

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2024-KA-01442-COA

**RONNIE LEWIS MIXON, JR. A/K/A RONNIE
MIXON A/K/A RONNIE L. MIXON, JR.**

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT:	12/05/2024
TRIAL JUDGE:	HON. JAMES T. KITCHENS JR.
COURT FROM WHICH APPEALED:	LOWNDES COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	OFFICE OF STATE PUBLIC DEFENDER BY: JUSTIN T. COOK DAMONTA DANTRELL MORGAN
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: ALLISON ELIZABETH HORNE
DISTRICT ATTORNEY:	SCOTT WINSTON COLOM
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 10/20/2026
MOTION FOR REHEARING FILED:	

BEFORE BARNES, C.J., McCARTY AND LASSITTER ST. PÉ, JJ.

LASSITTER ST. PÉ, J., FOR THE COURT:

¶1. Ronnie Lewis Mixon Jr. was indicted in Lowndes County on one count of armed robbery of a gas station, and a jury convicted him of that charge following a trial. On appeal, Mixon argues that his indictment was defective, that the trial court erred by denying his motion to suppress, that the State failed to present sufficient evidence of the armed robbery, and that these errors, taken cumulatively, deprived him of a fair trial. We find no reversible error and affirm.

FACTS AND PROCEDURAL HISTORY

¶2. Sana Bounaim was working as a cashier at a Chevron near Highway 45 in Columbus. One night in May 2022, Bounaim was alone in the store, working the nightshift. Around 9:30, shortly before she would have closed, a man “came from the door and told [her], ‘This is a gun. . . . [G]ive me the money or your life.’” Bounaim testified that the man’s face was covered by a shirt and a mask and that his hand, in which she believed he had a gun, was covered by a shirt. She removed all the money in the register, roughly \$2,000, and placed it in a black plastic bag before giving it to the man. She testified that the man ran from the store and crossed Highway 45, and she identified the direction on a map used by the State as an exhibit. Bounaim called 911 and gave a description of the robber.

¶3. Bounaim testified at trial that she recognized the man as a customer who came in two or three times each day, but she did not realize this until he had left with the money. She identified the man, Mixon, at trial.

¶4. Video footage from the Chevron was played for the jury. Bounaim identified Mixon in the video, which showed Mixon standing outside the Chevron minutes before the robbery. At that time, Mixon was wearing a light-colored shirt, possibly gray, and black pants. Mixon left the frame of the video and then returned to view, now shirtless and wearing the gray shirt on the top of his head. A dark-colored piece of fabric concealed his right hand. Less than a minute later, Mixon exited the building carrying a black bag.

¶5. Video footage from inside the store showed Mixon enter with his face concealed by a black surgical mask and a gray shirt. When he approached the counter, he raised his right

hand at Bounaim as she moved behind the counter. His hand was concealed by a dark-colored fabric, but he kept his arm raised and pointed at Bounaim throughout the robbery.

¶6. After Bounaim's 911 call, officers responded to the area. Officer Melvin Shirley was told to look for a Black male wearing dark clothing in an area near the Chevron behind a Harbor Freight store. Officer Shirley joined other officers at the area, and his body camera video was played for the jury. Another officer, Officer Tate, yelled for someone to stop, and Officer Shirley saw a man running away from the officers toward a wooded area. The officers caught up with the man, Mixon, and handcuffed him in the woods. Officer Shirley testified they found no weapons or money on Mixon, and he was wearing shorts and a dark blue shirt at arrest.

¶7. After Mixon was handcuffed and secured, officers searched the woods and area where Officer Tate first spotted Mixon. Officer Shirley found black cargo pants and a large amount of cash on the ground. At trial, he identified the pants Mixon wore in the Chevron video as similar to the pants he found near Harbor Freight. Officer Shirley also testified that Mixon's black shoes were similar to those worn during the robbery.

¶8. As officers stood near their vehicles and Officer Tate counted the money, Officer Shirley asked Mixon where the gun was. Mixon told him that he did not have one and that he had used a green bottle, not a gun.¹ Officers stopped looking for a weapon. Later that

¹ Mixon moved pre-trial to suppress this statement, but his motion was denied. Details of the motion hearing are discussed *infra*.

evening, another officer searched the area where Mixon had been arrested and found a gray shirt similar to the one seen in the Chevron video and a green Sprite bottle.

¶9. After arrest, Mixon was taken to the Columbus Police Department and placed in an interrogation room. A recording from the interrogation room was played for the jury.² While Mixon was alone in the room, he talked to himself. He stated that he did not have a gun and that his face had been covered up: “I didn’t have no gun. . . . The woman can’t I.D. me because my face got covered up They can’t prove that was me on that damn video . . . my face covered up.”

