

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUADRIK MICHAEL SEAN WILLIS,

APPELLANT

APPELLATE CASE NO. 2017-002431

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred in refusing to permit appellant to impeach the State's witnesses with their prior records because excluding such convictions failed to give the jury the complete picture of the witnesses' extensive criminal histories?

STATEMENT OF THE CASE

On September 1, 2016, appellant was indicted in Dorchester County for two counts of murder. R. 402 – 405. On August 31, 2017, appellant was indicted for possession of a pistol by a person convicted of a crime of violence. R. 406 – 407. On October 9, 2017, appellant was tried before the Honorable Maite Murphy and a jury. R. 1. Don Sorenson and Ryan Templeton represented the State. R. 1. Peter McCoy and Sara Turner represented appellant. R. 1. The jury convicted appellant. R. 387, ll. 6 – 24. Judge Murphy sentenced appellant to concurrent life sentences on the murder charges and five years on the weapons charge. R. 400, ll. 2 – 11. This appeal follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5–6, 545 S.E.2d 827, 829 (2001). This court is bound by the trial court's factual findings unless they are clearly erroneous. Id. at 6, 545 S.E.2d at 829. On review, we are limited to determining whether the trial judge abused his discretion. Id. This Court does not re-evaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial judge's ruling is supported by any evidence. Id. The admission and exclusion of evidence is largely a matter of trial judge discretion and his rulings will not be overturned on appeal unless he manifestly abuses his discretion and the defendant suffered prejudice as a result. State v. Thompson, 305 S.C. 496, 502, 409 S.E.2d 420, 424 (Ct.App.1991).

ARGUMENT

The trial judge erred in refusing to permit appellant to impeach the State's witnesses with their prior records because excluding such convictions failed to give the jury the complete picture of the witnesses' extensive criminal histories.

Appellant was charged with a double murder that occurred outside of the 8 Ball Club in the wee hours of the morning of August 14, 2015. R. 56, ll. 11 – 15. As the solicitor pointed out in his opening statement, despite the fact that multiple people were in the parking lot, not a single person called 911 to report the shootings. R. 56, l. 11 – 57, l. 15. No forensic evidence linked appellant to the shootings. R. 272, ll. 16 – 20. R. 275, ll. 21 – 24. The police investigator admitted they had no “eyewitness testimony that says without a doubt” that appellant committed these shootings. R. 275, l. 25 – 276, l. 4.

Bruce Williams, who lived behind the club, found the bodies of Tyrone Cummings and Deborah Bazzle lying in the street when he left for work at 6:00 AM. R. 59, l. 2 – 60, l. 11. He called the police. R. 60, ll. 7 – 11. Williams was a DJ at the 8 Ball and said there were 20-30 people at the club when he left around midnight. R. 61, l. 4 – 63, l. 9. The police found spent .9mm and .380 shell casings at the scene, but recovered nothing else of evidentiary value. R. 82, l. 8 – 85, l. 1. The police collected GSR kits from the victims, but SLED never tested them. R. 99, ll. 8 – 13.

The pathologist testified that both victims were shot in the head. R. 105, l. 15 – 112, l. 1. Cummings was shot in the forehead at close range. R. 105, l. 15 – 112, l. 1. Stippling was found around the wound. R. 105, l. 15 – 112, l. 1. Bazzle was shot just to the right of her right eye. R. 105, l. 15 – 112, l. 1. No bullets were recovered from the victims' bodies. R. 105, l. 15 – 112, l. 1.

The State's theory was that appellant shot Cummings because he thought he took a cellphone from Shaquanda Williams and then shot Bazzle because she was a witness. R. 55, ll. 9 – 21. R. 121, l. 15 – 123. l. 13. George Sanders worked at the 8 Ball Club and asked patrons if they had seen Ms. Williams' phone. R. 121, l. 15 – 123. l. 13. Sanders asked Cummings about the phone because Cummings was sitting in the area of the bar where the phone was last seen. R. 121, l. 24 – 122, l. 13. Sanders claimed that appellant told him "tell Bro give up the phone before it cause any problems." R. 122, l. 17 – 123, l. 13. He assumed appellant was referring to Cummings as "Bro," but then testified he was not sure. R. 125, ll. 15 – 25.

