

Form 18. Petition For A Writ Of Certiorari
to the Court of Appeals

The State of South Carolina
in the Supreme Court

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S.C. SUPREME COURT

Appeal From Lexington County
Court of Common Pleas
Honorable R. Knox McMahon, Circuit Court Judge

Unpublish Opinion No. 2020-UP-186
Submitted June 1, 2020 - Filed June 17, 2020

The State, Respondent

v.

Peter Lynn Coffey, Appellant

Appellate Case No. 2018-000491

Petition For A Writ of Certiorari

Other Counsel of Record:

Attorney General

Melody Jaine Brown, Esquire

Rembert Dennis Building

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Columbia, SC 29201

(Pro se) Peter Lynn Coffey # 226897
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Bishopville, SC 29010

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1. 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
2. The trial court lack subject matter jurisdiction over the trial
3. The prosecutor's misconduct deny Appellant the right to a fair trial.
4. The trial court judge err in denying Appellant motion for directed verdict, where evidence merely raised a suspicion of guilt
5. The trial court judge abuse his discretion when allowing autopsy photographs

Conclusion

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

Certificate of Counsel (pro se)

Counsel certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on September 16, 2020.

Question Presented

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?

Did the trial court lack subject matter jurisdiction over the trial?

Did the prosecutor's misconduct deny Appellant the right to a fair trial?

Did the trial court err in denying Appellant motion for directed verdict where evidence merely raised a suspicion of guilt?

Did the trial court judge abuse his discretion when allowing autopsy photographs?

Statement of the Case

To the Court of Appeals;
in the Supreme Court:

On the days of
March 12-15, 2018, Appellant was on trial
before the Honorable R. Knox McMahon,
Circuit Court Judge and jury.

Appellant was
convicted by a jury for the offenses of
Murder 2018-GS-32-000943 and First
degree Criminal sexual conduct 2018-GS-32-944.
Appellant was committed to the state department
of corrections for a sentence of life without parole
and a determine term of thirty years ran
consecutively. Transcript Page 870 8-17.

ON January 14, 2019
Appellant's defense counsel filed an Anders v. California,
386 U.S. 738 (1967) and moves to be relieved
as counsel.

Appellant is writing
this pro se brief addressing any issues to the
Court that should be considered error of law.

The Court of Appeals affirmed the
judgement of the circuit court.
Appellate Case No. 2018-000491
Peter Lynn Coffey, Appellant

v.
The State, Respondent

Unpublished Opinion No. 2020-UP-186
Submitted June 1, 2020 - Filed June 17, 2020

Order to Amend Petition
for rehearing filed
Sept. 16, 2020

Appeal Dismissed

Conclusion

For the reasons stated, Appellant asks the
Court to grant the Petition for A
Writ of Certiorari.

Oct. 11, 2020

Sincerely,
Peter Lynn Coffey

The South Carolina Court of Appeals

The State, Respondent,

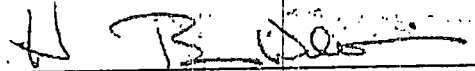
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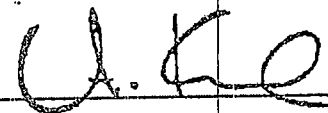
Peter Lynn Coffey, Appellant.


Appellate Case No. 2018-000491

ORDER

Appellant has filed a motion to amend his petition for rehearing, which we construe as a supplemental petition for rehearing. After careful consideration of the petition for rehearing and the supplemental petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


_____ J.


_____ J.


_____ J.

Columbia, South Carolina

cc:

Peter Lynn Coffey, 00226897

Alan McCrory Wilson, Esquire

David Alexander, Esquire

Melody Jane Brown, Esquire

The Honorable R. Knox McMahan

FILED
Sep 16 2020

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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).

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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.

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Standard of Review

“In criminal cases, this court only rules on error of law.” *State v. Gamble*, 747 S.E. 2d 784 (2013) The admission or exclusion of evidence is also subject to an abuse of discretion Standard of Review. See also, *State v. Adams*, 580 S.E. 2d 785 (2003)

“An abuse of discretion occurs when a trial ruling is based on error law or when grounded factual conclusions are without evidentiary support. See also, *State v. Pittman*, 647 S.E. 2d 144 (2007)

An appellant court will not reverse the trial court’s decision unless that court abused its discretion. *White*, 61 S.E. 2d 756 (1950); see also, *State v. Allen*, 370 S.C. 88, 634 S.E. 2d 653 (2006).