¶10. The jury convicted Mixon as charged, and the trial court sentenced him to twenty-five years in the Mississippi Department of Corrections, with twenty years to serve followed by five years of post-release supervision.

ANALYSIS

¶11. On appeal, Mixon raises four issues. He argues that his indictment was fatally defective for omitting the language “against the peace and dignity of the State of Mississippi.” He argues that the trial court erred by denying his motion to suppress his statement about using a Sprite bottle and that the State’s evidence of armed robbery was not sufficient. Finally, he argues that the cumulative effect of these alleged errors deprived him of a fair trial.

² Although Mixon moved to suppress this video, he does not appeal the denial of that motion.

I. Was the indictment fatally defective?

¶12. Mixon argues that his indictment’s omission of the language “against the peace and dignity of the State of Mississippi” renders the indictment fatally defective, as the Mississippi Constitution provides that a criminal indictment must conclude with that phrase. *See* Miss. Const. art. 6, § 169. However, Mixon raises this defect for the first time on appeal, and the State argues that he waived his objection to the indictment by failing to raise it to the trial court. Mixon counters that the Mississippi Constitution requires the language because it “signal[s] the authority of the State” and cannot be waived.

¶13. In *Brandau v. State*, 662 So. 2d 1051 (Miss. 1995), the Supreme Court held that the failure to object to the form of the indictment at the trial level waived the issue on appeal. *Id.* at 1054-55. In *Brandau*, the Supreme Court noted that section 99-7-21 requires a defendant to raise any objection by demurrer to the indictment at the trial level, and held that because the omission of the “peace and dignity” clause could be cured by amendment, it was subject to waiver. *Id.*; Miss. Code Ann. § 99-7-21 (Rev. 2020); *see also* MRCrP 14.4(b). Mixon acknowledges *Brandau*’s holding but suggests that it was wrongly decided, arguing that section 99-7-21 cannot waive a “constitutional prerequisite.”

¶14. However, “[t]his Court cannot overrule Supreme Court precedent.” *Brown v. State*, 392 So. 3d 706, 708 (¶15) (Miss. Ct. App. 2024). Based on *Brandau* and section 99-7-21, we find that Mixon waived his objection to the indictment.

II. Did the trial court err by not suppressing Mixon’s statement?

¶15. Mixon argues that the trial court erred by allowing the State to admit evidence of a statement he made while in custody, before he was informed of his *Miranda* rights.

¶16. At a hearing on Mixon’s motion to suppress, Officer Timothy Tate testified that he responded to the armed robbery call and searched the area behind Harbor Freight. As he searched, he saw a Black man stand up from behind some pallets and run to the woods. A chase ensued, but officers eventually caught up to Mixon and were able to arrest him.³ Officer Tate testified that while Mixon was on the ground, there were multiple officers around him, pointing guns and tasers. Officer Tate testified that they walked Mixon out of the woods to the parking lot and that the officers “start[ed] conducting a search for the bag that might have had contents from the store.” Tate returned to the area where he had first seen Mixon, and some officers found money there.

¶17. Footage of Officer Tate’s body camera was played. As Officer Tate counted the money at the hood of the car, Mixon stood nearby, in handcuffs, next to Officer Shirley. After more than ten minutes, Officer Shirley asked Mixon where the gun was, and Mixon responded that there was no gun, claiming that he had used a green bottle wrapped inside a t-shirt. Officer Shirley testified at the hearing and confirmed Officer Tate’s testimony. Both officers testified that they had not advised Mixon of his *Miranda* rights before asking him about the gun.

³ During the arrest, while Mixon was on the ground, Officer Shirley told Mixon, “You have the right to remain silent, and I suggest you use it.” Neither party claims that this was a sufficient recitation of Mixon’s *Miranda* rights.

¶18. After testimony, the trial court asked the parties to provide caselaw on the public safety exception. The next day, after reviewing the research provided, the trial court denied Mixon’s motion to suppress based on the public safety exception. The trial court noted that it had been nighttime and dark, that they were “in an area close to businesses,” and that the public had access to the area, so the police had “some justifiable concern” about a gun being left behind and found by someone.

