashed potatoes, she went to bed. According to Robyn, the group had agreed that Appellant would sleep on the couch in the living room and Lexi and Robyn would sleep in Appellant's bed. R. 101, l. 10 – 102, l. 3; R. 185, ll. 4-10. The last thing Robyn remembered was "cuddling up [next] to Lexi" in bed and then she "was out of it." R. 101, l. 6 – 102, l. 7. Robyn eventually woke up and heard Lexi "mumble something to the fact of me sleeping. She's asleep, leave her alone, or something like that," but Robyn "wasn't aware of what was going on." R. 102, ll. 14-21. She "just curled back up and went back to sleep." R. 102, ll. 19-22.

Robyn claimed that the next time she woke up "she could feel [she and Appellant] were having skin to skin contact and that [her] pants were no longer on." R. 103, ll. 4-16. She then realized Appellant's penis was inside her vagina. R. 103, l. 17 – 104, l. 5. According to Robyn, she was laying on her back and Appellant was on top of her. R. 104, ll. 6-10. Robyn testified that when she "tried to push him off of [her], he told [her] it was okay and that he wasn't trying to hurt [her], and something to the effect of just let me finish." R. 104, ll. 11-15; R. 130, ll. 4-8.

Robyn claimed that she did not consent to having sex with Appellant that night. R. 107, ll. 10-18. After she realized what happened, she left the bedroom and searched for Lexi. She found Lexi smoking a cigarette outside. After she told Lexi what happened, Lexi gathered their belongings and the two drove back to Beaufort. R. 107, l. 19 – 109, l. 5. This was around 5:00 am. R. 192, l. 22 – 194, l. 12. After speaking with her boyfriend at the time, Robyn decided to go to the hospital and report what happened to law enforcement. R. 110, ll. 5-24.

Lexi testified that she, Robyn, and Appellant all went to bed in Appellant's bed at the same time. 186, l. 14 – 187, l. 5. She claimed she woke up around four in the morning and "felt

the bed moving.” She “couldn’t tell what was going on.” After a few moments, she realized Appellant was touching Robyn. R. 187, ll. 11-25. Lexi claimed she could tell Robyn was sleeping because of “the way she was breathing, that deep slow breathing like almost snoring.” R. 188, ll. 2-7. She testified that she told Appellant to leave Robyn alone because she was asleep. R. 188, ll. 8-19. Lexi then left the room to go to the bathroom and then went outside to smoke a cigarette. R. 188, ll. 20-25. According to Lexi, a few minutes later at most, “Robyn came flying out.” She was hysterical, shaking, and “crying violently.” Robyn said to Lexi, “What the fuck, Lexi? I woke up and he was inside of me. What the fuck?” R. 189, ll. 3-17. Lexi claimed Robyn had no pants on and was naked from the waist down. R. 189, ll. 18-22. After Robyn said she wanted to leave, Lexi gathered their belongings and drove back to Beaufort. R. 190, l. 1 – 191, l. 192, l. 15. She later accompanied Robyn to the hospital. R. 195, ll. 3-6.

The results of Robyn’s pelvic exam were normal. There was no evidence of trauma. R. 164, l. 1 – 165, l. 10; R. 170, ll. 5-24; R. 140, ll. 18-25.

After deliberating for six hours, the jury ultimately found Appellant guilty of third degree criminal sexual conduct. R. 454, l. 22 – 455, l. 16.

ARGUMENT

The trial judge abused her discretion by refusing to admit evidence of the complainant's conduct on the night proceeding the alleged rape pursuant to the Rape Shield Statute and Rule 402, SCRE, where the purpose of the evidence was not to attack the complainant's character and where the evidence was relevant to show the timeline of events and the complainant's mental capacity.

How the Issue was Presented Below

During pretrial motions, the solicitor told the judge that he had filed a "standard rape shield motion" to exclude any evidence that would not be admissible pursuant to S.C. Code Ann. § 16-3-659. R. 56, ll. 12-13. The parties agreed they would address any matters as they came up on cross-examination or during the course of the trial. R. 69, ll. 17-25.

Before Appellant's presentation of evidence, the judge allowed defense counsel to place a matter on the record. Counsel stated, "For the record, I just want to state that we had a conversation between counsel and Your Honor about whether . . . Mr. Andrew Kirkland [Appellant] and Mr. Dewey Kirkland could testify about Miss Dunn's [Robyn's] flirtatious behavior towards Dewey Kirkland and other people at the bar, as well as Miss Dunn touching the leg of Dewey Kirkland on the way home. And I believe with regard to the rape shield law, the State objects to all of that." R. 304, l. 22 – 305, l. 25.