Argument (4a)

Did the Trial Court Judge **lack subject matter jurisdiction** over the trial?

The trial court lacked subject matter jurisdiction over the convictions for the following reasons. The state during the jury trial failed to prove precise day and time in the nature of offense. TR 21 (24-25); 22 (1-22) **"It is not necessary to prove the precise day laid in an indictment except where time enters nature of offense is made part of the description of."** *State v. Rutledge*, 101 S.E. 2d 289 (1957); see also *State v. Wade*, 409 S.E. 2d 780 (1991)

Clearly time was the description of offense where the state used phone records to try and pinpoint the time of death. Furthermore, the time and place was never alleged in the indictments for Murder or CSC on violation of S.C. Code 17-19-30. **"Allegations sufficient for indictment for murder"** **"Every Indictment for murder shall be deemed and adjudged sufficiently and good in law which is addition to setting forth time and place together with a plain statement divested."** This presented Indictment for murder alleges a day but is silent on time and place of victim's death. **"The crime of murder is a composite one. It includes the assault committed upon a person and the resulting death from the assault. The State must prove not only the assault and death occurring from it, but the time of the assault and the time of the death, as time is recognized in the law. These necessary elements of the crime of murder must not only be proved before a person accused may be lawfully convicted but they must be alleged in the indictment."** *State v. Rector*, 155 S.E. 385 (1930); see also, *State v. Evans*, 363 S.C. 495 (2005)

State v. Peter Coffey

OFFICE OF THE CORONER
LEXINGTON COUNTY



Margaret Fisher
Coroner

Coroner@lex-co.com

117 DUFFIE DRIVE
LEXINGTON, SC 29072
803-359-8439 - Office
803-785-8492 - Fax

AUTHORIZATION FOR CORONER'S AUTOPSY

I, Margaret Fisher duly authorized Coroner, or duly authorized representative of the Coroner of Lexington County, SC, do hereby authorize Newberry Pathology Associates, Inc., Newberry County Memorial Hospital, to perform a complete autopsy on the body and head of said patient with the object of establishing the cause of manner of death. Authority is also granted to remove exposed and unexposed tissues and parts for preservation to establish identity and to determine cause and manner of death and to dispose of tissues in a proper and suitable manner.

8-10-15
(Date)

Margaret Fisher
Signature of Person Authorizing Autopsy

THE FOLLOWING INFORMATION IS NEEDED TO EXPEDITE EXAMINATION AND REPORTS

Name of Coroner or Deputy Coroner Handling Case: R. Johnson Phone: (803) 359-8439

Email Address: Coroner@lex-co.com Fax: (803) 785-8492 Cellular:

Person to whom bill should be sent: Lexington County, Procurement, 212 S. Lexington SC 29072

The body will be transported to Newberry Hospital by: Palmetto Mortuary Transport.

PERTINENT INFORMATION CONCERNING PATIENT

Body Bag Tag # (Scanned Taylor) SCDC Correction # _____
Name Jane Doe Age 40 DOB [REDACTED] Sex F Race W.

Home Address: 387 Deer King Gaston SC SSN _____

Date of Injury 8-7-15 Time of Injury unk

Location 387 Deer King Gaston, SC

Date of Death 8-7-15 Time of Death unk Location: 387 Deer King Gaston.

Date and Time Last Seen Alive 8-7-15 Date and Time Found Same

Suspected Manner of Death Blunt force trauma to head.

ALL BODIES MUST BEAR IDENTIFICATION TAGS FIRMLY TIED TO ANKLE OR TOE

Argument (4b)

Did **Prosecutor's Misconduct** *deny* Appellant the right to a *fair trial*?

Trial Transcript page 825, lines 8-12, clearly from the record the solicitor made improper prejudice statements by calling the Appellant "someone who's evil, who's a killer, who's a murder, who's a rapist and that's Peter Coffey." These statements were substantially prejudicial to the defense and denied him a fair trial.

The solicitors comments were to inflame the jury and caused the trial to be unfair denying the Appellant of Due Process U.S. Constitution 14th; not only did the solicitor make these inflammable comments, he made an improper rebuttal closing argument to the defense. TR 836 (18-25)

In a criminal case where an Appellant does not introduce evidence this violation of Due Process clearly applies to the U.S. Constitution 14th and S.C. Constitutional Article 13 Section 3. **"In criminal cases where no defendant introduces evidence, the defendant has the right to open and closing arguments."** *State v. Beaty*, 813 S.E. 502 (2018)

Argument (4c)

Did the trial court judge err in denying Appellant motion for directed verdict, where evidence merely raised a suspicion of guilt?