¶19. We will reverse the trial court’s denial of a motion to suppress only “if the ruling is manifest error or contrary to the overwhelming weight of the evidence.” *Godbolt v. State*, 407 So. 3d 86, 116 (¶97) (Miss. 2024). The United States Supreme Court has held that “the *Miranda* safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent,” commonly shorthand as custodial interrogation. *See Rhode Island v. Innis*, 446 U.S. 291, 300-01 (1980). Mixon and the State agree that Mixon was subjected to custodial interrogation when officers asked him about the gun used in the robbery.

¶20. However, there are exceptions to the custodial interrogation inquiry, including the exception applied by the trial court here, the public safety exception, which was established by the United States Supreme Court in *New York v. Quarles*, 467 U.S. 649, 655-56 (1984). In *Quarles*, the Supreme Court held that in some situations, “the need for answers to questions in a situation posing a threat to the public safety outweighs the need for the prophylactic rule protecting the Fifth Amendment’s privilege against self-incrimination.” *Id.*

at 657. The Supreme Court held that this exception should be applied on a case-by-case basis, emphasizing that the ruling was based on the specific facts of Quarles’s arrest in that case. *Id.* at 655-58.

¶21. In *Quarles*, officers pursued a rape suspect into a supermarket around 12:30 a.m. *Id.* at 651-52. Inside, officers spotted a man matching the victim’s description, and a chase ensued. *Id.* at 652. During the chase, officers momentarily lost sight of the man. *Id.* Officers finally apprehended the suspect, and during an officer-safety frisk, officers realized that the man was wearing an empty gun holster. *Id.* After handcuffing the man, officers asked where the gun was, and he told them he had thrown it into some empty cartons nearby. *Id.* In applying the public safety exception, the Supreme Court noted that “[t]he police in this case, in the very act of apprehending a suspect, were confronted with the immediate necessity of ascertaining the whereabouts of a gun which they had every reason to believe the suspect had just removed from his empty holster and discarded in the supermarket.” *Id.* at 657. “So long as the gun was concealed somewhere in the supermarket, with its actual whereabouts unknown, it obviously posed more than one danger to the public safety: an accomplice might make use of it, a customer or employee might later come upon it.” *Id.*

¶22. Application of this exception in our state has been limited, though it was most recently applied in *Godbolt v. State*, 407 So. 3d 86, 117 (¶103) (Miss. 2024).⁴ In *Godbolt*, officers

⁴ The other two cases mention *Quarles* in alternative holdings that are inapplicable to the present case. In *Evans v. State*, 109 So. 3d 1056 (Miss. Ct. App. 2011), *reversed on other grounds by Evans v. State*, 109 So. 3d 1044 (Miss. 2013), this Court concluded that

arrested Godbolt following a several-hour killing spree at multiple locations throughout Lincoln County, in which eight people were ultimately killed. *Id.* at 95-101 (¶¶1-31). Upon arrest, officers asked Godbolt “where the scene was located and if he had been shot.” *Id.* at 117 (¶102). The Supreme Court affirmed the trial court’s denial of Godbolt’s motion to suppress his response, noting that the officers testified at the hearing that they asked Godbolt to determine where potential victims might be, to see if Godbolt needed medical attention, or to determine if there were other active shooters. *Id.*

¶23. Mixon argues that there was no threat to public safety when he was asked about the gun, noting that there were no exigencies at Mixon’s arrest and the fact that officers did not question Mixon about the gun until Mixon was isolated and detained, and the money—their primary objective—had been discovered. The State argues that *Godbolt* affirms “that officers may ask unwarned questions necessary to secure safety in situations involving weapons” and that the officers’ question about the gun was based on “an objectively reasonable need to locate the gun.”

¶24. The State’s argument urges us to push the public safety exception—an exception the Supreme Court emphasized was *narrow*—to the point where the exception swallows the rule.

statements elicited by private security officers did not trigger *Miranda* protections because the security guards were not state actors, and we alternatively noted that even if they were state actors, the public safety exception would apply. *Id.* at 1065 (¶29). In *Luckett v. State*, 797 So. 2d 339 (Miss. Ct. App. 2001), this Court found that the defendant was not subjected to custodial interrogation, so *Miranda* did not apply, but cited *Quarles* to highlight “the need for law enforcement officers to seek clarification about weapons.” *Id.* at 346 (¶24).

If we accepted the State’s argument, in any case involving a weapon, violence, or a secondary suspect, law enforcement would have authority to question a suspect about the weapon, whom he might have hurt, or if other accomplices lie in wait. We decline to do so.