The solicitor argued such evidence was inadmissible pursuant to Rule 401, SCRE, and S.C. Code Ann. § 16-3-659.1, which is commonly referred to as the Rape Shield Statute. Moreover, pursuant to the statute, the solicitor maintained he was not given notice of Appellant's intent to introduce such evidence. R. 306, ll. 2-17.

In response, defense counsel argued that the evidence Appellant sought to admit did not fall under the Rape Shield Statute because it was not evidence of “sexual conduct.” Consequently, Appellant did not, and was not required to, give written notice to the state. R. 307, ll. 2-9. As far as relevancy, defense counsel argued, “[T]he testimony regarding Miss Dunn’s [Robyn’s] behavior at the bar going around and talking to different groups of men is relevant in - - from one purpose, particularly the timeline and substantiating why they left the bar and why they were at the bar a short time. And Mr. - - ” R. 307, ll. 10-18.

Interrupting defense counsel, the trial judge commented, “So there’s no reason why you can’t inquire as to what time did you leave the bar, sir? And why they left the bar, I’m not sure how that’s relevant to whether or not consent was involved.” R. 307, ll. 19-23.

Defense counsel continued to argue the evidence was relevant. She maintained it was relevant because it showed the group were at the bar a short period of time, it supported the defense timeline of events, it corroborated Appellant’s testimony, and lastly it would impeach Robyn’s testimony as to the timeline, “when she was intoxicated, when she was not intoxicated, when she . . . went to sleep and when she woke up.” R. 307, l. 24 – 308, l. 8.

Ultimately, the judge ruled evidence as to the timeline alone was admissible. R. 308, ll. 9-20. The assistant solicitor admitted he had no objection to defense counsel “asking when they left [the bar].” However, he maintained “the reasons they left are immaterial and irrelevant.” R. 308, ll. 19-25.

Appellant ultimately presented the testimony of his brother, Dewey Kirkland. During direct examination by defense counsel, the following exchange occurred:

Q: While you were at the bar, did you-all hang out with any other people at the bar?

[The Solicitor]: Objection. That - -

The Court: What's the basis?

[The Solicitor]: Rape shield, Your Honor, for the previous reasons we mentioned, as well as [Rules] 404 and 401. I think it's an attempt to get into what we discussed before.

The Court: All right. Sustained.

R. 315, ll. 6-14.

Later, during Appellant's testimony, defense counsel questioned Appellant about what occurred at the bar and who was engaged in what activity. The following exchange took place between counsel and Appellant:

Q: Did Robyn play pool with you?

A: No, sir.

Q: What was she doing?

A: Robyn was dancing and hanging out with other people at the bar, other men.

Q: What do you mean by that?

[The Solicitor]: Objection. Your Honor, rape shield and all the other things we've previously been talking about.

The Court: Counsel.

(Bench Conference)

The Court: Sustained.

R. 342, ll. 2-13.

Because the state's objections were sustained during both Dewey and Appellant's testimony, neither witness was allowed to testify as to Robyn's conduct or behavior at the bar or why the group left the bar that night after only a short period of time, all of which would have corroborated Appellant's testimony concerning the timeline of events and Robyn's mental capacity.

Discussion

The trial judge abused her discretion by refusing to admit Dewey Kirkland and Appellant's testimony concerning Robyn's conduct and behavior at the bar and her actions towards Dewey that night. This evidence was relevant to show the timeline of events, why the group left the bar after only a short period of time, and when Robyn was or not was intoxicated, which would have demonstrated she was mentally capable of consenting to sexual intercourse with Appellant. Moreover, the purpose of this evidence was not to attack Robyn's character. Rather, it was to support Appellant's testimony and defense.

“‘Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 401, SCRE. “Evidence which is not relevant is not admissible.” Rule 402, SCRE.

Under the Rape Shield Statute,

Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is not admissible in prosecutions [for criminal sexual conduct]; however, evidence of the victim's sexual conduct with the defendant or evidence of specific instances of sexual activity with persons other than the defendant introduced to show source or origin of semen, pregnancy, or disease about which evidence has been introduced previously at trial is admissible if the judge finds that such evidence is relevant to a material fact and issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

S.C. Code Ann. § 16-3-659.1(1).

