STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHAMEL DONSHEA PARKER,

APPELLANT

APPELLATE CASE NO. 2020-000453

ANDERS BRIEF OF APPELLANT

SUSAN B. HACKETT
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err by allowing the state to introduce a note that purportedly threatened the life of a witness and was allegedly written by Appellant while he was in the hospital recovering from a gunshot wound to the face where the note was irrelevant to the issues presented, and if relevant, the danger of unfair prejudice substantially outweighed the low probative value offered by the evidence?

STATEMENT OF THE CASE

On January 15, 2019, a Richland County grand jury indicted Appellant for murder (2019-GS-40-107), attempted murder (2019-GS-40-109), possession of a weapon during the commission of a violent crime (2019-GS-40-112), and attempted armed robbery. R. 597 – R. 598; R. 600 – R. 601; R. 603 – R. 604. The state, represented by Carter Potts and Lamar Fyall, called the case to trial before the Honorable DeAndrea G. Benjamin and a jury on March 2-5, 2020. R. 1. Aimee Zmroczek represented Appellant. R. 1.

During its closing argument, the state argued Appellant was guilty of attempted murder under an accomplice liability theory. R. 545, ll. 12-19. According to the state, "[e]ven if they were shooting at [the deceased] and [a second person] got injured, that's transferred intent for attempted murder." R. 546, ll. 16-19. This argument was not surprising in light of the state's argument during the directed verdict stage regarding transferred intent of another kind. Specifically, the state argued that Appellant would be guilty of attempted murder of the second person if he had the intent to kill the deceased because that intent would transfer to the injury suffered by the second person. R. 473, ll. 9-16. Although the trial judge indicated that she was "going to deny the doctrine of transferred intent" at the directed verdict stage, her instructions to the jury included the offending instruction. R. 474, ll. 14-15.

Oddly, the judge instructed the jury that

> [i]f the Defendant, with malice aforethought, attempts to kill another person, but by mistake injures or kills a different person, the Defendant still has the intent to kill. The intent to kill is merely transferred from the original person the Defendant attempted to kill to the actual person killed or injured. The Defendant would be guilty of assault and battery with intent to kill just as if the attempt had resulted in the death or injury of the person the Defendant attempted to kill.

R. 556, ll. 15-24. However, there was no objection to this instruction. R. 575, ll. 11-17.[1] Ultimately, the jury found Appellant guilty of murder, attempted murder, and possession of a weapon during the commission of a violent crime. R. 579, l. 23 – R. 580, l. 14. However, the jury acquitted Appellant of attempted armed robbery. R. 580, ll. 3-4. Judge Benjamin sentenced Appellant to forty years for murder, twenty years for attempted murder, and five years for the weapon. R. 592, l. 18 – R. 593, l. 4; R. 599 R. 602; R. 605. She ordered the sentence for the weapon to be served consecutively, but the other sentences to be served concurrently. R. 592, l. 18 – R. 593, l. 4; R. 599 R. 602; R. 605.[2]

Appellant served his notice of appeal on March 9, 2020. This brief follows.

[1] Recently, the Supreme Court declined to answer whether the doctrine of transferred intent applied to attempted murder. State v. Smith, 430 S.C. 226, 234 n.9, 845 S.E.2d 495, 499 n.9 (2020). However, the Court explained that the state indicated that if the Court reversed Smith's convictions, then it would not use the doctrine of transferred intent at Smith's second trial. Id. See also State v. McGowan, 430 S.C. 373, 845 S.E.2d 503 (Ct. App. 2020).

[2] During the sentencing proceeding, Judge Benjamin asked if the sentence for the gun charge must be served consecutively. R. 591, l. 13. The state and trial counsel agreed that it must be "[u]nless sentenced to life for murder." R. 591, ll. 14-20. However, under the controlling statute, "[t]he court may impose this mandatory five-year sentence to run consecutively or concurrently." S.C. Code Ann. § 16-23-490 (B).