¶25. Here, officers detained Mixon for more than ten minutes before asking him about the gun. Mixon was handcuffed and surrounded by officers and did not pose a threat to officer safety. Nor was this a situation like the supermarket in *Quarles*, which was open for business at the time and a shopper could have found the gun amongst the groceries. Mixon was detained in a grassy, wooded area behind two businesses, and there was no evidence that the area was one frequented by the public.⁵

¶26. The separate opinion argues that the officers were in pursuit of the alleged gun “the entire time.” But the video also shows that the officers’ primary objective was recovering the money; as the separate opinion notes, when an officer discovered the money, he yelled to the other officers, “I got it!” suggesting this is what they were primarily searching for. While officers may have been searching for the gun as well, the video suggests that the officers’ primary concerns were apprehending Mixon, then finding the money, then locating the gun. While a gun is undoubtedly a dangerous weapon, the mere fact that a dangerous weapon was used in a crime and later is unaccounted for is not grounds to ignore the suspect’s

⁵ The trial court noted that Mixon was not “hundreds of yards into the woods or anything” and that it was “an area where people could go and look.” The fact that a weapon might be in an area where a person might possibly be one day—without evidence that the area is typically frequented by the public—is not enough to trigger the public safety exception.

constitutional rights. We also emphasize that unlike the supermarket in *Quarles*, there was no evidence before the court that the uninhabited, wooded area behind Harbor Freight was an area often frequented by the public.

¶27. Additionally, our holding does not “impose a new time constraint on officers” seeking to apply the public safety exception. *See post* at ¶56. Our emphasis that the officers waited more than ten minutes to ask about the gun is to illustrate the lack of urgency or exigency surrounding the questions—and yes, to illustrate that officers had ample time to give Mixon his *Miranda* warnings. While the passage of time is not the sole consideration, it is part of the totality of the circumstances surrounding Mixon’s arrest and the officers’ questioning and is therefore a pertinent factor in this case.

¶28. Finally, we note that the case cited by the separate opinion, *United States v. Coulter*, 41 F.4th 451, 457 (5th Cir. 2022), does not address the application of the public safety exception during custodial interrogation. In *Coulter*, the Fifth Circuit considered whether *Miranda* warnings were required at all during Coulter’s detainment. *Id.* The application of *Miranda* at large, not its exceptions, requires a cost-benefit analysis. *Id.* The parties in this case agreed that Mixon was in custody and that the questions were interrogations.

¶29. The narrow exception outlined in *Quarles* does not apply here, and the trial court erred by failing to suppress Mixon’s statement. However, that does not end our inquiry, as the erroneous admission of statements should be subjected to a harmless-error analysis. “Constitutional error does not automatically require reversal of a conviction.” *Brookshire v.*

State, 431 So. 3d 791, 798 (¶21) (Miss. Ct. App. 2025). “*Miranda* violations can be found to be harmless error if the admitted evidence ‘was without any substantial prejudicial effect under all of the facts and circumstances of the case.’” *Id.* (quoting *Hopkins v. State*, 799 So. 2d 874, 879 (¶10) (Miss. 2001)).

¶30. Here, the trial court’s error was ultimately harmless, as the evidence against Mixon was overwhelming. Bounaim testified that she recognized the man who robbed her and identified Mixon as the perpetrator multiple times at trial. A video of surveillance footage from the gas station showed a man Bounaim identified as Mixon to be waiting outside the building, dressed in clothes similar to those the robber wore in footage of the robbery. Video from officers’ body cameras showed Mixon wearing clothing similar to that seen in the gas station footage, and officers found money and pants worn by the robber near the area where Mixon was apprehended. Finally, in a video taken from the police interrogation room, the admission of which Mixon did not challenge on appeal, Mixon says aloud, “I didn’t have no gun,” and Bounaim “can’t I.D. me because my face got covered up They can’t prove that was me on that damn video . . . my face covered up.”

¶31. In light of this overwhelming evidence, the trial court’s error in admitting Mixon’s unwarned statement was harmless.

III. Was there sufficient evidence of guilt?

¶32. Mixon argues that the State presented insufficient evidence to support the jury’s verdict, arguing that Bounaim’s identification was unreliable and that she did not testify

conclusively that she saw a gun.

¶33. We review challenges to the sufficiency of the evidence *de novo*, considering the evidence in the light most favorable to the State. *Brent v. State*, 296 So. 3d 42, 47 (¶14) (Miss. 2020). If we determine that rational jurors could have found the State proved each element of the crime beyond a reasonable doubt, we will affirm. *Id.*

¶34. Mixon was charged with “willfully, unlawfully, and feloniously tak[ing] money from Sana Bounaim, same being the personal property of [Chevron] in the presence of an employee, Sana Bounaim, . . . against her will by putting her in fear of immediate injury to [her] person by the exhibition of a deadly weapon to wit: a firearm.” *See* Miss. Code Ann. § 97-3-79 (Rev. 2020). The State was required to prove that Mixon took money from Bounaim, against her will, by putting her in fear of immediate injury by the exhibition of a gun. The State presented sufficient evidence to prove each element.

