

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-1082

CECIL BURNEY II,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Bruce Anderson, Judge.

October 26, 2022

PER CURIAM.

Cecil Burney II was convicted of first-degree murder, second-degree felony murder, and two counts of armed robbery while wearing a mask or hood. On appeal, Burney argues that the trial court abused its discretion by allowing the State to present evidence of pending charges against a witness. We disagree and affirm.

Two witnesses for the State, Tanya Rayford and Justin Zeiler provided testimony incriminating both Burney and his brother Andrew Coleman. Rayford and Zeiler both had pending charges in a separate criminal case and were hoping to receive favorable treatment from the State by cooperating in Burney's case. This motive came out on direct examination, but was expanded on and

attacked on cross-examination by Burney. On re-direct, the trial court allowed the State to reveal that Burney's brother Coleman was also charged in the same robbery. Coleman went on to testify in Burney's defense and presented contradictory testimony to Rayford and Zeiler that was favorable to Burney.

On appeal, Burney argues the fact that Coleman was also facing charges with Rayford and Zeiler was not relevant and was prejudicial. We disagree. "All relevant evidence is admissible, except as provided by law." § 90.402, Fla. Stat. (2018). "Relevant evidence is evidence tending to prove or disprove a material fact." § 90.401, Fla. Stat. Any party may attack the credibility of a witness by "[s]howing that the witness is biased." § 90.608(2), Fla. Stat. For the same reason it was permissible for Burney to impeach Rayford and Zeiler based on their motive to testify, it was also permissible to impeach Coleman. The pending charges help explain why two of the three co-defendants are turning on the other, and so are relevant to show bias.

AFFIRMED.

ROBERTS, OSTERHAUS, and LONG, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Pamela D. Presnell, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Jovona I. Parker, Assistant Attorney General, Tallahassee, for Appellee.