Before the State's best witnesses could testify, the attorneys engaged in a colloquy with the court to determine which of their prior convictions were fair game for impeachment. R. 130, l. 9 – 144, l. l. 17. The court ultimately refused to allow appellant to impeach several witnesses on convictions the solicitor argued were too remote pursuant to Rule 609(b), SCRE's ten-year limitation. R. 130, l. 9 – 144, l. l. 17. Appellant argued that because of the dearth of the State's evidence, he should be allowed to impeach the State's witnesses despite the technical remoteness of their prior convictions. R. 130, l. 9 – 144, l. l. 17. The trial court rejected appellant's argument.

Specifically, the court refused to allow impeachment of three witnesses on their prior crimes. R. 130, l. 9 – 144, l. l. 17. First, the court refused to allow appellant to impeach Marvin Sanders on three counts of breaking into automobiles from 2001 and a possession with intent to distribute cocaine from 2004. R. 130, l. 9 – 144, l. l. 17. Second, the court refused to allow appellant to impeach LaTonya Campbell with a 2006 ABHAN conviction. R. 130, l. 9 – 144, l. l. 17. Third, the court refused to allow appellant to impeach Thomas Terrell with his drug and grand larceny convictions from 2002-2003. R. 130, l. 9 – 144, l. l. 17.

Each of these witnesses provided crucial testimony in what was a very weak case for the State. Marvin Sanders claimed he heard appellant say “he was going to run his pockets or something.” R. 146, ll. 3 – 17. Thomas Terrell, who got out of jail on the day of the shooting, claimed that from across the street he heard someone say “put the gun away” and then heard a gun cock. R. 151, ll. 20 – 23. R. 155, ll. 8 – 23. He then heard a shot and saw a man fall. R. 156, ll. 2 – 15. Terrell ran. R. 156, ll. 11 – 19. He then heard a girl scream and then another shot. R. 158, ll. 2 – 18. He did not get a good look at the shooter. R. 162, ll. 4 – 6.

LaTonya Campbell claimed she saw appellant hanging out with Charles “Main” Delee in the parking lot of the club. R. 237, ll. 5 – 12. She denied seeing Main give anything to appellant, but the State called a police officer to impeach her with her prior statement that she thought she saw Main give appellant a gun, but could not be sure. R. 237, l. 5 – 238, l. 16. R. 259, ll. 2 – 5. Even though Campbell gave a written statement, this claim was not included in that writing. R. 258, ll. 6 – 12. Campbell heard somebody yell “lay his ass down” then gunshots. R. 241, ll. 2 – 9. In a statement, she told police that Main was the one who yelled “lay his ass down.” R. 249, ll. 14 – 20. On cross-examination, she denied seeing Main or appellant with a gun. R. 248, ll. 2 – 10.

The police charged Main with obstruction of justice in connection with the shooting. R. 208, ll. 17 – 24. Main was highly intoxicated the night of the shooting and sitting in his car smoking a cigarette when he heard a gunshot. R. 192, l. 5 – 193, l. 18. He cranked up his car and got ready to leave. R. 193, ll. 13 – 20. Someone he could not identify tapped on the back end of his car, but Main drove away. R. 193, l. 23 – 194, l. 8.

In his first statement, Main told police he left before the shooting. R. 194, l. 22 – 195, l. 8. The police then charged him with obstruction of justice and Main gave them another

statement. R. 195, l. 3 – 196, l. 22. The solicitor attempted to impeach Main with his second statement in which he told the police that the man who tapped on his car was appellant and that appellant had a gun. R. 196, l. 18 – 201, l. 2. But Main disavowed this statement at trial. R. 201, ll. 3 – 13. Main only told the police about appellant after they claimed they had thirty witnesses who saw appellant come to his car. R. 198, ll. 10 – 19. He did not want to be the only person “standing out” and saying the “opposite.” R. 198, ll. 10 – 19. He felt the police originally wanted to charge him with the murders. R. 214, ll. 4 – 5. On cross-examination, he denied seeing appellant with a gun and that he was not sure whether it was appellant who tapped on his car. R. 222, l. 18 – 228, l. 19. Main was the State’s best witness.

Appellant testified in his own defense. At the time of the shooting, he was employed at Key West Boats. R. 288, ll. 19 – 24. Appellant is also an author and has written three published books. R. 288, ll. 19 – 24. Appellant went to the 8 Ball Club, but left at approximately 1:00 AM, well before the shooting, with his cousins Monty and DeAngelo Ashe. R. 289, ll. 4 – 23. R. 294, l. 19 – 298, l. 20. DeAngelo Ashe was sick from drinking and they left early to take care of him. R. 294, l. 19 – 298, l. 20. DeAngelo Ashe testified and corroborated appellant’s testimony. R. 314, l. 5 – 317, l. 4. Appellant emphatically denied having anything to do with the shootings. R. 293, ll. 14 – 25. R. 300, l. 8 – 301, l. 9.