¶35. To begin, Mixon’s argument regarding Bounaim’s identification goes to the weight of the evidence, not the sufficiency, as he did not seek to suppress the identification at trial. Additionally, as discussed *supra*, there was overwhelming evidence of guilt.

¶36. Nor was the State required to present evidence that Mixon truly possessed a gun—all that was required was evidence that Mixon made an “overt act and a reasonable person would believe that a deadly weapon [was] present.” *Dambrell v. State*, 903 So. 2d 681, 683 (¶6) (Miss. 2005). The Supreme Court has stated that “a victim is not required to have definite knowledge of a deadly weapon in the sense that the weapon must actually be seen by the

victim's own eyes.” *Id.*

¶37. Here, Bounaim testified that Mixon told her he had a gun and threatened her life if she did not give him the money. She testified that she believed he was holding a gun, even though it was wrapped in a shirt. Video of the event shows Mixon approach the counter with his hand wrapped and shows him point his wrapped hand repeatedly at Bounaim. Mixon's wrapped hand follows Bounaim as she moves around to fill a bag with money from the register.

¶38. A reasonable juror could have accepted Bounaim's testimony as true and could have seen Mixon on the video and determined that a reasonable person would have believed he was holding a gun as he robbed Bounaim. We find the State presented sufficient evidence to support the jury's verdict convicting Mixon of armed robbery.

IV. Does the harmless error create a cumulative effect of unfairness?

¶39. Mixon argues that the cumulative effect of the alleged errors deprived him of a fair trial. “In cases where the Court discerns harmless error or error that is not reversible in and of itself, we have discretion to determine on a case-by-case basis whether the errors require reversal due to the resulting cumulative prejudicial effect.” *Swinney v. State*, 241 So. 3d 599, 614 (¶66) (Miss. 2018).

¶40. In this case, we have found only one error—the admission of Mixon's pre-*Miranda* statement—and have determined that its admission was harmless beyond a reasonable doubt. The evidence of guilt—including Mixon's interrogation-room admission that he did not have

a gun and had covered his face—was overwhelming, and we find no cumulative prejudice that would require reversal.

CONCLUSION

¶41. The trial court erred in applying the public safety exception to Mixon’s pre-*Miranda* statement, and that statement should have been suppressed. However, the error was harmless, as there was overwhelming evidence of Mixon’s guilt. Even without the statement, there was sufficient evidence to support the jury’s verdict. Mixon waived his argument that the indictment was fatally defective by failing to raise it at trial.

¶42. **AFFIRMED.**

BARNES, C.J., WILSON, P.J., WESTBROOKS, McDONALD AND McCARTY, JJ., CONCUR. LAWRENCE, J., CONCURS IN PART AND DISSENTS IN PART WITH SEPARATE WRITTEN OPINION, JOINED BY CARLTON, P.J., EMFINGER AND WEDDLE, JJ.

LAWRENCE, J., CONCURRING IN PART AND DISSENTING IN PART:

¶43. I agree with all issues resolved by the majority and with the ultimate result of affirming the conviction, but I respectfully disagree that the trial court abused its discretion when determining the public safety exception applied to the response Mixon gave to officers looking for a gun they thought he had abandoned. A gun is a dangerous weapon. *See Haymon v. State*, 346 So. 3d 875, 884 (¶28) (Miss. 2022) (describing a gun as a deadly weapon pursuant to Mississippi Code Annotated section 97-3-7 (Rev. 2020)); *Macon v. State*, 295 So. 2d 742, 745 (Miss. 1974) (“The gun was a deadly weapon even though it was not loaded.” (citing *Cittadino v. State*, 199 Miss. 235, 24 So. 2d 93 (1945))). A gun should

not be left lying around where adults or children can find it and use it for illegal mischief or accidentally fire it to the potential detriment of others' lives. The trial court relied on clear United States Supreme Court precedent and supporting facts in the record in applying its discretion to allow Mixon's statement into evidence.⁶ When there is clear law supporting the legal conclusion reached and clear facts supporting the factual determinations made, a trial court cannot abuse its discretion even if this Court thinks the legal result should have been different. Yet this Court now says it was an abuse of discretion despite clear law and facts supporting the trial court's decision. I would affirm the trial court on the denial of suppressing Mixon's statement to police after his arrest. Therefore, I respectfully dissent as to that part of the decision.

