

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

CHRISTOPHER G. COLEMAN,  
*Appellant.*

No. 2 CA-CR 2018-0143  
Filed February 5, 2019

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).*

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Appeal from the Superior Court in Pima County  
No. CR20173228001  
The Honorable Christopher C. Browning, Judge

**AFFIRMED**

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COUNSEL

Mark Brnovich, Arizona Attorney General  
Joseph T. Maziarz, Chief Counsel  
By Tanja K. Kelly, Assistant Attorney General, Tucson  
*Counsel for Appellee*

James Fullin, Pima County Legal Defender  
By Jeffrey Kautenburger, Assistant Legal Defender, Tucson  
*Counsel for Appellant*

**MEMORANDUM DECISION**

Judge Espinosa authored the decision of the Court, in which Presiding Judge Eppich and Chief Judge Eckerstrom concurred.

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ESPINOSA, Judge:

¶1 Christopher Coleman appeals his conviction and sentence for possession of a deadly weapon by a prohibited possessor. For the following reasons, we affirm.

**Factual and Procedural Background**

¶2 We view the facts in the light most favorable to upholding the jury's verdict. *State v. Delgado*, 232 Ariz. 182, ¶ 2 (App. 2013). On the night of June 28, 2017, a plainclothes Tucson Police Department officer observed a bicyclist, later identified as Coleman, "running a couple stop signs." He notified a uniformed patrol officer to conduct a traffic stop, but when that officer activated his overhead lights, Coleman fled on his bicycle, travelling on the sidewalk. The officers pursued and drove ahead; the uniformed officer positioned his patrol vehicle in front of Coleman to block the sidewalk, and both officers exited their vehicles.

¶3 As Coleman approached and attempted to ride around the front of the patrol car, the uniformed officer used a "forceful push" in order to "make him lose his balance" and help apprehend him. Coleman fell and landed face first with his "hands tucked in his chest on his under side." The officers commanded that he show his hands, but he did not. His left arm then "c[a]me up from above his head," and he tossed a "black object" that the officers could not identify in the moment. It landed approximately two to three feet from Coleman's head, but remained "within arm[']s reach."

¶4 As the officers struggled with Coleman, the plainclothes officer saw that the discarded object was a handgun. He directed another officer, who had just arrived, to take the weapon because it was a "major concern" to officer safety while Coleman was still resisting the officers. That officer put the gun, which was loaded, in a plastic bag and placed it near his vehicle. After Coleman was detained, the gun was returned to the approximate location where it was found for police photographs of the scene.

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¶5 Coleman was charged with one count of possession of a deadly weapon by a prohibited possessor. Before trial, the state objected to the introduction of photos or testimony “regarding any injuries sustained by the defendant,” as irrelevant. The trial court agreed, reasoning that evidence of any injuries Coleman had sustained did not “matter to the elements of the crime.” The court denied Coleman’s motion for reconsideration, in which he argued his Sixth Amendment confrontation rights would be violated by precluding such evidence. The jury found Coleman guilty of one count of possession of a deadly weapon by a prohibited possessor and he was sentenced to a slightly mitigated 3.5-year prison term. We have jurisdiction over his appeal pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A)(1).

**Preclusion of Evidence**

¶6 On appeal, Coleman contends the trial court “deprived [him] of his Sixth Amendment right to confrontation by improperly precluding evidence of [the officers’] motive or bias.” He argues he should have been permitted to “confront the state’s law enforcement witnesses with evidence going to their respective bias and/or motive to lie.” While we generally review a trial court’s evidentiary rulings for an abuse of discretion, when such rulings implicate the Confrontation Clause, our review is de novo. *State v. Ellison*, 213 Ariz. 116, ¶ 42 (2006).<sup>1</sup>

¶7 In determining whether evidence is relevant, the trial court has considerable discretion. *State v. Miller*, 215 Ariz. 40, ¶ 6 (App. 2007). Pursuant to Rule 401, Ariz. R. Evid., evidence is relevant if it has “any tendency to make a fact more or less probable than it would be without the evidence,” and “the fact is of consequence in determining the action.” Irrelevant evidence, however, is not admissible. Ariz. R. Evid. 402. Coleman maintains that the state’s case “was founded entirely on the testimony of the officers,” and he should have been permitted to introduce evidence of his injuries “from which jurors could appropriately infer a

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<sup>1</sup>The state argues that Coleman failed to raise the issue of his confrontation rights below and, consequently, appellate review of this claim should be limited to fundamental error. However, because he asserted the issue in his motion for reconsideration before trial, we find it sufficiently preserved. *See State v. Burton*, 144 Ariz. 248, 250 (1985) (where pretrial motion is “made and ruled upon, the objection raised in that motion is preserved for appeal”).