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." State v. Preslar, 364 S.C. 466, 472, 613 S.E.2d 381, 384 (Ct. App. 2005). The appellate court "is bound by the trial court's factual findings unless they are clearly erroneous." Id. The appellate court examines whether the trial court abused his discretion. Id. "A court's ruling on the admissibility of evidence will not be reversed on appeal absent an abuse of discretion or the commission of legal error, which results in prejudice to the defendant." Id. at 472-473, 613 S.E.2d at 384. "An abuse of discretion occurs when the trial court's ruling is based on an error of law." Id. at 473, 613 S.E.2d at 384-385.

ARGUMENT

The trial court erred by allowing the state to introduce a note that purportedly threatened the life of a witness and was allegedly written by Appellant while he was in the hospital recovering from a gunshot wound to the face where the note was irrelevant to the issues presented, and if relevant, the danger of unfair prejudice substantially outweighed the low probative value offered by the evidence.

Relevant facts

Prior to trial, defense counsel moved to suppress a note allegedly written by Appellant while he was in the hospital that was intercepted by police. R. 68, l. 14 – R. 69, l. 19. The state explained that Appellant allegedly handed a note to a member of the hospital staff. R. 70, ll. 14-16. The staff member gave the note to law enforcement. R. 70, ll. 16-18. The judge did not rule on the admissibility at that time.

Specifically, the note the state sought to admit against Appellant provided:

> Call This # Tell them to tell Bam the same thing (803) 800-5388 Tell her to tell them if they wanna see me and gwany Free again to Swerve on Unk and Fast WhoBang, Bread, Jefe Marlo Tell her relay the Message to them appreciate you

R. 595.

During the trial, defense counsel raised the issue of the admissibility of the note again. Defense counsel explained Appellant "was high on medication" at the time the note was written, which explained why it was "completely an incoherent note." R. 156, ll. 6-14. Defense counsel moved to exclude the note as irrelevant to the charged offenses and that the danger of unfair prejudice substantially outweighed the probative value. R. 156, ll. 20-23. As defense counsel explained, the state intended to use the note to implicate Appellant was "threatening a witness or

intimidating a witness." R. 156, ll. 16-20. Defense counsel argued the note did was "vague" because it did not identify the alleged witness to be intimidated by name. R. 157, ll. 9-11.

The state countered that the note was related to the charged offenses because the note named "Gwany," whom the state alleged was Gwan Perry, Appellant's co-defendant. R. 158, ll. 2-4. The state also intended to present evidence that "Unc is a nickname for Jimmy Rogers," who was "the only living witness besides Mr. Perry to the incident." R. 158, ll. 4-8. The state claimed the note was relevant and "part of the res gestae of the crime." R. 158, ll. 8-11. The state claimed "that evidence of a coverup of a crime is in and itself evidence of the crime itself." R. 158, ll. 24-25.

In response, defense counsel noted Appellant had not been "charged with a coverup." R. 159, ll. 18-19. Further, defense counsel explained that only the author could "testify as to its meaning and intent." R. 159, ll. 22-25. Defense counsel expressed her "concern" that the note would be used by the state "like [a] confession or motive or something." R. 160, ll. 2-3. Nevertheless, Judge Benjamin found the note was relevant. R. 160, l. 15. Further, Judge Benjamin found that in conducting "a balancing test," she determined the danger of unfair prejudice did not substantially outweigh the probative value of the note. R. 160, ll. 20-24.[3]

In late March, early April of 2018, Ray Rose worked as a patient caretaker at Palmetto Health Richland Hospital. R. 250, ll. 6-17. On April 1, 2018, Rose received a note from Appellant. R. 251, l. 13 – R. 252, l. 25; R. 595. Rose explained that he was alone with

[3] Defense counsel renewed her objection at the time the state offered the note as an exhibit. In addition to the arguments presented under Rules 401, 402, and 403 of the South Carolina Rules of Evidence, defense counsel also objected that the note had not been authenticated. R. 257, ll. 2-13. Defense counsel asserted that the note "could be potentially viewed as some future bad act." R. 287, ll. 24-25. Further, defense counsel argued the state failed to authenticate the note because no handwriting analysis was conducted and no one testified Appellant wrote that specific note. R. 288, ll. 3-16.