¶44. In *Quarles*, a woman reported being raped in a supermarket. *New York v. Quarles*, 467 U.S. 649, 652 (1984). The responding officers found the suspect in the supermarket and pursued him. *Id.* During the pursuit, the officers lost sight of Quarles "for several seconds, and upon regaining sight of respondent, ordered him to stop and put his hands over his head." *Id.* Once the officers reached Quarles and frisked him, they discovered an empty gun holster and "asked him where the gun was." *Id.* Quarles "nodded in the direction of some empty cartons and responded, 'the gun is over there.'" *Id.* Quarles argued that because he had not been read his *Miranda*⁷ rights prior to being asked about the gun, his statement was

⁶ See *New York v. Quarles*, 467 U.S. 649, 652 (1984).

⁷ *Miranda v. Arizona*, 384 U.S. 436 (1966).

inadmissible.

¶45. The United States Supreme Court reviewed the case and decided that in certain situations, “concern for public safety must be paramount to adherence to the literal language of the prophylactic rules enunciated in *Miranda*.” *Id.* at 653. Accordingly, the “public safety” exception to the *Miranda* warning requirements was recognized.⁸ The Court held that “the availability of [the public safety] exception does not depend upon the motivation of the individual officers involved.” *Id.* at 656. “Whatever the motivation of individual officers in such a situation, we do not believe the doctrinal underpinnings of *Miranda* require that it be applied in all its rigor to a situation in which police officers ask questions reasonably prompted by a concern for the public safety.” *Id.* The Court found that a concealed gun in the supermarket “posed more than one danger to the public safety: an accomplice might make use of it, a customer or employee might later come upon it.” *Id.* at 657.

¶46. The emphasis of the Court’s holding was that the officers should not be placed in the untenable position of having to consider, often in a matter of seconds, whether it best serves society for them to ask the necessary questions without the *Miranda* warnings and render whatever probative evidence they uncover inadmissible, or for them to give the warnings in order to preserve the admissibility of evidence they might uncover but possibly damage or destroy their ability to obtain that evidence and neutralize the volatile situation

⁸ The public safety exception remains valid and was most recently discussed in 2022 by the United States Supreme Court in *Vega v. Tekoh*, as a valid exception to delaying the delivery of *Miranda* warnings. *Vega v. Tekoh*, 597 U.S. 134, 145 (2022) (stating that “*Miranda* warnings are ‘not themselves rights protected by the Constitution and that the need for answers to questions in a situation posing a threat to the public safety outweigh[ed] the need for the prophylactic rule.’” (citing *Quarles*, 467 U.S. at 654)).

confronting them.

Id. at 657-58. The Court in *Quarles* instructed that “police officers can and will distinguish almost instinctively between questions necessary to secure their own safety or the safety of the public and questions designed solely to elicit testimonial evidence from a suspect.” *Id.* at 658-59.

¶47. In further discussion of *Quarles*, the United States Court of Appeals for the Fifth Circuit has stated directly that the *Miranda* rule created by the United States Supreme Court requires a cost-benefit analysis when courts are deciding these issues:

Moreover, “when [the Supreme] Court creates a prophylactic rule to protect a constitutional right, the relevant ‘reasoning’ is **the weighing of the rule’s benefits against its costs.**” In other words, *Miranda* represents a **judicially created rule** that “is justified only by reference to its prophylactic purpose, . . . and **applies only where its benefits outweigh its costs**[.]” The Court recently surveyed a wide swath of its **post-Miranda decisions** and demonstrated that “all [of them] . . . engaged in **cost-benefit analysis** to define the scope of these prophylactic rules.”

United States v Coulter, 41 F.4th 451, 457 (5th Cir. 2022) (emphasis added) (citations omitted).⁹ Here, the majority fails to address how, under the facts of this case, the cost-benefit analysis lends support for the suppression of the evidence.

