

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jun 25 2020

SC Court of Appeals

Appeal from Bamberg County

Honorable Thomas L. Hughston, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RANDY CHESTNUT,

APPELLANT.

APPELLATE CASE NO. 2019-000747

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 admitting allusions to selling drugs made in appellant's statement in violation of Rules 403 and 404, SCRE?

STATEMENT OF THE CASE

Appellant was indicted for first-degree burglary and on April 23, 2019, he was tried in Bamberg County by the Honorable Thomas L. Hughston and a jury. R. 1. R. Jackson Cooper and Michael H. Emmer, III, represented the State. R. 1. C. David Hayes and Wallis A. Alves represented appellant. R. 1. The jury convicted appellant. R. 243, 1. 10 – 25. Pursuant to South Carolina’s recidivist statute, Judge Hughston sentenced appellant to life imprisonment without the possibility of parole. R. 251, 1. 16 – 23. This appeal follows.

STANDARD OF REVIEW

The evidentiary issues in this case are reviewed under the abuse of discretion standard.

State v. Adams, 354 S.C. 361, 378, 580 S.E.2d 785, 794 (Ct. App. 2003).

ARGUMENT

The trial judge erred in admitting allusions to selling drugs made in appellant's statement in violation of Rules 403 and 404, SCRE.

On the afternoon of December 6, 2018, SJ returned home from high school and saw the back door open. R. 122, l. 17 – 18. SJ was scared and immediately drove to the drugstore where her mother worked. R. 123, l. 18 – 23. SJ and her mother drove back to the house and met the police. R. 124, l. 5 – 25.

SJ's mother, Debbie Jeffcoat, testified that they just installed security cameras at their house because of a recent break-in. R. 129, l. 9 – 21. The cameras were motion-activated and captured a man wearing gloves breaking into the Jeffcoats' house and later leaving with a large television set. R. 129, l. 9 – 138, l. 7. Neither Jeffcoat, SJ, or the investigating officer from the Denmark, South Carolina police department (Lt. Laquana Linder) could identify the man on the security footage. R. 125, l. 14 – 15. R. 139, l. 8 – 12. R. 150, l. 7 – 10. The only fingerprint taken from the scene was not sufficient for analysis. R. 184, l. 4 – 185, l. 5.

Linder received a call from the chief of police in North, South Carolina, and as a result, spoke to one of his employees, Anita Chestnut. R. 150, l. 16 – 151, l. 10. After the conversation, Linder told Officer Chestnut to let her brother—appellant—know that she wanted to speak to him. R. 151, l. 1 – 10.

Linder testified at the Jackson v. Denno, 378 U.S. 368 (1964), hearing that she had no suspects until an encounter with appellant on December 19, 2018. R. 11, l. 9 – 13, l. 8. Linder was on “routine patrol” and stopped at a grocery store to speak to men sitting to the side of the store. R. 153, l. 1 – 17. She did not know appellant would be there. R. 153, l. 15 – 17. Linder

sat in her patrol car with the window down and appellant walked up to her and began speaking. R. 154, l. 8 – 155, l. 12.

Even though Linder was wearing a body camera which takes less than a second to turn on, she failed to record her encounter with appellant. R. 173, l. 2 – 16. R. 155, l. 23 – 155, l. 9. Linder claimed that appellant, without any prompting, admitted to breaking into the house of “those people,” but never mentioned the Jeffcoats by name. R. 158, l. 17 – 161, l. 20. R. 174, l. 7 – 9. Appellant said “those people” owed him money, had called him a racial epithet, had “sicked their dog on him,” and that because he was owed money, “he went and took what was his.” R. 158, l. 17 – 160, l. 20. Appellant said he was aware of the cameras and almost took them, as well. R. 158, l. 17 – 160, l. 20.

Before Linder related this statement to the jury, appellant objected to portions of the statement under Rules 403 and 404, SCRE. R. 155, l. 15 – 157, l. 24. Defense counsel argued that “Portions of the statement allude to Mr. Chestnut stating that he was owed money from what appears to be drug dealing.” R. 155, l. 15 – 157, l. 24. The trial judge said he heard nothing implying drug dealing. R. 155, l. 15 – 157, l. 24. Defense counsel argued that the statement, “they think they can just get my stuff and not pay me for it” was an irrelevant allusion to drugs and was improper character evidence. R. 155, l. 15 – 157, l. 24. The court overruled the objection. R. 155, l. 15 – 157, l. 24.

Before the jury, Linder quoted appellant as saying, “They think they can just take my stuff and not pay me for it.” R. 158, l. 19 – 21. The Jeffcoats owed him \$3000.00. R. 159, l. 2 – 4. Appellant said they were “on pills” and later said that “if they wasn’t going to pay him his money, they should have never gotten his shit.” R. 159, l. 2 – 20.

Rule 403 prohibits the admission of evidence when its probative value is outweighed by its unfair prejudice. Rule 403, SCRE. See also State v. Collins, 409 S.C. 524, 534, 763 S.E.2d 22, 27 (2014). Rule 404(a) prohibits introduction of a defendant's bad character to prove he acted in conformity therewith as evidence of commission of the crime. Rule 404, SCRE. Both rules prohibited admission of appellant's statements.

The trial judge was incorrect when he determined the statements did not mention drug dealing. The large amount of money owed and references to the Jeffcoats buying appellant's "shit" and "stuff" could only mean drug dealing. The probative value was zero because the State did not have to prove a motive for the burglary. However, the unfair prejudice was extremely high because it let the jury conclude appellant was a criminal. The jury could have concluded that appellant committed the crime because of his bad character, and not because of the evidence presented by the State. See German v. State, 325 S.C. 25, 27, 478 S.E.2d 687, 688 (1996) (holding hearsay evidence singling out defendant as a drug dealer improperly bore on his character).

The improper statements could have easily been redacted. See State v. Brewer, 411 S.C. 401, 410, 768 S.E.2d 656, 660 (2015) (cautioning parties to redact unproven hearsay allegations admitted in defendants' statements). Appellant suggested a redaction when he told the court, "I wouldn't have an issue with that he just owed money." R. 157, l. 10 – 12. Debbie Jeffcoat denied that anyone in her family knew appellant. R. 145, l. 13 – 22. Nothing in appellant's statement specifically connected appellant to the Jeffcoats. The character evidence prejudiced appellant and his conviction should be reversed.

CONCLUSION

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

This 25th day of June, 2020.

s/David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Randy Chestnut 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 Thomas L. Hughston, which was held on April 22 - 24, 2019, 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 Randy Chestnut.

This 25th day of June, 2020.

Respectfully Submitted,

s/David Alexander
Appellate Defender

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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) Trial Transcript dated April 23-24, 2019
- (2) Indictments
- (3) Sentence Sheet
- (4) State's Exhibit Nos. 1-5 (to be transported)

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

June 25, 2020

s/David Alexander
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.”

June 25, 2020.

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