In this case, the state failed to prove the time and day of the murder, clearly time was a nature of offense. The state used phone records to pinpoint the time they say the victim was murdered. TR 178 (21-25); 179 (1-7)

“When time enters the offense then the date and time became necessary to prove murder” *State v. Rutledge*, 101 S.E. 2d 289 (1957) None of the State witnesses testified to the exact date or time of the murder. TR 683-685 The date and time, place was not alleged in the Indictment or was it proved at trial. TR 22 (13-22) **“A defendant is entitled to a direct verdict when the state fails to produce evidence of the offense charged.”** *State v. McHoney*, 544 S.E. 2d 30, 36 (2001)

The only evidence against Appellant is DNA and cell phone records. As for the DNA, Appellant stayed with the victim off and on and had sexual relationship. TR 156 (4-10) He admitted this to the detectives. His DNA should have been excluded. There was evidence of unknown party that should have been investigated more thoroughly. TR 551 (17-25); 552 (1-25)

The State tried to use cell phone records to prove date and time of death, as you can see, there was no testimony to the exact date and time, or place so date and time or place was never clearly established. TR 744 (10-20): See Exhibit State No. 149

As for the third party DNA, the trial court judge did not allow it. TR 546 (1-25) through 552 (1-25) through 605 (1-10); 606 (1-15) The State entered the DNA results into CODIS 15 and

found no matches. TR 610 (1-25); 611 (1-6). As for the cell phone records, the drug dealer testified to them but the Appellant's defense attorney was not allowed to cross-examine them.

TR 633 (4-5)

"Abuse of discretion occurs when a trial court ruling is based on error of law or when grounded factual conclusion is without evidentiary support." *State v. Pittman*, 647 S.E.

2d 144 (2007)

A detective testified that when she arrived at the crime scene it was still wet. TR 284 (21-25); 285 (1-6).

Logical reasoning the murder happened recently. The appellant had left the victims residence at full thirty-six hours earlier, clearly this creates doubt. At best there was suspicion of the Appellant. Trial judge should not refuse to grant the direct verdict motion, when evidence merely raises a suspicion that the accused is guilty. **"Suspicion implies a belief or opinion as to the guilt based upon facts or circumstances which do not amount to proof"** *State v. Pearson*, 783 S.E. 2d 802 (2016) In this instant case, we have state witnesses who's testimony never establishes time and date or place of the murder, we have cell phone records that drug dealers testify to, who was given immunity. The defense was not able to cross-examine. We have evidence of third party DNA that was not allowed on the record. TR 128 (17-19) A detective who testified that the crime scene blood was still wet. A crime that was found thirty-six hours after the Appellant left the residence. All this doubt and the judge still let this case go to the jury. Where was the impartiality; where was the fair trial? Appellant states the trial court judge abused his discretion **"It is an equal abusive discretion to refuse to exercise discretionary authority, when it is warranted; as it is to exercise the discretion improperly"** *State v. Smith*, 280 S.E.

2d 200 (1981) Appellants motion for new trial should be given “**A motion for a direct verdict should be granted where evidence is such as to permit the jury to merely conjecture or to speculate**” *State v. Cain*, 795 S.E. 2d 846 (2017)

Argument (4d)

Did the trial court judge **abuse his discretion** when allowing autopsy photographs?

The trial counsel objects to Exhibits 144 and 145. Autopsy photograph Exhibit 144 is a black-and-white and Autopsy photograph Exhibit 145 is the color one of same photo. The autopsy photos are of the skull after the skin has been reflected back. TR 783 (12-16) The photographs were previously discussed in a motion the trial court judge for identification purposes only. TR 657 (13-14) The solicitor intentionally introduced the Autopsy Photographs to inflame the passions of the jury. TR 782 (25); 783 (1-16)

The exhibit numbers 137 through 143 that the trial counsel does not object to sufficiently allowed Doctor Ross to testify to the manner and cause of death but the solicitor deceitfully introduced Autopsy Photographs to inflame the jury. TR 782 (25); 783 (1-16); 787 (9-24).

