

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Lexington County

Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PETER LYNN COFFEY,

APPELLANT

RECEIVED
JAN 09 2019
SC Court of Appeals

APPELLATE CASE NO. 2018-000491

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred in refusing to allow appellant to cross-examine the victim's drug dealer about supplying her with crack two days before her body was found, where she had high levels of cocaine in her system and DNA evidence showed that other unknown persons might have committed this murder?

STATEMENT OF THE CASE

A Lexington County grand jury indicted appellant Peter Lynn Coffey for murder and first-degree criminal sexual conduct. R. 872 – 875. On March 12, 2018, appellant was tried before the Honorable R. Knox McMahon and a jury. R. 1. Shawn Graham and Bradley Pogue represented the State. R. 1. Benjamin Stitely and Theo Williams represented appellant. R. 1. The jury convicted appellant on both counts. R. 856, ll. 5 – 15. Judge McMahon sentenced appellant to life imprisonment without parole for murder and a consecutive sentence of thirty years' imprisonment for CSC. R. 870, ll. 8 – 17. This appeal follows.

STANDARD OF REVIEW

The admission or exclusion of evidence is also subject to an abuse of discretion standard of review. See State v. Adams, 354 S.C. 361, 377, 580 S.E.2d 785, 793 (Ct. App. 2003) (“A court's ruling on the admissibility of evidence will not be reversed on appeal absent an abuse of discretion....”). “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.” State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007).

ARGUMENT

The trial judge erred in refusing to allow appellant to cross-examine the victim's drug dealer about supplying her with crack two days before her body was found, where she had high levels of cocaine in her system and DNA evidence showed that other unknown persons might have committed this murder.

Kay Thompson and her husband found the victim, Decedent, dead in her house. R. 434, l. 10 – 441, l. 14. Thompson and her husband were concerned because they could not get in touch with Decedent and went to her house to check on her after a call from another relative. R. 434, l. 10 – 441, l. 14. Thompson's husband broke a window and after seeing Decedent's body, Thompson called 911. R. 434, l. 10 – 441, l. 14. The police arrived and found Decedent's body and began collecting evidence at the scene. R. 190, l. 4 – 194, l. 23.

The crime scene investigators collected blood samples from multiple locations throughout the house, including the bedroom where Decedent's body was found and the bathroom where they found bloodstains in the shower. R. 240, l. 9 – 288, l. 17. The police also executed a search warrant at appellant's house where they seized khaki shorts from a washing machine because they appeared to have blood on them. R. 346, l. 1 – 355, l. 25. The shorts had not been washed and the police admitted they could not tell how old the stains were on the shorts. R. 382, l. 15 – 386, l. 25. The officer admitted the stains could have been years old. R. 386, ll. 24 – 25. The State's best evidence against appellant was their DNA expert who claimed that the bloodstains in Decedent's shower matched appellant's DNA and the bloodstains on the khaki shorts matched Decedent's DNA. R. 543, l. 20 – 555, l. 25. R. 485, l. 17 – 487, l. 19.

Kay Thompson said that Decedent treated appellant "like a son." R. 442, l. 21 – 443, l. 6. Their relationship was strictly platonic. R. 442, l. 21 – 443, l. 6. In response to appellant's

argument that appellant had no motive to kill Decedent, the solicitor admitted they could not prove motive, stating, “We’d all like to know why,” and then telling the jury that the law did not require them to prove motive. R. 836, ll. 18 – 25.

At Decedent’s autopsy, the pathologist discovered “a free-lying large cucumber on top of the intestines.” R. 778, ll. 16 – 20. The pathologist said the cucumber had perforated the rectum. R. 779, ll. 3 – 14. The police swabbed the cucumber for DNA and also found several human hairs on the cucumber, which they tested for DNA. R. 546, l. 20 – 552, l. 25. One of the hairs had a “goeey” substance on it that the State also tested for DNA. R. 546, l. 20 – 552, l. 25. While the expert claimed that appellant’s DNA was on the cucumber, he was forced to admit that the other testing of the items found with the cucumber revealed unknown male and female DNA that did not match the victim or appellant. R. 546, l. 20 – 552, l. 25. R. 605, l. 10 – 606, l. 15. The State entered the DNA results into CODIS and found no matches. R. 610, l. 20 – 611, l. 6.

During an in-camera hearing regarding the scope of cross-examination and third-party guilt, defense counsel told the court they intended to explore Decedent’s prior drug use. R. 620, l. 19 – 625, l. 13. In the police interviews given to the defense, allegations were made that Decedent had been killed by her drug dealer because she owed him money. R. 620, l. 19 – 625, l. 13. The toxicology report showed Decedent had cocaine and cocaine metabolite in her system. R. 223, ll. 3 – 10.

The State called Decedent’s friend and drug dealer, Carl Coleman as a witness. R. 634, l. 10 – 653, l. 6. Appellant told the court they wanted to ask about Coleman selling Decedent drugs and after Judge McMahon asked the relevance, he allowed defense counsel to proffer his questioning of Coleman. R. 634, l. 10 – 653, l. 6. The State promised Coleman immunity related to his drug sales. R. 641, ll. 8 – 14.

