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Mar 21 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRYAN AUSTIN SEIDLE,

APPELLANT.

APPELLATE CASE NO 2020-001485

INITIAL REPLY BRIEF OF APPELLANT

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ATTORNEYS FOR APPELLANT

TABLE OF AUTHORITIES

Cases

Crane v. Kentucky, 476 U.S. 683 (1986)..... 3

State v. Burgess, 391 S.C. 15, 703 S.E.2d 512 (Ct. App. 2010)..... 3

State v. Davis, 282 S.C. 45, 317 S.E.2d 452 (1984)..... 2

Rules

Rule 403, SCRE..... 2

Rule 404, SCRE..... 2

Rule 405, SCRE..... 2

ARGUMENT IN REPLY

The state mischaracterized the record citing to a hypothetical used by the trial judge to support its argument that the decedent's sex offender status was not relevant to appellant's defense. It also offered no sound legal basis as to how the state would have been unfairly prejudiced by the admission of such evidence.

In arguing the decedent's registry status was not relevant, the state mischaracterized the record. It claimed, "In fact, Ingersoll's sex offender registry requirement was based on a sex crime he committed as a seventeen year old against a fifteen year old victim. . . ." BOR at 8. In support of this assertion, the state cited to a comment made by the trial judge in which the judge was speaking *hypothetically*.¹ See Tr. 55, ll. 16-22 (October 19-23, 2020). The record is clear that neither party was aware of the underlying facts of the offense which required the decedent to register as a sex offender. Tr. 55, l. 21 – 56, l. 7 (October 19-23, 2020); Tr. 59, ll. 4-11 (October 19-23, 2020).

The most the parties knew was that the decedent's conviction occurred in Florida in 1997 when he was seventeen or eighteen years old based on his date of birth. Tr. 7, ll. 6-12 (September 8, 2020). The assistant solicitor believed the offense was attempted criminal sexual conduct with a minor but he was not certain. Tr. 55, l. 21 – 56, l. 7 (October 19-23, 2020).

The state used this mischaracterization to argue the decedent's registry status was not relevant because there was no evidence the underlying conviction was committed through the use of physical violence. BOR at 8. The state further suggested the decedent's conviction "was

¹ Specifically, the judge stated, "What - - and the other thing is we would kind of almost have to know a little bit about what the facts are. I think, you know, if we're talking about propensity for violence and *if Mr. Ingersoll [the decedent] was 17 years old and he had sex with a 15 year old, that's not violent at all.* I mean it's probably inappropriate and it's certainly illegal but *do we know anything about the [underlying] facts of the case?*" Tr. 55, ll. 16-22 (October 19-23, 2020) (emphasis added).

based solely on the victim's age." BOR at 8. In addition to being factually unsupported by the record, the state's argument misapprehends why appellant sought to admit the evidence of the decedent's registry status. Appellant did not seek to admit the evidence to attack the decedent's character pursuant to Rule 404(a) and (b), SCRE or Rule 405, SCRE. Counsel made clear that he did not intend to introduce evidence of the underlying conviction. Rather, appellant sought to testify that he was repeatedly told as a child that he could not be alone with the decedent because of the decedent's registry status, and that he needed to protect his vulnerable sister from the decedent. This evidence was relevant as to appellant's state of mind during the confrontation with the decedent. It was also relevant as to whether appellant reasonably believed it was necessary to arm himself that night and whether his fear of great bodily injury or death was reasonable, both elements of his defense. See State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984) (explaining the elements of self-defense). Additionally, because appellant did not seek to introduce the underlying allegations of the offense which led to the decedent's registry status, there was little, if any, prejudice to the state. Certainly there was no unfair prejudice. See Rule 403, SCRE.

Contrary to what the state argued, appellant was prejudiced by the trial judge's erroneous exclusion of this evidence. See BOR at 10-11. Evidence the decedent was a registered sex offender, and that appellant was not permitted to be alone with the decedent as a minor without a parent or another adult present, was vital evidence in support of appellant's defense. Such evidence was highly probative as to why appellant reasonably believed it was necessary to arm himself that night in his effort to expel the decedent from his home after his mother left. The evidence would have countered the state's argument that appellant was at fault in bringing on the difficulty. Additionally, the evidence was probative as to appellant's state of mind during the

confrontation and whether he reasonably believed he was in imminent danger of losing his life or sustaining serious bodily injury when the decedent charged him while wielding a knife.

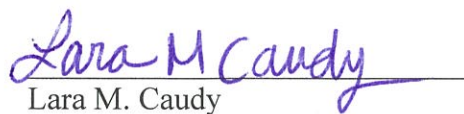
Tellingly, the state wholly failed to address appellant's argument that the exclusion of this evidence violated his due process right to present a complete defense. See State v. Burgess, 391 S.C. 15, 21, 703 S.E.2d 512, 515 (Ct. App. 2010) ("The United States Constitution guarantees a criminal defendant the right to present a complete defense."); Crane v. Kentucky, 476 U.S. 683, 690 (1986). Appellant's defense at trial was self-defense. Evidence the decedent was a registered sex offender, and that appellant was not permitted to be alone with the decedent as a minor without a parent or another adult present, was essential evidence in support of his defense.

The trial judge abused his discretion by refusing to admit relevant admissible evidence the decedent was a registered sex offender, and this Court should reverse appellant's conviction and remand for a new trial.

CONCLUSION

Based on the foregoing argument, appellant's conviction should be reversed and this case remanded to the Florence County Court of General Sessions for a new trial.

Respectfully submitted,



Lara M. Caudy
Appellate Defender

Robert M. Dudek
Chief Appellate Defender

ATTORNEYS FOR APPELLANT

This 21st day of March, 2022.

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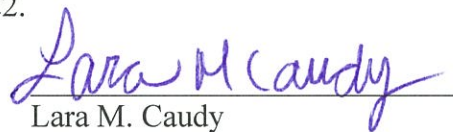
V.

BRYAN AUSTIN SEIDLE,

APPELLANT.

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Initial Reply Brief of Appellant in the above referenced case has been served upon Joshua A. Edwards, Esquire, at his primary e-mail address listed in the Attorney Information System (AIS); and a copy of the Initial Reply Brief of Appellant has been served on Bryan Austin Seidle, #384231, at Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067, this 21st day of March, 2022.



Lara M. Caudy
Appellate Defender

ATTORNEY FOR APPELLANT