Our Supreme Court has long held “that the state's interest in protecting criminal sexual conduct victims is stronger than the right of a defendant to attack such a victim's character in a manner that has limited or no relevance to the question of guilt.” State v. Finley, 300 S.C. 196, 387 S.E.2d 88 (1989) (citing State v. Jalo, 27 Or.App. 845, 557 P.2d 1359 (1976) and Commonwealth v. Black, 337 Pa.Super. 548, 487 A.2d 396 (1985)). However,

the Rape Shield Statute does not bar evidence of a complainant's sexual conduct if the evidence is offered for a purpose other than to attack the complainant's character or "morality." State v. Williams, 409 S.C. 455, 464, 761 S.E.2d 770, 775 (Ct. App. 2014) (citing State v. Grovenstein, 340 S.C. 210, 216, 530 S.E.2d 406, 409 (Ct.App.2000)); See State v. Lang, 304 S.C. 300, 301, 403 S.E.2d 677, 678 (Ct. App. 1991).

In State v. Finley, 300 S.C. 196, 387 S.E.2d 88 (1989), our Supreme Court held evidence of the complainant's sexual conduct on the morning before the alleged assault was admissible because it was both relevant and essential to Finley's right to confront and cross examine the witnesses against him and to present a full defense. Finley was convicted of assault with intent to commit criminal sexual conduct. On the night before the alleged incident, the complainant and Finley had dinner together at Finley's home. Id. at 198, 387 S.E.2d at 89. After drinking tequila and watching television, Finley drove the complainant home. Id. Later in the evening, the complainant fell asleep on a love seat in the living room of her apartment, and Finley fell asleep on the floor in the same room. Id. Around 2:30 am, Finley woke up and saw the complainant having sex on the love seat with her male friend who lived in an adjacent apartment. Id. After the neighbor left, both the complainant and Finley went back to sleep without talking to each other. Id. The next morning, the complainant claimed Finley grabbed her, bruised her arm, threw her on the bed, got on top of her, tried to put a pillow over her face, and unzipped her pants before she was able to escape and call the police. Id.

Finley denied physically assaulting the complainant. He maintained the two argued about her sexual activity with the neighbor and that the complainant falsely accused him of attempted criminal sexual conduct out of anger and fear that he would publicly disclose information about her sexual activity. Id. He asserted an additional motive was to extort money from him by agreeing to drop the charges. Id.

At trial, the judge excluded the evidence of the complainant's sexual conduct with her neighbor on the morning before the alleged assault pursuant to the Rape Shield Statute. Id. at 200, 387 S.E.2d at 90. At trial and on appeal, Finley argued this evidence was relevant to his belief regarding the complainant's motive for fabricating the charges against him. Id.

Our Supreme Court held the exclusion was prejudicial error. Id. After emphasizing that Finley's defense was that he did not commit the assault and that the charges were fabricated to silence him about the complainant's sexual conduct with her neighbor and to extort money from him, the Court held the evidence was relevant and essential to Finley's right to confront and cross examine the witnesses against him and to present a full defense. Id. Consequently, the Court concluded:

Since the proffered evidence is essential to a full and fair determination of appellant's [Finley's] guilt and was offered for purposes other than to attack the complainant's character by revelation of her sexual activity with a third party, we conclude that such evidence does not come within the purview of the Rape Shield Statute.

Id. (citing State v. Schmidt, 288 S.C. 301, 342 S.E.2d 401 (1986)).

In State v. Tennant, 394 S.C. 5, 714 S.E.2d 297 (2011), the defendant was convicted of first degree criminal sexual conduct, kidnapping, and assault and battery of a high and aggravated nature after he allegedly placed a cord around his estranged wife's neck, attempted to strangle her, dragged her to the ground and placed her in the trunk of her own car, and then later had nonconsensual sex with her. Id. at 8, 714 S.E.2d at 298. At trial, Tennant sought to admit evidence of the sexual history between he and his wife. Id. at 17, 714 S.E.2d at 303. The trial judge excluded the evidence pursuant to the Rape Shield Statute. Id.

Our Supreme Court held the Rape Shield Statute does not bar evidence of a victim's sexual conduct with a defendant, provided that such evidence is otherwise admissible. Id. at 19, 714 S.E.2d at 304. Consequently, the Court concluded the trial judge and the Court of Appeals

erred in limiting evidence of this kind to circumstances in which it is introduced to show the source or origin of semen, pregnancy, or disease. Id.