Appellant when he received the note. R. 252, ll. 13-14. Upon receipt of the note, Rose gave it to a law enforcement officer, who was standing outside Appellant's door. R. 252, ll. 10-12; R. 253, ll. 3-5. Importantly, however, Rose did not witness the note being written. R. 253, ll. 18-21.

Forrest Fulmore, a law enforcement officer with the Columbia Police Department, was on "prisoner guard duty" on April 1, 2018. R. 255, ll. 7-21. According to Fulmore, "[n]o one is allowed in. No one's allowed out" when the police "have to sit on … people that are not free to leave." R. 255, l. 22 – R. 256, l. 5. Other than hospital staff, Fulmore claimed "[n]o one came in [or] out" of Appellant's hospital room. R. 256, ll. 9-10. However, he indicated that "the hospital nurse personnel that went inside the room" passed a note to him. R. 256, ll. 11-22. Contrary to Rose's contention, Forrest indicated he "was in the room when [the note] was handed" to him. Also, Forrest claimed he saw Appellant writing prior to the hospital staff member entering his room. R. 258, l. 20 – R. 259, l. 1.

Although the state presented Jimmy Rogers as a witness, the state never inquired if he had any nicknames. However, when the lead detective, Chauncey Duckett, took the stand, and claimed that "[t]hrough the course of the investigation, we determined that - - and found out that Unc was a common nickname for Mr. Jimmy Rogers." R. 455, ll. 8-13.

The state made this note the centerpiece of its closing argument. According to the state, the note supported its theory that Appellant was acting in concert with Gwan Perry. R. 499, ll. 12-14. According to the state, Appellant passed a note to Rose "talking about Gwan before he's even talked to law enforcement." R. 499, ll. 12-14. This "timeline" was "very important" to the state. R. 499, ll. 14-15. After reading the note to the jury, the prosecutor reminded the jurors that the note mentioned Gwan Perry prior to Appellant speaking to the police. R. 499, ll. 23-25.

Later, the prosecutor returned to the note in his closing. After noting again that the note was written prior to Appellant speaking to police, the prosecutor claimed that Appellant knew "[t]ime [was] of the essence" when he wrote the note because the "net [was] closing." R. 512, ll. 17-21. According to the prosecutor, the note did not ask that anyone swerve on Gwan because "Gwan was the guy he was working with." R. 513, ll. 2-3. However, in the prosecutor's view, "Unc [was] the loose ends. Unc's the one that he hadn't heard was dead. Unc's the one who can tell the story. Unc's the one who can tell the truth." R. 513, ll. 4-6.

Based on mere speculation, the prosecutor told the jurors that Appellant spoke to the police only after he believed "Unc's taken care of." R. 513, ll. 12-13. According to the prosecutor, Appellant could say what he wanted to the police because he believed there was no one to contradict him based upon the note. R. 513, ll. 13-14. Putting a finer point on the argument, the prosecutor claimed Appellant spoke to the police when "the other person, the only other person that was there to tell the story ha[d] been dealt with." R. 545, ll. 7-14.

Discussion

Pursuant to the South Carolina Rules of Evidence, all relevant evidence is generally admissible. Rule 402, SCRE. "Evidence which is not relevant is not admissible." Id. Even relevant evidence must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. Rule 403, SCRE. A determination on the admissibility of relevant evidence requires consideration of the evidence's probative value, the danger of unfair prejudice posed by the evidence, and the balancing of those two.

"'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. "Under Rule 401, evidence is relevant if it has a

direct bearing upon and tends to establish or make more or less probable the matter in controversy." State v. Preslar, 364 S.C. 466, 476, 613 S.E.2d 381, 386 (Ct. App. 2005). "Evidence is relevant if it tends to establish or make more or less probable some matter in issue upon which it directly or indirectly bears, and it is not required that the inference sought should necessarily follow from the fact proved." State v. Sweat, 362 S.C. 117, 126-127, 606 S.E.2d 508, 513 (Ct. App. 2004).