Appellants argument is that the pictures were previously discussed and the autopsy photos were unnecessary. I appeal to the sympathy and prejudice for purpose of inflaming the passion of the jury. The autopsy photographs were of negligible probative value. **“Photograph should be excluded if the danger of unfair prejudice substantially outweighs its probative value”** Rule 403. SCRE *State v. Hawes*, 423 S.C. 118 (2018)

State of South Carolina

In The Court of Appeals

Appeal from Lexington County

Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Appellate Case No. 2018-000491

Appellate's Motion for Rehearing

The State, Respondent

v.

Peter Lynn Coffey, Appellant

Here comes the Appellant, Peter Lynn Coffey, pursuant to S.C.A.C.R. Rule 221 moves this Honorable Court to reconsider its Dismissal of Appellants Appeal, Submitted June 1, 2020 - Filed June 17, 2020.

In support of Appellant's petition, the appellant will show the following to the court:

- 1) Appellant asserts that this court has overlooked the fact that the State witness, Carl Coleman, received immunity for his testimony related to his drug sales to the deceased. The prior drug dealing showed that Coleman was a dangerous individual, who had no moral, who had a reason or motive to lie about talking to Mr. Coffey approximately at 2:00 A.M. instead of the deceased, to protect himself from being investigated for drugs or hide any knowledge

(Continuance from page one) keep from becoming a suspect in the decendent's Murder.

By the State witness Carl Coleman receiving immunity for his drug deals and for his testimony without cross-examination basically allowed Coleman to point Appellant as the perpetrator in this crime. Carl Coleman's previous drugs sales to the decendent was Relevant evidence under Rule 401 S.C.R.E. and the trial Judge erred for not allowing the drug dealing evidence to the decendent in trial.

Bias, prejudice or any motive to misrepresent may be shown to impeach the witness under Rule 608(c) S.C.R.E. "proof of bias is almost always relevant because the jury as finder of fact and weigher of credibility has been entitled to asses all evidence which might bear on the accuracy and truth of a witness testimony. State v. McEachern 731 S.E. 2d 604 July 18, 2012 399 S.C. 125

Furthermore, refusing to allow this cross-examination violated Appellant's constitutional right to present a complete defense. U.S. Const. Amends VI, XIV.

"The Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense." Holmes v. South Carolina 547 U.S. 319

The ruling that this evidence was irrelevant was arbitrary and infringed on Appellant's due process rights see Id 547 U.S. 331

In this instant case, we have a drug dealer testimony, who lack integrity, who was given immunity.

(CONTINUANCE FROM page two)

The defense wasn't allowed to cross-examine the witness, state had no motive, DNA evidence showed the involvement of persons other than Appellant in decedent's murder. Exclusion of this evidence significantly reduces Appellant's ability to put a complete defense.

The trial Judge erred when he did not allow the cross-examination of Carl Coleman, this was an abuse of discretion "abuse of discretion occurs when a trial court ruling is based on error of law." State v. Pittman 647 S.E. 2d 144 (2007)

- 2) Appellant states the Appeal Court overlooked the importance of the trial court not allowing the drug dealing information in trial for the purpose of impeachment requires a different decision from that rendered by the court of appeals.
- 3) The decision that should have been rendered for Appellant is to reverse Appellant's conviction and remand this case for a new trial.

CONCLUSION

For the foregoing reasons, Appellant pray this Honorable court grants this Motion for Rehearing

Respectfully submitted,
s, Peter L. Coffey
Peter Lynn Coffey #226897
Lee CJF 16-B-2253
990 Wisacky Hwy.
Bishopville SC 29017

Dated July 01, 2020

IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

PETER L. COFFEY #226897

Appellant,

v.

STATE OF SOUTH CAROLINA

Respondent.

APPELLATE CASE NO:
2018-000491

MOTION TO AMEND THE
MOTION FOR REHEARING

Comes now Appellant, Peter L. Coffey, asking this Honorable Court to amend his Motion for rehearing pursuant to S.C.A.C.R. Rule 224. In support of Appellant's motion to amend Motion for Rehearing, the Appellant will show the following is relevant to Appellant's Motion for Rehearing:

1. Appellant asserts this Court and the lower Court had overlooked the fact that the State witness, Carl Coleman, had a criminal history. This evidence of convictions of crimes should have been allowed in the Appellant's jury trial for the purpose of impeachment pursuant to Rule 609 (2) S.C.R.E.

For the interest of justice, the probative value of the convictions outweighs its prejudicial effect. Further, the standard of balancing probative value against prejudicial effect is the same for all witnesses, to include the accused in a criminal case. *Green v. Hewett* 407 SE2d 561. If Appellant had taking the stand at his trial, there is no doubt the State would have used his past record to impeach him. The witness's, Carl Coleman, past criminal history is clearly probative of untruthfulness.

