

**IMPORTANT NOTICE**  
**NOT TO BE PUBLISHED OPINION**

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# Supreme Court of Kentucky

2018-SC-000136-MR

MELISSA J. SANCHEZ

APPELLANT

V. ON APPEAL FROM BELL CIRCUIT COURT  
HONORABLE ROBERT V. COSTANZO, JUDGE  
NO. 16-CR-000434

COMMONWEALTH OF KENTUCKY

APPELLEE

## MEMORANDUM OPINION OF THE COURT

### AFFIRMING

When ruling on the admissibility of gruesome photographic evidence the trial court must assume the role of a gatekeeper and conduct a KRE<sup>1</sup> 403 analysis. In this case, the issue we must resolve is whether the trial court abused its discretion in admitting two autopsy photographs into evidence that showed the victim's fatal gunshot wound. We hold that the trial court did not abuse its discretion, and therefore affirm Melissa Sanchez's conviction and sentence.

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<sup>1</sup> Kentucky Rules of Evidence.

## **I. Factual and Procedural Background.**

On the night of July 22, 2016, and into the early morning hours of July 23, Sanchez, the father of her children, Houston Lankford, and others, were out partying and shooting guns in the back country near Pineville, Kentucky. According to witnesses at the scene, Lankford and Sanchez were playing Russian roulette with a gun earlier in the day. Later that night, Sanchez and Lankford got into an argument about whether Lankford lost the gun and whether he had cheated on Sanchez. Lankford stopped the vehicle they were driving, got out, and found the gun still resting on top of the car. He handed it to Sanchez, and they continued to argue about the alleged affair between Lankford and another woman and Sanchez stated, "I'll kill you." Sanchez stepped out of the passenger door, pulled the trigger twice, but nothing happened. She stepped back into the car, pulled the trigger two more times, and the gun fired, causing a fatal wound to Lankford's neck.

Sanchez ran around the vehicle and pulled Lankford out, yelling for the others to help save him, but the other witnesses present stated that Lankford was obviously dead already. The group placed a shirt around Lankford's wound and waited for police to arrive. When police arrived, they found Sanchez sitting next to Lankford's lifeless body. Sanchez repeatedly stated that she killed Lankford and continually asked the police to "kill me now." While at the scene, police took several photographs, all with the shirt still covering the fatal wound to Lankford's neck. Sanchez was detained, brought into custody, and eventually indicted for murder.

At trial, the Commonwealth moved to introduce twelve photographs that depicted the victim's body. Sanchez objected to two of the twelve photographs being introduced. Those two photographs were taken during the autopsy and showed the wound to Lankford's neck.<sup>2</sup> The judge overruled the objection, and the photographs were shown during the medical examiner's testimony describing the nature and location of the fatal wound. Sanchez was ultimately convicted of wanton murder and was sentenced to life in prison. This appeal followed.

## **II. Standard of Review.**

Sanchez's only argument on appeal is that the trial court's ruling admitting the two autopsy photographs was erroneous. "The standard of review of an evidentiary ruling is abuse of discretion. The test for abuse of discretion is whether the trial judge's decision was arbitrary, unreasonable, unfair, or unsupported by sound legal principles." *Cox v. Commonwealth*, 553 S.W.3d 808, 814 (Ky. 2018) (citations omitted).

## **III. Analysis.**

Sanchez argues that the trial court abused its discretion in permitting the jury to see two autopsy photos of Lankford's body. When evaluating the admissibility of "visual media showing gruesome or repulsive depictions of victims . . . the trial court must conduct the Rule 403 balancing test to determine the admissibility of the proffered evidence." *Hall v. Commonwealth*,

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<sup>2</sup> One photograph was of the whole body and the other was a closeup of the fatal wound.

468 S.W.3d 814, 823 (Ky. 2015). Further, “[t]he trial judge is always required to weigh the probative value of the gruesome photo in question against the harmful effects that might flow from its admission to determine whether the photo should be excluded notwithstanding the general rule.” *Id.*

In the present case, the trial court properly acted as a gatekeeper in weighing the evidence. The trial court conducted an examination of each photograph and ruled that although the photos were prejudicial due to their gruesome nature, they had significant probative value in showing the fatal injury and rebutting statements made by Sanchez after she was detained to the effect that Lankford could have been saved. In reviewing the photographs, this Court acknowledges that they depict a gruesome wound, but we also note that “a photograph, otherwise admissible, does not become inadmissible simply because it is gruesome and the crime is heinous.” *Funk v. Commonwealth*, 842 S.W.2d 476, 479 (Ky. 1992) (citation omitted).

Additionally, the Commonwealth only sought to introduce two photographs that showed the fatal injury. There were other photographs taken at the scene of the crime,<sup>3</sup> but none showed the injury as Lankford’s body had a shirt covering the wound. Further, unlike the twenty-eight images<sup>4</sup> and ten-

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<sup>3</sup> Notably, Sanchez did not object to any of these photographs being admitted.

<sup>4</sup> In three subsequent decisions since *Hall*, this Court has affirmed the admission of arguably much more gruesome and cumulative images than the present two photographs. See *Holbrook v. Commonwealth*, 525 S.W.3d 73, 85 (Ky. 2017) (Commonwealth sought to introduce fifty-five autopsy photographs and trial judge did not abuse its discretion by admitting sixteen of these photographs showing the condition of victim’s body after it had been weighted down in a pond for over a month); *Rucker v. Commonwealth*, 521 S.W.3d 562, 573–74 (Ky. 2017) (not error for trial court to admit eleven crime scene and autopsy photographs and a video taken at the crime

minute crime scene video in *Hall*, the Commonwealth did not show the photographs on a projector, but instead merely held each autopsy photograph up for the jury to see while the medical examiner testified about Lankford's injuries. Each picture was discussed for less than a minute.

Lastly, Sanchez argues that the photos were inadmissible because the severity of the gunshot wound was an uncontested fact, and thus a picture of the actual wound was not necessary. However, "[a] defendant is not entitled to stipulate away the parts of the case which [she] does not want the jury to see." *Chumbler v. Commonwealth*, 905 S.W.2d 488, 492 (Ky. 1995) (citation omitted). The fact that Sanchez admitted to shooting Lankford and causing his death does not mean she gets to determine how the Commonwealth introduces that evidence to the jury. Accordingly, the trial court did not abuse its discretion when it admitted the two autopsy photographs of Lankford's body.

#### **IV. Conclusion.**

This Court finds no reversible error in the single issue brought before us. As a result, we affirm the judgment of the trial court.

Minton, C.J.; Hughes, Keller, Lambert, VanMeter and Wright, JJ., sitting.

All concur. Buckingham, J., not sitting.

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scene of the victim's severely decomposing body that was "bloated, discolored, [with] insects [] present[.]"; *Ragland v. Commonwealth*, 476 S.W.3d 236, 247-48 (Ky. 2015) (trial court did not commit error in admitting eight crime scene and autopsy photographs, over defendant's objection, that depicted "cuts and bleeding, bruising, and broken teeth. . . . [and] also depict[ing] the effects of decomposition on [the victim's] body, including bloating and skin discoloration[.]").

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