The note was not relevant to any material issue in the case. While the note showed Appellant knew Gwan, which was material to the state's case, Appellant's admitted to the police that he knew Gwan when he was questioned by Duckett. R. 444, ll. 5-7. Despite the state's insistence that the note implicated Appellant and Gwan in the offenses, the note did no such thing.

Appellant acknowledges the South Carolina Supreme Court held evidence of witness intimidation is admissible as long as the proponent of the evidence can connect establish the defendant as the source of the intimidation. State v. Edwards, 383 S.C. 66, 68, 678 S.E.2d 405, 406 (2009). Edwards was charged with three counts of criminal sexual conduct with a minor, his stepdaughter. Id. At trial, stepdaughter's mother testified that "Edwards told her to gent in touch with [the victim] and have her not show up because he had a hit out on her, [and] that she wouldn't make it through the courtroom doors." Id. Additionally, the mother testified that Edwards said if he were convicted "he would have her killed or he would kill her when he got out." Id. The Court held that "witness intimidation evidence, if linked to the defendant, may be admitted to show consciousness of guilt." Id. at 72, 678 S.E.2d at 408. According to the Court, "[e]stablishing the defendant as the source of the intimidate provides the necessary reliability for admissibility." Id. In light of mother's testimony identifying Edwards as the source of the intimidation, the threats were properly admitted. Id.

In the case sub judice, Appellant was identified as the source of the note, but the note was not threatening in and of itself, but the vagueness and vernacular used allowed the state to argue the note was threatening. The note presented no direct threat to "Unk" or anyone, but due to the vernacular used in the note, the state used it to argue Appellant threatened Rogers in an effort to eliminate the only living witness to the crimes. This improper use of the note could not be used as a reason for its relevance. The judge erred in admitting the irrelevant note provided by Appellant to a hospital staff member while Appellant was heavily medicated after suffering a gunshot wound to his face. Thus, the evidence in this case is more akin to the cases in which the Supreme Court has held the threats are not admissible as unconnected to the defendant. See State v. Rogers, 96 S.C. 350, 352, 80 S.E. 620, 621 (1914) (holding the trial court erred in admitting a letter, which was of a threatening nature with a coffin drawn on it, that was unsigned and delivered to a witness who later testified against Rogers because the state failed to connect the letter to Rogers); State v. Center, 205 S.C. 42, 49-50, 30 S.E.2d 760, 764 (1944) (concluding the trial judge erred by allowing jurors to hear that Center's family threatened a witness where there was no evidence that Center had any knowledge of the threats); Mincey v. State, 314 S.C. 355, 358, 444 S.E.2d 510, 512 (1994) (granting post-conviction relief to Mincey where the solicitor argued in closing that Mincey was "a pretty intimidating man" to explain why its witnesses denied Mincey's involvement in drug activity where there was no evidence that Mincey intimidated anyone).

The Court cautioned in Edwards, supra, that even though it held that evidence of witness intimidation was admissible as long as the proponent of the evidence could establish the defendant as the source, the "trial judge serves a critical gatekeeping role, under Rule 403, SCRE, and otherwise, in determining the admissibility of evidence." Edwards, 383 S.C. at 73, 678 S.E.2d at 408-409. Therefore, even if this Court were to determine the note was relevant as evidence of

witness intimidation, this Court should reverse because the trial judge erred in balancing the danger of unfair prejudice against the note's low probative value.

When looking at Rule 403, SCRE, the starting point for analyzing evidence under Rule 403 is determining the probative value of the evidence offered. "'Probative' means '[t]ending to prove or disprove.'" State v. Gray, 408 S.C. 601, 609, 759 S.E.2d 160, 165 (Ct. App. 2014). "'Probative value' is the measure of the importance of that tendency to the outcome of a case." Id. at 610, 759 S.E.2d at 165. While relevant evidence and probative evidence are not synonymous, the two share many similarities as demonstrated through their definitions. The probative value of evidence is directly related to the how important that evidence is in assisting the jury in rendering a verdict. Id. Thus, when analyzing the probative value of evidence, the court must consider the importance of the evidence as it relates to the issues presented in the case. State v. Lee, 399 S.C. 521, 528, 732 S.E.2d 225, 228 (Ct. App. 2012).