Under Rule 609(A) 2, allows impeachment for any conviction for any crime which carries a maximum sentence of death or imprisonment for more than a year. Exclusion of this

criminal history evidence significantly reduces Appellant's ability to put a complete defense. See Exhibits A – D.

2. Appellant states the Appeal Court had overlooked the importance of the trial Court not allowing the criminal history of the State's witness, Carl Coleman, at trial for the purpose of impeachment. This requires a different decision from that which was rendered by the Court of Appeals
3. The decision that should have been rendered for Appellant is to reverse Appellant's conviction and remand this case for new trial.

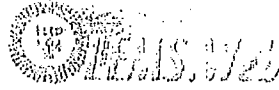
CONCLUSION

Appellant prays this Court will grant his Motion to Amend.

Respectfully Submitted,

Executed on the _____ day of _____, 2020.

Peter L. Coffey #226897
Lee Correctional Institution F6B-2253
990 Wisacky Highway
Bishopville, South Carolina 29010



ICHR 003F91756D from SCCH

LEXSL410

.ICHR.003F91756D.SCCH.20180212 11:20:56
TO: LEXSL410-2496 20180212 11:20:56 003F91756D
FROM: SCCH-9532781 20180212 11:20:56

ICHR REQUEST FOR RAP SHEET
ORI-SC032015A FBI-905499VA2 FUR-C
ATN-SMITH, KJ

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/12/2018 TIME-11:20:56
REQ ORI-SC032015A CIR SOL LEXINGTON
SID-SC00949706 FBI-905499VA2
NAME-COLEMAN, CARL RANDAL SEX-M RACE-B
HEIGHT-508 WEIGHT-150 EYES-BRO HAIR-BLK SKIN- BORN-NY
FPC-DO141107871311141307 HENRY-14 O 1 U OOI 7
M 17 U OOI

PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--05/05/1994 DATE OF LAST UPDATE--10/15/2013

ADDITIONAL IDENTIFIERS BIRTH SOC SEC MISC NUM
NAME DATES MARKS

COLEMAN, CARL RANDEL

ART R ARM

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

COLEMAN, CARL RANDAL 04/05/1994
SC032000C LEXINGTON CNTY SC
CASE-9411859
WARR-E033198

ARREST CHARGE 1-MALICIOUS
INJURY PERSON PROPERTY
PHOTOGRAPH AVAILABLE

WARR-E033194

ARREST CHARGE 2-TRESPASSING
COURT CHARGE 01-MALICIOUS
INJURY TO PERSONAL PROPERT
Y
COURT DISP-CONVICTED;30 HOURS
PUBLIC SERVICE
COURT DATE-05/03/1994

WARR-E033198

COLEMAN, CARL RANDEL 03/18/1999
SC0380000 ORANGEBURG CNTY SC
CASE-99005475
ATN-

WARR-F883164

ARREST CHARGE 1-UNLAWFUL
POSS OF A FIREARM
PHOTOGRAPH AVAILABLE

CIT-16-23-20-MISDEMEANOR
WARR-F883164

COURT CHARGE 01-UNLAWFUL
CARRYING OF WEAPON
COURT DISP-CONVICTED; 6 MONTHS
SUSP UPON \$824
COURT DATE-05/12/1999
ATN-

COLEMAN, CARL RANDEL
SC0400300 RICHLAND CNTY SO
ATN-
WARR-31039CP
CIT-16-11-620-MISDEMEANOR

02/29/2004

ARREST CHARGE 1-ENTERING
PREMISES AFTER WARNING
PHOTOGRAPH AVAILABLE

CIT--MISDEMEANOR
DOC-40
WARR-31039CP

COURT CHARGE 01-ENTERING
PREMISES AFTER WARNING
COURT DISP-CONVICTED; 283.25
Fine Or Jail Time 30 DAYS
COURT DATE-03/19/2004
ATN-

COLEMAN, CARL RANDEL
SC0321200 SWANSEA PD
CASE-T66596FY
ATN-032000160228
WARR-66596FY
CIT-14-28-45-MISDEMEANOR

02/17/2013

ARREST CHARGE 1--CONTEMPT OF
MUNICIPAL COURT
OFFENSE DATE-02/17/2013
PALM PRINTS AVAILABLE

COLEMAN, CARL RANDEL
SC0060000 BARNWELL CNTY SO
CASE-C13-10-6164
ATN-06D000505645
WARR-2013B0610300024
CIT-56-7-80(F)-MISDEMEANOR

