

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Berkeley County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRIS NATHANIEL WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2017-001668

ANDERS BRIEF OF APPELLANT

RECEIVED

MAY 09 2018

SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in refusing to allow appellant to cross-examine the State's key witness about the potential sentences she faced for her original charges and demonstrating that she avoided a mandatory minimum sentence?

STATEMENT OF THE CASE

In September 2016, a Berkeley County grand jury indicted appellant for armed robbery, first-degree assault and battery, two counts of kidnapping, criminal conspiracy, attempted armed robbery, and weapons charges. R. 491 – 504. On July 24, 2017, appellant was tried before the Honorable Kristi Harrington and a jury. R. 1. Chip Cannon and Kamila Szymczynska-Sas represented the State. R. 2. Grant Smaldone represented appellant. R. 2. The jury convicted appellant on all charges and Judge Harrington sentenced appellant to four terms of life imprisonment without the possibility of parole pursuant to South Carolina's recidivist statute and concurrent terms on the other charges. R. 476, 1. 19 – 478, 1. 17. R. 488, 11. 9 – 20. This appeal follows.

ARGUMENT

The trial court erred in refusing to allow appellant to cross-examine the State's key witness about the potential sentences she faced for her original charges and demonstrating that she avoided a mandatory minimum sentence.

Standard of Review

The trial court committed an error of law and this Court reviews errors of law *de novo*. Jordan v. State, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013).

Discussion

This case involves an armed robbery and an alleged attempted armed robbery a month later. Sho and Lili Lord, husband and wife, ran a convenience store in the Charleston area. R. 72, l. 3 – 73, l. 23. Every day Ms. Lord took home two bags from the store. R. 106, ll. 17 – 23. In one bag, Ms. Lord kept a computer and in the other bag she kept the money from the store's daily business. R. 106, l. 24 – 107, l. 1.

Two doors down from the Lords' store was a temp service called Staffing Zone. R. 74, ll. 5 – 13. Tiffany Ravenell drove a van for Staffing Zone. R. 74, ll. 17 – 25. She also sometimes cashed checks and shopped at the Lords' store. R. 133, ll. 14 – 19. Ravenell testified against appellant and claimed the State did not promise her anything for her testimony. R. 160, l. 16 – 161, l. 15. She was initially charged with armed robbery, but pled guilty to criminal conspiracy and attempted armed robbery and completely avoided appellant's kidnapping and assault charges. R. 161, ll. 6 – 15. R. 162, ll. 3 – 21.

Ravenell claimed she overheard "some guys" at Staffing Zone discussing a plan to rob the Lords. R. 134, ll. 2 – 24. In April 2016, Staffing Zone terminated Ravenell because of her poor driving record and she fell on hard times. R. 130, ll. 5 – 18. R. 133, ll. 2 – 7. Ravenell

took the plan to rob the Lords to appellant and said "he was down for it." R. 134, l. 25 – 135, l. 22.

Ravenell and appellant began watching the Lords' convenience store. R. 136, ll. 6 – 18. They followed the Lords on May 6, 2016, but lost them. R. 138, l. 2 – 139, l. 9. They followed the Lords again on May 7. R. 140, l. 4 – 141, l. 13. They saw the Lords come out of the store with money bags in their hands. R. 141, ll. 16 – 24. Ravenell parked near the Lords' house and appellant left the car while Ravenell waited. R. 142, ll. 11 – 19.

The Lords arrived home to a dark house at 10:00 PM and parked in the back. R. 81, ll. 1 – 7. A black male grabbed Mr. Lord from behind and held a knife in front of his chest. R. 83, l. 12 – 84, l. 4. Mr. Lord fought. R. 84, ll. 1 – 8. During the struggle, Mr. Lord grabbed the knife by the blade and was injured. R. 84, ll. 5 – 19. The man told Mr. Lord that he had other people "in front." R. 84, ll. 1 – 13.

When Ms. Lord got out of the car, she heard her husband screaming. R. 108; ll. 2 – 9. She told her husband to let the robber have the bag. R. 108, ll. 21 – 22. The robber then came to Ms. Lord's side of the car and took the money bag from her. R. 108, l. 23 – 109, l. 15. The man ran and the Lords called the police. R. 109, ll. 9 – 24. The Lords could not identify their assailant. R. 110, ll. 15 – 20. R. 83, ll. 19 – 21.

Ravenell said appellant called her to pull the car around and meet him. R. 143, ll. 18 – 25. Appellant, out of breath, got in her car and they left. R. 143, ll. 18 – 25. They saw the police coming from the other direction. R. 144, ll. 20 – 24. They got \$3,000.00 from the bag and appellant burned the bag in the woods. R. 145, ll. 10 – 25.

Near the end of May, appellant approached Ravenell and proposed they rob the Lords again. R. 147, ll. 14 – 25. Another man named Terry Lewis, appellant's cousin, joined the

group to help. R. 148, l. 8 – 149, l. 9. Using Ravenell's car, the group began watching the Lords' house in early June. R. 149, ll. 10 – 153, l. 20. They made "four or five" trips to the Lords' neighborhood. R. 153, ll. 18 – 20.