After determining the probative value of the evidence, the court must next evaluate the danger of unfair prejudice presented by the evidence. "The determination of prejudice must be based on the entire record and the result will generally turn on the facts of each case." State v. Wilson, 345 S.C. 1, 7, 545 S.E.2d 827, 830 (2001). "'Unfair prejudice does not mean the damage to a defendant's case that results from the legitimate probative force of the evidence; rather it refers to evidence which tends to suggest [a] decision on an improper basis.'" State v. Gilchrist, 329 S.C. 621, 630, 496 S.E.2d 424, 429 (Ct. App. 1998) (quoting United States v. Bonds, 12 F.3d 540, 567 (6th Cir. 1993)). According to the United States Supreme Court, "[t]he term 'unfair prejudice,' as to a criminal defendant, speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged." Old Chief v. United States, 519 U.S. 172, 180 (1997). "Rule 403 only requires suppression of evidence

that results in unfair prejudice – prejudice that damages an opponent for reasons other than its probative value, for instance, an appeal to emotion." United States v. Mohr, 318 F.3d 613, 619-620 (4th Cir. 2003).

Once a court has determined the probative value and the danger of unfair prejudice of the evidence, the court must balance the two. State v. Dial, 405 S.C. 247, 260, 746 S.E.2d 495, 502 (Ct. App. 2013). When juxtaposing the prejudicial effect against the probative value, the determination must be based on the entire record and will turn on the facts of each case. State v. Collins, 409 S.C. 524, 534, 763 S.E.2d 22, 27-28 (2014) (citing State v. Lyles, 379 S.C. 328, 338, 665 S.E.2d 201, 206 (Ct. App. 2008)). Only after balancing the probative value and the danger of unfair prejudice may the court determine if the danger of unfair prejudice outweighs the probative value of the proffered evidence as required by Rule 403, SCRE.

The note presented very little probative value – even as to evidence of witness intimidation. As discussed supra, the terminology used in the note was not intimidating on its face. However, it was vague enough that it allowed the state to argue, repeatedly, that it was a threat to the only living witness to the crime. The lack of clarity of the note as a source of intimidation decreased its probative value as evidence of consciousness of guilt.

However, the danger of unfair prejudice created from the note was extraordinarily high. As mentioned, the note did not contain a direct threat to "Unk," Rogers, or anyone. Yet, the vernacular used in the note allowed the state to argue to the jury that Appellant threatened Rogers. Specifically, the note asked for someone to "swerve" on "Unk." The term swerve was undefined and unusual in the circumstances. Typically, swerve means an abrupt change in direction. Therefore, asking someone to make an abrupt change in direction on a person made little sense. Thus, the state used the nonsensical nature of the language to argue an alternative meaning – to

harm or kill the intended target. The state's argument on the meaning of the note greatly increased the danger of unfair prejudice arising from it. Some South Carolina decisions provide additional guidance on the nature of the unfair prejudice from the note, which the state used to argue constituted a threat on a witness, a crime, but for which, no charge had been levied against Appellant.

This Court's decision in State v. Manning is instructive. State v. Manning, 400 S.C. 257, 734 S.E.2d 314 (Ct. App. 2012). Manning was charged with felony DUI and drug possession, and at the beginning of jury selection, the trial judge read both indictments to the prospective jurors. After jury selection, Manning moved to sever the charges, and the judge granted the motion. Thereafter, Manning moved for a mistrial because the jurors were aware of both charges. The trial judge denied the motion. Id. at 268-269, 734 S.E.2d at 320. Although this Court found Manning waived this issue on appeal, this Court addressed the merits and found the "single reference to the schedule three drug charge contained in the indictments read at the beginning of trial [did] not constitute sufficient prejudice to justify a mistrial." Id. at 270, 734 S.E.2d at 320.