¶48. In this case, body camera footage from the scene shows the entire arrest and initial

⁹ While the majority takes issue with reliance on this quote, we cite it merely to note that federal caselaw recognizes a cost-benefit analysis to delivering the *Miranda* warnings. *See Vega*, 597 U.S. at 135. So too, this Court should recognize that in certain situations the benefits of giving *Miranda* rights may not outweigh the cost. While the facts of *Coulter* may differ from the facts of this case, the required cost-benefit analysis would be helpful to understanding the majority’s rationale.

questioning on video. At the start of the video, officers are searching a field and wooded area. Around 21:39:39, the video shows Mixon is apprehended by the officers and told to get “face down.” The officer points a light and taser at Mixon as he rests on the ground and is told not to move. At 21:40:49, Mixon is cuffed and begins saying, “I didn’t do anything,” and asking, “Ya’ll arresting me? What y’all arresting me for?”¹⁰ At 21:40:59, the video shows that an officer is still placing Mixon in cuffs when another officer states to Mixon, **“[Y]ou have a right to remain silent and I suggest you use it.”**

¶49. At 21:41:23, the officers begin discussing the necessity of searching “that path that he was on.” By 21:41:34, Mixon is lifted off the ground, and his pockets and wallet are searched. At 21:42:31, body camera audio reveals that the officers stated, “[Y]ou can take him,” and the officer begins looking around the wooded area with a flashlight. At 21:42:47, the officer calls in Mixon’s driver’s license information while walking through the woods. As the officer is walking, Mixon can be seen following behind the officer, and multiple other officers with flashlights are seen searching the area. Eventually, the officer exits the woods and begins searching a different area behind wooden pallets near a different wood line. At 21:45:12, the officer locates an empty black bag.¹¹

¶50. At 21:45:31, the officer yells, “Hey, I got it!” and a pair of black pants with money can be seen on the footage. The officers are seen congratulating each other on recovering

¹⁰ It is clear, although not yet placed in handcuffs, Mixon is in custody at this point.

¹¹ This black bag did not contain the stolen money.

the money. At 21:45:54, one officer asked another, “[Y]ou got a gun?” The audio is unintelligible, but the officer seemed to give a negative response before stating, “[S]o I’m have to retrace the steps through the woods.” The officer walked back to the patrol car with the money and pants. The officer, who is holding the money he just found in the woods, directs that Mixon be brought to the hood of his police car.

¶51. Mixon is again visible at 21:46:20, and the officer lays the money out for Mixon to see before asking him, “Where the gun at?” At 21:46:27, Mixon states, “I don’t have no gun.” Multiple officers are standing at the hood of the car with Mixon discussing “retracing the steps” and asking about K-9 units working that evening. Multiple roaming lights in the woods demonstrate that officers were still searching for the gun they thought was missing. At 21:47:47, the officers are heard talking about the firearm and that the “gun” had been covered with a bag when Mixon entered the store, and one officer tells the other over the radio that the clerk stated that the gun was covered. At the time that the clerk’s report of the covered gun is heard over the radio, around 21:48:03, Mixon can be heard admitting that he used a “15 oz Sprite” bottle. That was approximately eight and a half minutes after his arrest. The gun was still missing, and numerous officers can be seen actively engaged in the woods looking for it. The safety of the public was still present in the officers’ minds.

¶52. The video clearly demonstrates the officers were in pursuit of the weapon the entire time. Mixon was told he had a right to remain silent upon his arrest. Mixon was questioned when the gun, which was still being searched for, was not yet found. At first, Mixon simply

denied having a gun. Then, when an officer relayed over the radio in the vicinity of and within earshot of Mixon the testimony of the clerk who was robbed stating that there was a gun which was covered, Mixon said that he had a Sprite bottle.

¶53. The trial court judge watched this video evidence and ruled that “Corporal Tate does tell[] him he has the right to remain silent. And he expects—recommends that he used that right. And he is asked at least a couple of times where the gun is.” The trial court then applied the public safety exception by finding that Mixon was in

an area that is close to businesses. It is a wooded area But it was a wooded area that was probably—that adjoined the back parking lot of a couple of those businesses. Because you can see on the body camera footage. It’s not like he’s hundreds of yards in to the woods or anything like that. It looks like he was very close. So, is it an area where people could go and look and? Yea, it is. Do the police have some concern, justifiable concern, about maybe a weapon being left there and then being found by somebody? I would say yes. Because the report is, that they had—that they were responding to an armed robbery. Were they justified in thinking that there was a gun somewhere involved and used in this case? And I think yes. . . . So, the [c]ourt is satisfied that the very limited questions that he was asked on the scene satisfy the public safety exception. And they will be allowed to ask that.

The facts and evidence in the record before this Court support the trial court’s finding that the officers in this case correctly acted to protect public safety by questioning Mixon about the gun. The scene was still very active. The officers searched the entire time Mixon was in custody and only asked about the gun when it could not be found after minutes of diligent searching.