10/11/2013

ARREST CHARGE 1-TRAFFIC/FAILU
RE TO APPEAR
OFFENSE DATE-05/02/2013
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

WARR-2013B0610300024
CIT-56-7-80(F)-MISDEMEANOR

ARREST CHARGE 2-TRAFFIC/FAILU
RE TO APPEAR
OFFENSE DATE-05/02/2013

BASED ON SEARCH OF SOLED CJIS CCH FILE USING FBI/905499VA2
REQUESTED FOR CRIMINAL JUSTICE PURPOSES



CR 0AC5164164 from NLETSWS

LEXSL410
.CR.0AC5164164.NLETSWS.20180212 11:21:00
TO: LEXSL410-2499 20180212 11:21:00 0AC5164164
FROM: NLETSWS-1458532 20180212 11:21:00
CR.NC1110000
09:21 09470
02/12/2018 06216 SCC32015A
*174600082C

TXT
HDR/2L01174800082C2QR
ATN/SMITH, KJ
***** CRIMINAL HISTORY RECORD *****
***** Introduction *****

This rap sheet was produced in response to the following request:

Subject Name(s) COLEMAN, CARL RANDAL
FBI Number 905499VA2
State Id Number NC1053533A (NC)
Request Id UNKNOWN
Purpose Code C
Attention SMITH, KJ

The information in this rap sheet is subject to the following caveats:


BASED ONLY ON SID NUMBER (NC)
THIS CRIMINAL HISTORY IS FOR A MULTI-STATE RECORD. (NC)
THIS RESPONSE CONTAINS ONLY NORTH CAROLINA CHARGES. (NC)
A MULTI-STATE NCIC RESPONSE WILL BE PROVIDED BY THE FBI. (NC)
THIS CRIMINAL HISTORY RECORD INFORMATION ON THE ABOVE-NAMED INDIVIDUAL
IS A CERTIFIED COPY SUBSTANTIATED BY FINGERPRINTS, AS IT APPEARS IN THE
SBI/DCI FILES. STATE/FEDERAL REGULATIONS REQUIRE A ONE-YEAR RECORD OF
DISSEMINATION. * * * CAUTION * * * CHANGES TO THIS RECORD MAY OCCUR AT
ANY TIME AND A NEW INQUIRY SHOULD BE MADE FOR SUBSEQUENT USE. (NC)

***** IDENTIFICATION *****

Subject Name(s)
COLEMAN, CARL
COLEMAN, CARL RANDEL (AKA)

Subject Description
FBI Number 905499VA2 State Id Number NC1053533A (NC)
Social Security Number [REDACTED] Driver's License Number 27174571 (NC)

Sex Male Race Black

Height 5'09"	Weight 200	Date of Birth 
Hair Color Black	Eye Color Brown	
Place of Birth New York		