Right after the May 7 robbery, the Lords installed security cameras around their property. R. 88, ll. 13 – 25. After seeing suspicious people on his camera walking down his driveway on June 2, Mr. Lord called the police. R. 90, l. 7 – 93, l. 13.

The police set up a surveillance operation "to see if we could catch the suspects perhaps in the act" and hoping to tie them to the original robbery. R. 294, ll. 11 – 23. The cameras captured images of appellant walking around the Lords' neighborhood in the days leading up to June 10. R. 295, l. 24 – 306, l. 4. Using a database that automatically records all of the license tags of passers-by on public highways and streets, the police identified Ravenell's car and, from the database, learned her car was in the area on May 7. R. 180, l. 19 – 183, l. 11. SLED maintains this database. R. 183, ll. 8 – 11. This system "doesn't take any personal data from vehicles. It simply logs the license plates that are collected and it also takes a picture of the vehicle at the time the license plate is collected." R. 181, ll. 9 – 19.

On June 10, the police called Mr. Lord and asked him what time he was going home. R. 94, l. 21 – 95, l. 3. The police saw appellant and Terry Lewis on their surveillance cameras and stationed two officers hidden near the Lords' driveway. R. 305, l. 21 – 309, l. 1. Additional officers waited in cars around the neighborhood. R. 308, l. 15 – 309, l. 1. The officers heard a car horn honk. R. 192, ll. 3 – 10. Ravenell said she honked her car's horn as a prearranged signal to appellant and Terry Lewis that the Lords were about to arrive. R. 157, ll. 3 – 11.

Soon after Mr. Lord pulled into his driveway, the officers heard "a lot of rustling over in the bushes." R. 223, ll. 16 – 23. Appellant and Terry Lewis walked out of the bushes and were

immediately apprehended by the police. R. 224, l. 1 – 225, l. 10. The officers saw them throw something in the bushes and they found a taser and a can of mace. R. 225, l. 5 – 226, l. 10. The police quickly caught Ravenell. R. 244, l. 1 – 246, l. 23.

Appellant testified in his own defense and denied committing any crime. R. 362, l. 22 – 363, l. 12. Ravenell took appellant to the park near the Lords' home on June 1st to buy marijuana. R. 363, l. 9 – 364, l. 2. The drug dealers instead robbed appellant and hit him in the back of the head with a rod. R. 363, l. 17 – 364, l. 17. Appellant displayed the injury he received from these assailants to the jury. R. 364, ll. 2 – 9. Appellant went back to the Lords' neighborhood repeatedly looking for the men who robbed him. R. 366, l. 2 – 379, l. 16. He was looking for the robbers when the police arrested him. R. 366, l. 2 – 379, l. 16. Appellant believed Ravenell committed the May 7 robbery with a man named Quintero Kit. R. 371, l. 5 – 378, l. 4. The police admitted they investigated Quintero Kit and there was a possibility he went to the Lords' house posing as an air-conditioning salesman. R. 339, l. 11 – 340, l. 3. Quintero Kit had a long criminal record. R. 340, ll. 9 – 17. The lead investigator could not remember whether Quintero Kit knew Ravenell. R. 340, ll. 15 – 17.

During appellant's cross-examination of Ravenell, he asked her whether she knew that armed robbery "carries 10 to 30 years." R. 162, ll. 24 – 25. Ravenell replied, "Yes, sir" and the State immediately objected. R. 163, ll. 1 – 3. The court immediately sustained the solicitor's objection and the solicitor (not the court) then explained, "Punishment is not relevant." R. 163, ll. 3 – 5. The trial judge then conducted a bench conference and afterwards instructed the jury that potential punishment was only to be used to show bias and not to determine guilt or innocence. R. 163, ll. 10 – 15. The court noted appellant's exception to her ruling. R. 163, ll. 16 – 17.

The trial judge committed an error of law in refusing to allow appellant to cross-examine Ravenell about the mandatory minimum sentence she avoided by testifying for the State. See S.C. Code Ann. § 16-11-330(A) (requiring a mandatory ten year prison sentence for armed robbery). Defendants are allowed to cross-examine the State's witnesses about the specific mandatory minimum sentences they seek to escape. State v. Gracely, 399 S.C. 363, 731 S.E.2d 880 (2012). Rule 608(c) allows a defendant to cross-examine a witness for "[b]ias, prejudice or any motive to misrepresent." Rule 608(c), SCRE.

In Gracely, the State's witnesses faced significant mandatory minimum sentences. Gracely at 373-74, 731 S.E.2d at 885-86. The trial judge "improperly prevented questioning which would have examined the extent of that bias and the witnesses' possible motivations for testifying against Appellant." Id. "The fact that a cooperating witness avoided a *mandatory minimum* sentence is critical information that a defendant must be allowed to present to the jury. Id. at 374-75, 731 S.E.2d at 886 (emphasis in original). See also State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991). The Gracely Court held the error could not be harmless because of the "abysmal credibility" of the State's witnesses and cited the "heavy reliance on circumstantial evidence." Gracely at 375, 731 S.E.2d at 886.