¶54. This Court is doing exactly what the Mississippi Supreme Court has instructed us not to do and what we tell ourselves we will not do—making our own finding instead of leaving

the decision to admit or exclude evidence to the “trial court’s discretion.” *Mouton v. State*, 227 So. 3d 1079, 1083 (¶15) (Miss. 2017) (citing *Wade v. State*, 583 So. 2d 965, 967 (Miss. 1991)); *Myers v. State*, 153 So. 3d 581, 587 (¶21) (Miss. 2014) (citing *Strickland v. State*, 980 So. 2d 908, 919 (¶18) (Miss. 2008)); *see also Burgess v. State*, 210 So. 3d 569, 574 (¶30) (Miss. Ct. App. 2016). The Mississippi Supreme Court has stated that “a court abuses its discretion by relying on an erroneous statement of the law or applying improper or erroneous facts.” *Willis v. State*, 300 So. 3d 999, 1004 (¶9) (Miss. 2020) (citing *Overton v. State*, 195 So. 3d 715, 725 (Miss. 2016) (quoting *Abuse of Discretion*, Black’s Law Dictionary (10th ed. 2014))). The trial court here relied on the correct law and substantial facts in the record that are clearly visible on an officer’s body camera video.

¶55. There is little room for misinterpretation of the facts since the police’s actions can be seen on camera the entire time, looking for *Mixon* and searching for the money and the gun. The majority finds that “the officers’ primary concerns were apprehending *Mixon*, then finding the money, then locating the gun.” Maj. Op. at ¶26. The majority is making its own factual findings by determining in hindsight what the “primary objective” of the investigation was at different points in the video and questioning whether the scene was “an area often frequented by the public.” Maj. Op. at ¶26. Yet the United States Supreme Court in *Quarles* stated, “[T]he application of the exception which we recognize today should not be made to depend on post hoc findings at a suppression hearing concerning the subjective motivation of the arresting officer.” *Quarles*, 467 U.S. at 656. This Court today is telling the trial court

it abused its discretion when all the facts found by the trial court are on video, and the public safety exception relied upon is still good law created by the United States Supreme Court and endorsed and enforced by the Mississippi Supreme Court. It is unfair to trial courts to change the rules after the fact and call it an abuse of discretion.

¶56. Although a civil case, the Mississippi Supreme Court has explained what abuse of discretion means: “A finding of abuse of discretion absent a definite and firm identification of clear error violates time-honored standard-of-review principles.” *Leasy v. SW Gaming LLC*, 335 So. 3d 555, 558 (¶7) (Miss. 2022) (quoting *Nunnery v. Nunnery*, 195 So. 3d 747, 752 (¶13) (Miss. 2016)). “[I]n applying the applicable abuse-of-discretion standard of review, this Court may not reweigh the evidence or **substitute its judgment for that of the trial court.**” *Chamblee v. State*, 426 So. 3d 352, 369 (¶49) (Miss. Ct. App. 2025) (emphasis added) (quoting *Tisdale v. S. Cent. Reg’l Med. Ctr.*, 411 So. 3d 227, 231 (¶7) (Miss. Ct. App. 2024)).

¶57. The trial court made an on-the-record finding based on the legal considerations enunciated by the Court in *Quarles* and reached a conclusion that is supported by substantial evidence. The majority would overturn the legally supported and factually reasonable decision of the trial court and, instead, for the first time, emphasize that the officers spent “more than ten minutes before asking him about the gun.” Such a decision by this Court will trickle into Mississippi caselaw to impose a new time constraint on officers in potentially dangerous situations to the public that has never been required by the United States Supreme

Court or our Mississippi Supreme Court. The benefit of such a new time component to the public safety exception does not outweigh the risks to the unsuspecting public in finding a firearm on a path in woods right off numerous businesses, not knowing if it is loaded or not. That risk could prove tragic to another's life when any benefit of the new time component to the public safety exception adds nothing further to the prophylactic nature of the *Miranda* warnings requirement.

¶58. Public safety is just as important one minute after an arrest as it is ten minutes after an arrest, and a temporal element was not the focus of the Court's consideration in *Quarles*. The potential "lost gun" carried and exposed the same potential dangers ten minutes after Mixon's arrest as it would have one minute later. I would affirm the trial court's discretionary ruling on the admissibility of the evidence and not create and impose a confusing and not-yet-endorsed time element.¹² Accordingly, I respectfully dissent from that portion of the majority's holding.

CARLTON, P.J., EMFINGER AND WEDDLE, JJ., JOIN THIS OPINION.

¹² Neither the United States Supreme Court nor the Mississippi Supreme Court has ever stated that the public safety exception expires after a set period of time.