However, the Court held Tennant was not prejudiced by the error because the evidence he sought to admit was not relevant. Specifically, Tennant sought to admit evidence that his wife wanted him to hurt her in order for her to achieve sexual satisfaction. He argued this evidence was relevant to his defense of consent. Id. at 20, 714 S.E.2d at 304. The Court found there was “nothing in the record to suggest that the sexual conduct that formed the basis of the crimes charged involved ‘rough sex’ or an attempt to sexually satisfy the victim through the infliction of pain.” Id. “Rather, the victim testified she peacefully submitted to Tennant’s request for sex out of fear for her life.” Id. at 20, 714 S.E.2d at 305. Therefore, the Court concluded evidence that Tennant’s wife may have enjoyed “rough sex” with Tennant during their marriage did not tend to show she consented to the sexual encounter and, consequently, the evidence was irrelevant. Id.

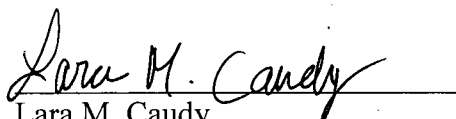
Here, like in Finley, evidence of Robyn’s conduct and behavior at the bar the night before the alleged rape was both relevant and essential to Appellant’s right to present a complete defense. Appellant’s defense was that he and Robyn had consensual sex. Evidence of Robyn’s behavior at the bar would have shown why the group left the bar after only a short period of time and corroborated Appellant’s timeline of events. Appellant testified that he and Robyn had sex around 2:00 am several hours before Robyn claimed the sexual encounter occurred and when the women ultimately left Appellant’s house. Moreover, her behavior, specifically dancing with other men and being flirtatious towards them, including Dewey, would have demonstrated her mental state or capacity shortly before the alleged rape occurred. It also would have shown when Robyn was intoxicated and when she was not intoxicated as defense counsel argued below, which was also important as to Robyn’s mental capacity.

Consequently, the trial judge abused her discretion by excluding this evidence pursuant to the Rape Shield Statute and Rule 402, SCRE. Appellant respectfully requests this Court reverse his conviction and sentence and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his conviction and sentence and remand for a new trial.

Respectfully submitted,



Lara M. Caudy
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of August, 2018.

STATE OF SOUTH CAROLINA
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Honorable Kristi Lea Harrington, Circuit Court Judge

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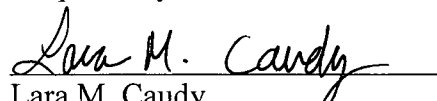
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Andrew Allston Kirkland states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense, and was appointed to represent Appellant.
2. She has reviewed the record of Appellant's trial before the Honorable Kristi Lea Harrington, which was held on February 5-7, 2018, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Andrew Allston Kirkland.

Respectfully Submitted,


Lara M. Caudy
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of August, 2018.

STATE OF SOUTH CAROLINA
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Appeal from Charleston County
Honorable Kristi Lea Harrington, Circuit Court Judge

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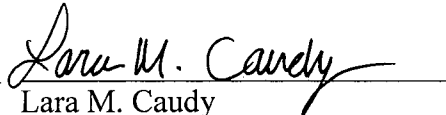
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-Billed Indictment;
- (2) Complete Trial Transcript Dated February 5-7, 2018.

I certify that this designation contains no matter which is irrelevant to this appeal.

August 20, 2018


Lara M. Caudy
Appellate Defender

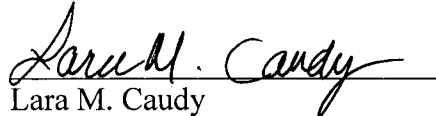
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ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant 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."

August 20, 2018.


Lara M. Caudy
Appellate Defender

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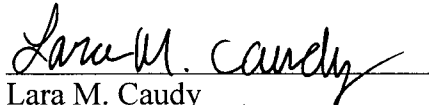
V.

ANDREW ALLSTON KIRKLAND,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant, Designation of Matter, and Record on Appeal in the above referenced case have been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant, Designation of Matter, and Record on Appeal have been served upon Andrew Allston Kirkland, at 4712 Parishville Road, Hollywood, SC 29449, this 20th day of August, 2018.



Lara M. Caudy
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 20th day of August, 2018.

 (L.S)

Notary Public for South Carolina
My Commission Expires: May 12, 2027.