In State v. Rogers, this Court confronted a related issue, although postured differently. State v. Rogers, 361 S.C. 178, 603 S.E.2d 910 (Ct. App. 2004). During the trial, the judge learned that a newspaper containing an article about the trial was in the jury room. The judge questioned the jurors regarding their having read, seen, or heard about the article. Six jurors responded affirmatively. Only one juror admitted to having read the article. She remembered details in a paragraph following one reference to the defendant's prior record. As a result, this juror was excused by the trial judge. This Court held the trial judge's actions were proper and a mistrial was not warranted where the other five jurors had very limited exposure to the article

and testified the article had not caused them to form any opinions. Id. at 184-185, 603 S.E.2d at 913-914.

In another case, this Court analyzed the prejudice arising from an officer a police officer, testifying on behalf of the prosecution, informing the jury that the defendant had warrants pending against him. State v. Thompson, 352 S.C. 552, 575 S.E.2d 77 (Ct. App. 2003). The defendant moved for a mistrial based upon the prejudicial and improper testimony. Id. at 560, 575 S.E.2d at 82. This Court held the officer's "single reference to warrants that existed against Thompson did not constitute sufficient prejudice to justify a mistrial." Id. at 561, 575 S.E.2d at 82. The officer's statement did not convey that the warrants concerned unrelated charges or other bad acts. In light of the jury hearing evidence that the police were looking for Thompson in connection with the offense for which he was on trial, "it would be reasonable to assume the jury inferred that the warrants related to the charged offenses." Id. at 561-562, 575 S.E.2d at 82-83.

Finally, in State v. Knighton, this Court found a mistrial was not warranted where the solicitor asked a question of Knighton during cross-examination which would have elicited evidence of Knighton's prior conviction. State v. Knighton, 334 S.C. 125, 134, 512 S.E.2d 117, 121-122 (Ct. App. 1999). During direct examination, Knighton testified that he requested videotaping of his DUI testing subsequent to his arrest in Orangeburg and that Charleston and Greenville made videotaping of the tests available. On cross-examination, the prosecutor asked how Knighton knew the other counties used such measures. The judge immediately instructed Knighton not to answer the question. Knighton moved for mistrial and argued that the question "implied to the jury that he had a prior conviction for DUI." Id. at 134, 512 S.E.2d at 121. This Court found "[t]hough there was the potential for prejudicial testimony to have been submitted to

the jury, the trial judge prevented any prejudice by instructed Knighton not to answer the question." Id. at 134, 512 S.E.2d at 122. Thus, this Court affirmed the trial court's denial of the mistrial motion. Id.

Here, the state decided not to charge Appellant with any criminal offense related to witness intimidation. Yet, the state introduced a note written by Appellant and argued the note threatened the state's only living witness to the offense. Essentially, the jury learned the state believed Appellant committed another crime by intimidating a witness. The prejudicial effect of this information was dangerously high, particularly where the state's evidence against Appellant was weak. The trial judge erred in her balancing the probative value of the note against the danger of unfair prejudice, which allowed the state to do just as defense counsel predicted – argue to the jury that Appellant threatened Jimmy Rogers and in doing so admitted his guilt.

CONCLUSION

Appellant respectfully requests this Court reverse his convictions and grant him a new trial.

s/*Susan B. Hackett*
Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of December, 2020.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHAMEL DONSHEA PARKER,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Roshamel Donshea Parker states:

1. She is an Appellate Defender for the South Carolina Office of Appellate Defense, and she was appointed to represent Appellant.

2. She has reviewed the record of Appellant's trial before Judge DeAndrea G. Benjamin, which was held on March 2-5, 2020, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. Pursuant to Anders v. California, 386 U.S. 738 (1967), she has briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Roshamel Donshea Parker.

Respectfully Submitted,

s/*Susan B. Hackett*
Susan B. Hackett
Appellate Defender
ATTORNEY FOR APPELLANT

This 9th day of December, 2020.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Dec 09 2020
SC Court of Appeals

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THE STATE,

RESPONDENT,

V.

ROSHAMEL DONSHEA PARKER,

APPELLANT

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

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

(1) Entire trial transcript;
(2) State's Exhibit #136
(3) True-billed indictments; and
(4) Sentence sheets.

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

December 9, 2020

s/*Susan B. Hackett*
Susan B. Hackett
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."

December 9, 2020.

s/*Susan B. Hackett*
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