

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Alison Renee Lee, Circuit Court Judge

ORIGINAL
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JAN 17 2020
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

RONALD JEFFREY EATON,

APPELLANT

APPELLATE CASE NO 2019-000911

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in allowing the jury to hear prior bad acts evidence at trial.

STATEMENT OF THE CASE

Appellant Ronald Jeffrey Eaton was convicted of manufacturing methamphetamine and possession of methamphetamine per jury trial held during the May 2019 term of the Laurens County General Sessions Court before Judge Allison Renee Lee. Appellant was represented by Dorothy A. Manigault, Esquire, at trial, and Assistant Solicitor Christopher Dale Scott appeared on behalf of the state. Judge Lee sentenced appellant to imprisonment for an aggregate period of seventeen years.

Appellant appealed his trial court convictions and sentences. This brief follows.

STANDARD OF REVIEW

In reviewing a trial court's ruling on the admissibility of evidence, appellate courts recognize that the trial judge has considerable latitude in this regard and will not disturb such rulings absent a prejudicial abuse of discretion. State v. Whitner, 399 S.C. 547, 557, 732 S.E.2d 861, 866 (2012); State v. Clasby, 385 S.C. 148, 154, 682 S.E.2d 892, 895 (2009). “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.” Whitner, 399 S.C. at 557, 732 S.E.2d at 866.

In order to admit evidence of bad acts not resulting in conviction, the trial court must, “[a]s a threshold matter, ... determine whether the proffered evidence is relevant.” Clasby, 385 S.C. at 154, 682 S.E.2d at 895; see State v. Wallace, 384 S.C. 428, 433, 683 S.E.2d 275, 277 (2009). “If the trial judge finds the evidence to be relevant, the judge must then determine whether the bad act evidence [is admissible under the terms] of Rule 404(b)” to show, *inter alia*, the existence of a common scheme or plan. Clasby, 385 S.C. at 154, 682 S.E.2d at 895. If the testimony is relevant and proffered for a permissible purpose, the trial court must next conduct a balancing test, pursuant to Rule 403; where the testimony's probative value is substantially outweighed by the danger of unfair prejudice, the trial court may exclude it. See State v. Gillian, 373 S.C. 601, 611, 646 S.E.2d 872, 877 (2007); see also Rule 403, SCRE (“[E]vidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice ...”).

ARGUMENT

The trial judge erred in allowing the jury to hear prior bad acts evidence at trial.

At trial, Police Officer Charles Nations testified that he been watching appellant's residence (camper) under a drug surveillance operation, and that when appellant moved his camper to another location, he enlisted the aid of appellant's probation officer, Agent Steven Washburn, to help locate appellant at his new address. Then, on March 26, 2008, when Officer Nations and Agent Washburn found appellant's camper at a new location, they entered inside and found drug evidence identified as methamphetamine. Also, Officer Nations explained that many drug surveillance operations begin after complaints are filed by citizens. Officer Nations' testimony regarding this follows:

Q: What is the day to day life of a narcotics agent in Laurens County look like?

A: ...Basically what we do is we deal with complaints coming from civilians in regards to anywhere from narcotics distribution to high traffic areas...

Q: And so typically you might get a complaint or a tip and its your job to follow on it and investigate it...

A: Yes, sir. R. 88, l.15-24

Q: And are there times that you are proactive?

A: ...Sometimes what he's referring to as far as being proactive is coming up with cases on your own or progressing using techniques to accurate (sic) complaints that are coming from the community.
R. 89, L. 10-17.

Also, Agent Steven Washburn testified as follows:

Q: On March 26 or early March 2018...did you have somebody by the name of [appellant] that you were supervising?

A: Yes, sir. I had been supervising [appellant] for about two years at that point. R. 153, l.22-p. 154, l.1.

Trial counsel objected to testimony of appellant as having been on probation when the alleged crimes occurred because the inference was in effect that appellant had a prior record, but the state argued *res gestae*. R. 149, 1.21-p. 152, 1.9.

Generally, prior crimes or bad acts cannot be presented to show that the defendant had the propensity to commit the crime charged, i.e., that he is a bad person. State v. Peake, 302 S.C. 378, 396 S.E.2d 362 (1990). State v. Smith, 309 S.C. 409, 419 S.E.2d 816 (1992); State v. Martucci, 380 S.C. 232, 669 S.E.2d 598 (2008). Also, even if prior crimes are considered under the Lyle¹ exceptions; nonetheless, the value of the priors must outweigh the prejudicial value. State v. Fletcher, 379 S.C. 17, 664 S.E.2d 480 (2008). Prior crime evidence must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. State v. Spears, 403 S.C. 247, 742 S.E.2d 878 (2013). Unfair prejudice results when there is an undue tendency to make a decision on improper basis, and also prejudice comes into play when jury's verdict influenced by the challenged evidence. State v. Martucci, *supra*.