***** CRIMINAL HISTORY *****

```

===== Cycle 1 =====
Tracking Number          01
Earliest Event Date     2003-12-16 Incident Date       2003-12-16
-----
Arrest Date             2003-12-16
Arresting Agency       NC060000 MECKLENBURG CO SO - CHARLOTTE
Subject's Name         COLEMAN, CARL
Offender Id Number     PY9424H
Charge                 01
  Charge Literal       C/S-SCH II- SELL COCAINE
  Statute              (090-095.000(A) (; NC)
  Severity             Felony
Charge                 02
  Charge Literal       C/S-SCH II- DELIVER COCAINE
  Statute              (090-095.000(A) (; NC)
  Severity             Felony
Charge                 03
  Charge Literal       C/S-SCH VI- POSSESS MARIJUANA - MISDEMEANOR
  Statute              (090-095.000(D) (; NC)
  Severity             Misdemeanor
Charge                 04
  Charge Literal       C/S-SCH II- POSSESS COCAINE
  Statute              (090-095.000(D) (; NC)
  Severity             Felony
-----
Court Disposition      (Cycle 1)
Court Case Number      2003CR 259872
Court Agency           NC060025J MECKLENBURG CO DIST COURT -CHARL
  Charge Literal       DELIVER COCAINE
  Statute              (90-95(A)(1); NC)
  Severity             Felony
  Disposition          ( 2003-12-19; Dismissal Without Leave (By DA))
Court Comment Special Condition: DUP CHARGE
-----
Court Disposition      (Cycle 1)
Court Case Number      2003CRS259870
Court Agency           NC060035J MECKLENBURG CO SUP COURT - CHARL
  Charge Literal       PWISD COCAINE
  Statute              (90-95(A); NC)
  Severity             Felony
  Disposition          ( 2001-08-30; Jury Trial; Verdict: Not Guilty)
Court Comment Plea     Not Guilty
Court Comment Special Condition: NB/KB

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Court Disposition (Cycle 1)
 Court Case Number 2003CRS259871
 Court Agency NC060035J MECKLENBURG CO SUP COURT - CHARL
 Charge Literal SELL COCAINE
 Statute (90-95(A)(1); NC)
 Severity Felony
 Disposition (2004-08-30; Jury Trial; Verdict; Not Guilty)
 Court Comment Plea: Not Guilty
 Court Comment Special Condition: NB/KB

Court Disposition (Cycle 1)
 Court Case Number 2003CRS259873
 Court Agency NC060035J MECKLENBURG CO SUP COURT - CHARL
 Charge Literal POSSESS MARIJUANA UP TO 1/2 OZ
 Statute (90-95(D)(4); NC)
 Severity Misdemeanor
 Disposition (2004-08-30; Jury Trial; Verdict; Guilty)
 Court Comment Plea: Not Guilty
 Court Comment Special Condition: NB/KB

Court Disposition (Cycle 1)
 Court Case Number 2003CRS259873
 Court Agency NC060035J MECKLENBURG CO SUP COURT - CHARL
 Charge Literal MISDEMEANOR PROBATION VIOL
 Statute (15A-1345; NC)
 Severity Misdemeanor
 Disposition (2006-05-31; Process Other)
 Court Comment Special Condition: PAID \$425.

Sentencing (Cycle 1)
 Sentencing Agency NC060035J MECKLENBURG CO SUP COURT - CHARL
 Court Case Number 2003CRS259873
 Charge Literal POSSESS MARIJUANA UP TO 1/2 OZ
 Statute (90-95(D)(4); NC)
 Severity Misdemeanor
 Disposition (2004-08-30; Jury Trial; Verdict; Guilty)
 Sentence Special Condition: NB/KB
 Sentence Confinement: 10D
 Sentence Time Served Credit: 1
 Sentence Probation Sentence: 12M
 Sentence Supervised Probation Sentence: N
 Sentence Fine: \$300
 Sentence Court Costs: \$125
 Sentence Structured Sentencing Offense Class: 3
 Sentence Structured Sentencing Type: Community Sentence
 Sentence Judgment Satisfied: Y

===== Cycle 2 =====
 Tracking Number 02
 Earliest Event Date 2004-01-09 Incident Date 2004-01-09

Arrest Date 2004-01-09
 Arresting Agency NC0600000 MECKLENBURG CO SC - CHARLOTTE
 Subject's Name COLEMAN, CARL RANDEL
 Offender Id Number PZ2227P
 Charge 01
 Charge Literal FUGITIVE/EXTRADITION OTHER STATE
 Statute (015-727.000(0); NC)

Severity Felon;

Court Disposition (Cycle 2)
Court Case Number 2004CR 201800
Court Agency NC060025J MECKLENBURG CO DIST COURT -CHARL
Charge Literal EXTRADITION/FUGITIVE OTH STATE
Statute (15A-727;733;734; NC)
Severity Felon;