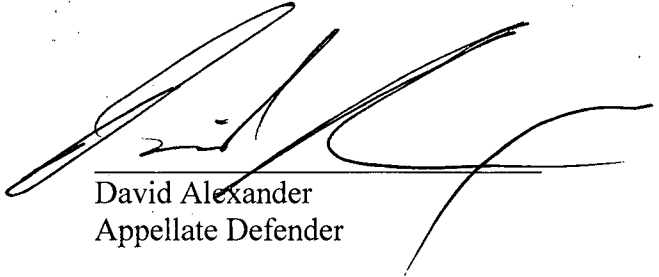
This Court reversed a conviction soon after Gracely because the trial judge refused to allow specific questioning regarding the potential sentence a witness faced. State v. Pradubsri, 403 S.C. 270, 743 S.E.2d 98 (Ct. App. 2013). The trial judge in Pradubsri only allowed the defendant to ask whether the witness faced "a substantial amount of time." Id. at 275, 743 at 101. Citing the principle that a defendant has the right to cross-examine on any fact "which tends to show interest, bias, or partiality of the witness," the Court held the limitation on the defendant's questions was error. Id. at 276-80, 731 S.E.2d at 102-04. The Pradubsri Court

stated this evidence regarding potential legal exposure was “critical” to showing the witness’s “potential bias.” Id. at 104, 743 S.E.2d at 280. See also State v. Mizzell, 349 S.C. 326, 334-35, 563 S.E.2d 315, 319 (2002) (reversing despite trial court allowing defendant to ask whether witness could go to jail for a “long time”).

Ravenell was the State’s key witness and the only witness tying appellant to the first robbery. Refusing to allow impeachment of her for bias regarding the substantial time in prison she avoided was an error of law. Had the jury disbelieved Ravenell, they would have believed appellant’s testimony about the robbery when he tried to buy marijuana and his reason for being at the Lords’ house. The jury could have believed that Ravenell committed the initial robbery with Quintero Kit. This Court should reverse.

CONCLUSION

For the foregoing reasons, this Court should reverse appellant's convictions and grant him a new trial.

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

David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of May, 2018.

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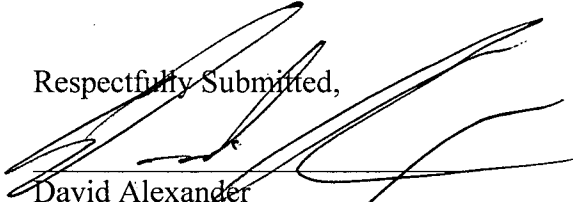
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Chris Nathaniel Williams states:

1. He is 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 Kristi Lea Harrington, which was held on July 24 - 26, 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 Chris Nathaniel Williams.

Respectfully Submitted,


David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

This 9th day of May, 2018.

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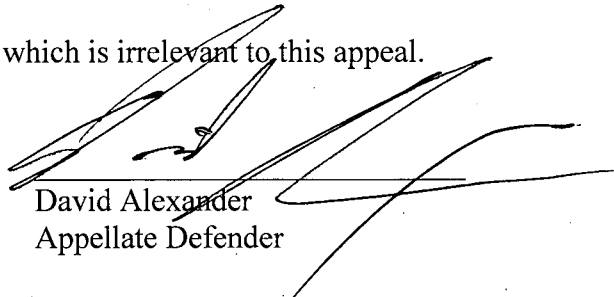
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment;
- (2) Trial Transcript

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

May 9, 2018


David Alexander
Appellate Defender

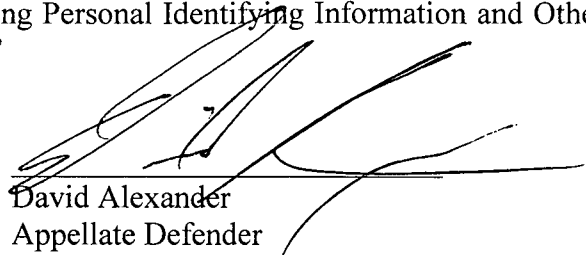
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ATTORNEY FOR APPELLANT

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."

May 9, 2018.



David Alexander
Appellate Defender

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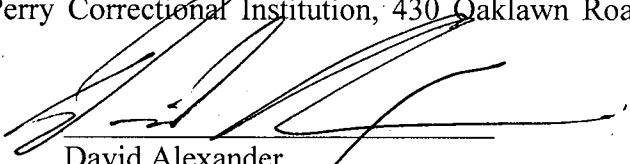
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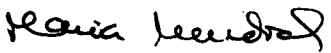
APPELLANT

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 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 and Designation of Matter have been served on Chris Nathaniel Williams, #137835, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 9th day of May, 2018.


David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 9th day of May, 2018.

 (L.S)
Notary Public for South Carolina
My Commission Expires: July 3, 2023