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motive to lie or bias on the part of the officers to lie about the legitimacy of their stop and subsequent interaction” with him. The court, however, in denying Coleman’s motion for reconsideration, also found the probative value of evidence of his injuries was “far outweighed by the prejudicial effect.”

¶8 While the Sixth Amendment “protects a defendant’s ability to prove a witness’s motive or bias,” it “does not prevent a trial judge from imposing limits on defense counsel’s inquiry into the potential bias of a prosecution witness.” *State v. Almaguer*, 232 Ariz. 190, ¶ 22 (App. 2013). Rather, courts “retain wide latitude to impose reasonable limits on cross-examination based on, among other things, confusion of the issues.” *Id*; see also Ariz. R. Evid. 403 (courts may exclude relevant evidence if probative value is substantially outweighed by danger of confusing the issues). The right to present evidence in one’s defense “is limited to evidence which is relevant and not unduly prejudicial.” *State v. Oliver*, 158 Ariz. 22, 30 (1988).

¶9 Coleman seems to argue the jury could have inferred that because he, “an African American male riding a bicycle in an area known for criminal activity,” was stopped for a traffic violation and forcefully apprehended when he fled, the officers involved could have been motivated to lie about whether the handgun recovered at the scene was actually in his possession. He points out the gun was “staged for photographs and never tested for DNA” and asserts that evidence of his injuries should have been admitted because “bias or motivation of a witness to lie is always relevant . . . and may be proven up with extrinsic evidence.” As noted above, however, such evidence even if relevant, may also be properly excluded if “its probative value is substantially outweighed by a danger of . . . unfair prejudice[ or] confusing the issues.” Ariz. R. Evid. 403.

¶10 The state was required to prove Coleman knowingly possessed a deadly weapon and that he was a prohibited possessor at the time of that possession. See A.R.S. § 13-3102(A)(4). Thus, the jury here was not tasked with evaluating the reasonableness of how Coleman was stopped or apprehended. The trial court nevertheless did not restrict Coleman from presenting evidence about his forceful apprehension, allowing testimony that he was knocked to the ground “face first,” and “there was a struggle.” Noting, however, that “the results of those strikes . . . [were not] germane to the jury’s resolution of the single crime” with which Coleman was charged, the court determined that presenting

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evidence of, apparently minor,<sup>2</sup> injuries would also have been unfairly prejudicial. Evidence is unfairly prejudicial if it “has an undue tendency to suggest decision on an improper basis.” *State v. Mott*, 187 Ariz. 536, 545 (1997). The evidence here, even if deemed relevant to potential police bias, risked jury confusion and determinations based on Coleman’s injuries, rather than the issue with which it was tasked. *See Oliver*, 158 Ariz. at 30; *see also Mott*, 187 Ariz. at 545 (relevant evidence suggesting a decision based on sympathy may be excluded). Accordingly, we see no error in the court’s preclusion of such evidence and no violation of Coleman’s Sixth Amendment rights. *State v. Davis*, 205 Ariz. 174, ¶ 33 (App. 2002) (defendant’s constitutional rights not violated where trial court properly exercises discretion to exclude evidence).

**Disposition**

¶11 For the foregoing reasons, Coleman’s conviction and sentence are affirmed.

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<sup>2</sup>We note there is no indication or offer of proof in the record that Coleman suffered any significant injuries during his arrest. There is no evidence or suggestion he was taken to the hospital or received medical treatment, and the officer who saw him get pushed and fall to the ground testified he was unaware of any injuries suffered by Coleman, although he acknowledged there was a “forceful landing.” Coleman’s claim that his unspecified injuries would support a motivation for the officers to testify untruthfully is speculative at best.