Disposition (2001-04-12; Dismissal Without Leave (By DA))
***** INDEX OF AGENCIES *****

Agency MECKLENBURG CO SO - CHARLOTTE; NC0600000;

Agency MECKLENBURG CO DIST COURT -CHARL; NC060025J;

Agency MECKLENBURG CO SUP COURT - CHARL; NC060035J;

* * * END OF RECORD * * *

D

10 YEAR DRIVER RECORD

Customer No: 22769473
Name: COLEMAN, CARL RANDEL

Driver License No: 7611233

VIOL: 496 - Driving Under Suspension
Violation: 03/30/2013 Conviction: 05/02/2013
ACD: B26 Conviction Loc Ref:
Conviction State: SC

Ticket#: G240132
Recd: 05/07/2013 Post: 05/13/2013
Conviction Reference:
Court Type: MAG

SUSP: 022 - Habitual Offender
Special Driving Privilege: NONE
Suspension Beg: 06/12/2013
Causal: 03/30/2013
Reinstatement Requirements Met: INDEFINITE
ACD: W01 Withdrawal Loc Ref:

Suspension End: 08/04/2015
Post: 05/13/2013
Reinstatement Fee Paid: N
Withdrawal Reason Ref:

SUSP: 001 - Driving Under the Influence
Special Driving Privilege: NONE
Suspension Beg: 05/28/2013
Causal: 03/30/2013
Reinstatement Requirements Met: INDEFINITE
ACD: A20 Withdrawal Loc Ref:

Ticket#: G240131
Suspension End: 11/28/2013
Post: 05/13/2013
Reinstatement Fee Paid: N
Withdrawal Reason Ref:

VIOL: 499 - Driving Under the Influence
Violation: 03/30/2013 Conviction: 05/02/2013
ACD: A20 Conviction Loc Ref:
Conviction State: SC

Ticket#: G240131
Recd: 05/09/2013 Post: 05/13/2013
Conviction Reference:
Court Type: MAG

SUSP: 057 - BAC of .15 or Greater
Special Driving Privilege: NONE
Suspension Beg: 03/30/2013
Causal: 03/30/2013
Reinstatement Requirements Met: INDEFINITE
ACD: A90 Withdrawal Loc Ref:

Suspension End: 04/30/2013
Post: 04/05/2013
Reinstatement Fee Paid: N
Withdrawal Reason Ref:

VIOL: 457 - BAC of .15 or Greater
Violation: 03/30/2013 Conviction: 03/30/2013
ACD: A90 Conviction Loc Ref:
Conviction State: SC

Recd: 04/04/2013 Post: 04/05/2013
Conviction Reference:
Court Type:

SUSP: 013 - Driving Under Suspension
Special Driving Privilege: NONE
Suspension Beg: 10/01/2012
Causal: 04/16/2012
Reinstatement Requirements Met: INDEFINITE
ACD: B26 Withdrawal Loc Ref:

Ticket#: 21366FY
Suspension End: 01/01/2013
Post: 06/18/2012
Reinstatement Fee Paid: N
Withdrawal Reason Ref:

VIOL: 496 - Driving Under Suspension
Violation: 04/16/2012 Conviction: 06/05/2012
ACD: B26 Conviction Loc Ref:
Conviction State: SC

Ticket#: 21366FY
Recd: 06/12/2012 Post: 06/18/2012
Conviction Reference:
Court Type: USS

D

10 YEAR DRIVER RECORD

Customer No: 22769473
Name: COLEMAN, CARL RANDEL

Driver License No: 7611233

SUSP: 013 - Driving Under Suspension
Special Driving Privilege: NONE
Suspension Beg: 06/30/2012
Causal: 03/22/2012
Reinstatement Requirements Met: INDEFINITE
ACD: B26 Withdrawal Loc Ref:

Ticket#: 66596FY
Suspension End: 09/30/2012
Post: 06/15/2012
Reinstatement Fee Paid: N
Withdrawal Reason Ref:

VIOL: 496 - Driving Under Suspension
Violation: 03/22/2012 Conviction: 04/13/2012
ACD: B26 Conviction Loc Ref:
Conviction State: SC

Ticket#: 66596FY
Recd: 06/11/2012 Post: 06/15/2012
Conviction Reference:
Court Type: MAG

CANC: 050 - Failure to Meet Licensing Requirements
Cancellation Beg: 01/18/2008
Causal: 11/16/2007
PDPS Clearance:
Reinstatement Requirements Met: INDEFINITE
ACD: W00 Withdrawal Loc Ref:
Cancellation No: 0

Cancellation End: INDEFINITE
Post: 11/19/2007
Compliance Received:
Reinstatement Fee Paid: N
Withdrawal Reason Ref:

SUSP: 097 - Failure to Pay Traffic Ticket
Suspension Beg: 09/15/1999
Causal: 01/24/1999
Ticket Paid:
ACD: D56 Court Name:
Court Address:
City:
Phone No:

Ticket#: 80493AW
Suspension End: 11/16/2007
Post: 08/25/1999
Compliance Received: 11/16/2007

State: Zip:

End of Report

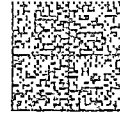
Peter Lynn Coffey #226897

Lee Correctional Institution

F6-B-2253

990 Wisacky Hwy.

Bishopville, SC 29010



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Supreme Court
South of Carolina

P. O. Box 11330

Columbia, S.C. 29211