Coleman admitted that crack was Decedent's "drug of choice" and that he "sometimes" sold crack to Decedent. R. 642, l. 4 – 643, l. 16. He last sold Decedent twenty dollars' worth of crack "about two days prior to what happened." R. 642, l. 4 – 643, l. 16. There were calls between Decedent's cell phone at approximately 2:00 AM on the night the State alleged she was killed and Coleman's phone, but Coleman claimed he spoke to appellant, not Decedent, on Decedent's phone. R. 682, l. 23 – 683, l. 1. The solicitor argued after the proffer that the questioning about prior drug sales, including the sale two days before Decedent's death, was irrelevant under Rule 401, SCRE. R. 647, l. – 653, l. 6. As appellant argued, the prior drug sales were relevant to show that it was far more likely that the call to Coleman and "the dozen other calls in her phone" were more likely to be Decedent seeking drugs. R. 647, l. – 653, l. 6. Judge McMahon held the evidence was not relevant and refused to allow appellant to question Coleman about the drug sales. R. 647, l. – 653, l. 6.

The trial judge erred because the information about Coleman's drug dealing to Decedent was clearly relevant. Rule 401, SCRE. "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 (emphasis added). The prior drug dealing had a tendency to prove that the calls on Decedent's cell phone late at night were about drugs and were possibly not made by Coffey. The prior drug dealing showed that Decedent knew dangerous individuals who may have killed her, as suggested by the police investigation. The prior drug dealing also showed that Coleman had a motive to lie about talking to Coffey either to protect himself from being investigated for drugs or to hide any knowledge he may have had about Decedent's murder. "Bias, prejudice or **any**

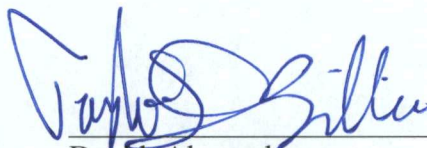
motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.” Rule 608(c), SCRE (emphasis added).

South Carolina’s rule allowing impeachment for bias and motive to lie is broadly interpreted. “Proof of bias is almost always relevant because the jury, as finder of fact and weigher of credibility, has historically been entitled to assess all evidence which might bear on the accuracy and truth of a witness’ testimony.” State v. McEachern, 399 S.C. 125, 140-41, 731 S.E.2d 604, 612 (Ct. App. 2012) (internal quotations omitted). “[G]enerally, anything having a legitimate tendency to throw light on the accuracy, truthfulness, and sincerity of a witness may be shown and considered in determining the credit to be accorded his testimony.” Id. (internal quotations omitted). Under this broad interpretation of Rule 401 and impeachment for bias, it was clear error to sustain the State’s objection.

Furthermore, refusing to allow this cross-examination violated appellant’s constitutional right to present a complete defense. U.S. Const. amends. VI, XIV. “Whether rooted directly in the Due Process Clause of the Fourteenth Amendment or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense.” Holmes v. South Carolina, 547 U.S. 319, 324 (2006) (internal quotations omitted). The ruling that this evidence was irrelevant was arbitrary, and infringed on appellant’s due process rights. See id., 547 U.S. at 331. In this case where the State had no motive and DNA evidence showed the involvement of persons other than appellant in Decedent’s murder, exclusion of this evidence significantly and arbitrarily impaired appellant’s defense and this case should be reversed.

CONCLUSION

For the foregoing reasons, this Court should reverse appellant's convictions and remand this case for a new trial.


for David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of January, 2019.

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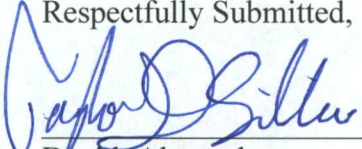
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Peter Lynn Coffey 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 the Honorable R. Knox McMahon, which was held on March 12 - 15, 2018, 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 Peter Lynn Coffey.

Respectfully Submitted,

for 

David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

This 9th day of January, 2019.

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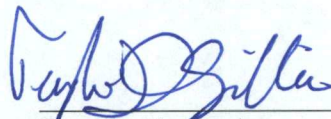
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictments
- (2) Transcript (March 12-15, 2018)

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

January 9, 2019

Dr 

David Alexander
Appellate Defender


South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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(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."

January 9, 2019.

for 
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Appellate Defender

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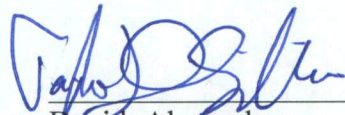
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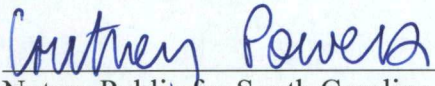
APPELLANT

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 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 Peter Lynn Coffey, 226897, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 9th day of January, 2019.

for 
David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 9th day of January, 2019.

 (L.S)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.