To be admissible, the bad act must logically relate to the crime with which the defendant has been charged, and even if admissible as relevant under Rule 401, SCRE², and under the Lyle exceptions stated under Rule 404(b), SCRE (to show identity in this case); nonetheless, said

¹ Prior crimes can only be used in order to show motive, intent, identity, absence of mistake or accident or common scheme or plan. State v. Lyle, 125 S.C. 406, 118 S.E.2d 803 (1923).

² Relevant evidence under Rule 401, SCRE is evidence having any tendency to make the existence of any fact that it of consequence to the determination of the action more probable or less probable than it would be without the evidence.

evidence must be excluded if its probative value is outweighed by its prejudicial value under Rule 403, SCRE.³ See State v. King, 416 S.C. 92, 784 S.E.2d 252 (2016).

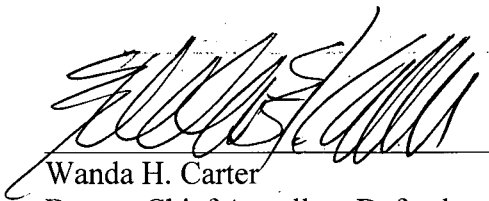
Furthermore, evidence is unfairly prejudicial if it has an undue tendency to suggest a decision on an improper basis. State v. Stearns, 403 S.C. 247, 742 S.E.2d 878 (Ct. App. 2013). Moreover, evidence of prior bad acts is inadmissible to suggest that the accused has the propensity to commit the crime charged. State v. Peake, 302 SC 378, 396 S.E. 2d 362 (1990). State v. Smith 309 SC 409, 419 S.E. 2d 816 (1992). Prior bad acts evidence is not admissible to show that the accused is a bad person. Mitchell v. State, 298 S.C. 186, 379 S.E.2d 123 (1989). Also, even if prior crimes are considered under the Lyle exceptions; nonetheless, the prior crimes cannot be used to show that the accused is a bad person. State v. Fletcher, 379 S.C. 17, 664 S.E.2d 480 (2008).

Here, the testimony indicating how Officer Nations' drug investigations arose from citizens' complaints regarding neighborhood drug activities, which implied that this was how appellant's case began; and testimony from a probation agent verifying the fact that appellant possessed a prior criminal record, all constituted prior bad acts evidence that surely led the jury to believe that appellant had a criminal disposition and/or a criminal propensity to commit crimes, particularly drug crimes, and as a result, the prior bad acts testimony violated appellant's Fourteenth Amendment due process right to a fair trial.

³ Evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion, if the issues or misleading the jury, or by considerations of undue delay, waste of time, or needless combative evidence.

CONCLUSION

Based on the foregoing argument, appellant's counsel requests that appellant's convictions and sentences be reversed, and that his case be remanded to the lower court for a new legal proceeding.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line.

Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 17th day of January, 2020.

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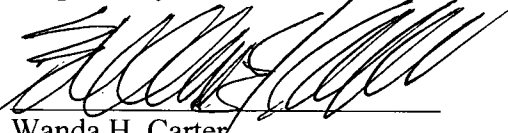
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Ronald Jeffery Eaton states that:

1. She is Deputy Chief 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 Judge Alison Renee Lee, which was held on May 20 - 21, 2019, 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, 87 S.Ct. 1396 (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 Ronald Jeffery Eaton.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

This 17th day of January, 2020.

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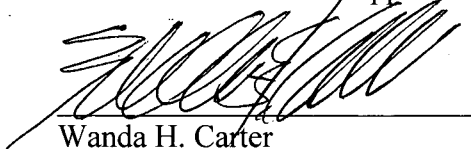
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment(s):
- (2) Entire Trial Transcript

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

January 17, 2020


Wanda H. Carter
Deputy Chief Appellate Defender

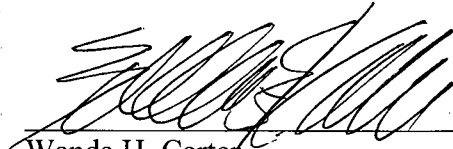
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CERTIFICATE OF COUNSEL

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."

January 17, 2020.



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Deputy Chief Appellate Defender

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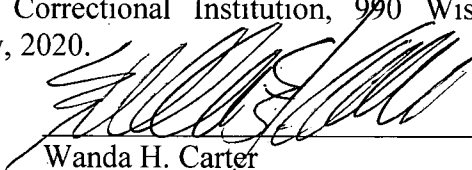
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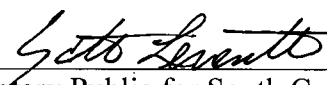
APPELLANT

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 William M. Blich, 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 Ronald Jeffery Eaton, 261097, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 17th day of January, 2020.


Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 17th day of January, 2020.

 (L.S)
Notary Public for South Carolina
My Commission Expires: September 27, 2028.