The trial judge erred in excluding the full criminal records of the State’s witnesses. Rule 609(b) does not categorically bar convictions older than ten years. R. 609(b), SCRE. A trial judge has discretion under the rule to admit a conviction when it “determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect.” R. 609(b), SCRE.

A trial court should consider “at least five factors that a trial court should consider in determining, in the interests of justice, whether the probative value of a prior conviction substantially outweighs its prejudicial effect: (1) the impeachment value of the prior crime, (2) the point in time of the conviction and the witness's subsequent history, (3) the similarity between the past crime and the charged crime, (4) the importance of the defendant's testimony, and (5) the centrality of the credibility issue.” State v. Black, 400 S.C. 10, 19, 732 S.E.2d 880, 885 (2012). Here, all of these witnesses had subsequent criminal histories after the conviction sought to be admitted and their credibility was central because of the lack of physical or eyewitness evidence. The trial judge abused her discretion by excluding the convictions because, as the defense lawyer argued, it was necessary to give the jury the full picture of the State’s witnesses’ nonexistent credibility. In this case with no forensic evidence and such weak testimony linking appellant to the crime, excluding this evidence was prejudicial error and this case should be reversed.

CONCLUSION

For the foregoing reasons, appellant's convictions should be reversed and this case remanded for a new trial.

A handwritten signature in black ink, appearing to read 'D. Alexander', written over a horizontal line.

David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of November, 2018.

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IN THE COURT OF APPEALS

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

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V.

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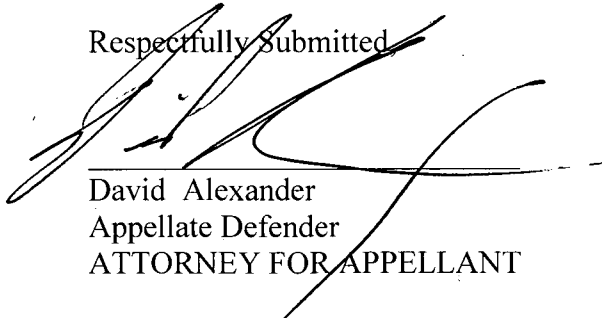
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Quadrik M. S. Willis states:

1. He is an Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Maite Murphy, which was held on October 9-11, 2017, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for Quadrik M. S. Willis.

Respectfully Submitted,



David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

This 7th day of November, 2018.

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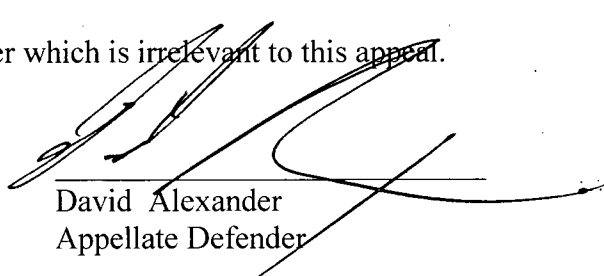
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictments
- (2) Transcript (October 9-11, 2017)

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

November 7, 2018



David Alexander
Appellate Defender

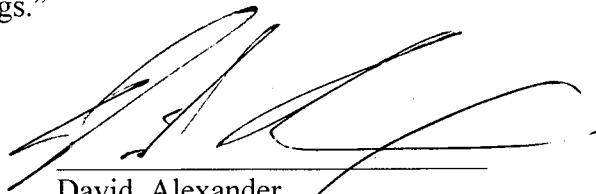
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Division of Appellate Defense
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Columbia, SC 29211-1589
(803) 734-1330

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."

November 7, 2018.

A handwritten signature in black ink, appearing to read 'DAVID ALEXANDER', written over a horizontal line.

David Alexander
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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Columbia, SC 29211-1589
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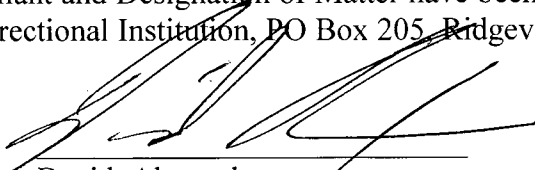
V.

QUADRIK MICHAEL SEAN WILLIS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on Quadrik M. S. Willis, 320933, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 7th day of November, 2018.



David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of November, 2018.

Courtney Powers (L.S)

Notary Public for South Carolina

My Commission Expires: May 2, 2027.