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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
Honorable D. Craig Brown, Circuit Court Judge
Appellate Case No. 2021-000581

THE STATE,

Respondent,

vs.

CRAIG ANTONIO GEORGE,

Appellant.

FINAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL 1

COUNTER-STATEMENT OF ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

STATEMENT OF FACTS 3

STANDARD OF REVIEW 11

ARGUMENT 12

The trial judge did not abuse his discretion or otherwise err by prohibiting Appellant from cross-examining the victim about her sincerely-held beliefs concerning angels because those beliefs were religious in nature and, thus, evidence of those beliefs was not admissible for the purpose of attacking the victim's credibility based on the plain and unambiguous language of Rule 610 of the South Carolina Rules of Evidence. 12

CONCLUSION 20

TABLE OF AUTHORITIES

South Carolina Cases:

State v. Aleksey, 343 S.C. 20, 538 S.E.2d 248 (2000). 14, 19

State v. Burgess, 408 S.C. 421, 759 S.E.2d 407 (2014). 11

State v. Gaster, 349 S.C. 545, 564 S.E.2d 87 (2002). 11

State v. Groome, 274 S.C. 189, 262 S.E.2d 31 (1980). 11

State v. Kelley, 319 S.C. 173, 460 S.E.2d 368 (1995). 11

State v. Kelly, 331 S.C. 132, 502 S.E.2d 99 (1998). 17

State v. Lynn, 277 S.C. 222, 284 S.E.2d 786 (1981). 17

State v. McDonald, 343 S.C. 319, 540 S.E.2d 464 (2000). 11

State v. Miller, 258 S.C. 573, 190 S.E.2d 23 (1972). 11

State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002). 12

State v. Swilling, 249 S.C. 541, 155 S.E.2d 607 (1967). 19

State v. Torres, 390 S.C. 618, 703 S.E.2d 226 (2010). 11

State v. Turner, 373 S.C. 121, 644 S.E.2d 693 (2007). 13

State v. Whatley, 407 S.C. 460, 756 S.E.2d 393 (Ct. App. 2014). 19

State v. Williams, 432 S.C. 515, 854 S.E.2d 166 (Ct. App. 2021). 13

State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001). 11

United States Supreme Court Cases:

Delaware v. Van Arsdall, 475 U.S. 673 (1986). 13

Other State and Federal Cases:

Commonwealth v. Greenwood, 413 A.2d 655 (Pa. 1980). 18

Gov't of the Virgin Islands v. Petersen, 553 F.2d 324 (3d Cir. 1977). 16

People v. Calloway, 446 N.W.2d 870 (Mich. Ct. App. 1989). 16

People v. Jones, 267 N.W.2d 433 (Mich. Ct. App. 1978). 18

People v. Wood, 488 N.E.2d 86 (N.Y. 1985). 17

Reeves v. State, 862 So. 2d 60 (Fla. Dist. Ct. App. 2003). 14, 19

State v. D'Alessio, 848 A.2d 1118 (R.I. 2004). 13

State v. Heinz, 485 A.2d 1321 (Conn. App. Ct. 1984). 13

State v. Prokos, 631 N.E.2d 684 (Ohio Ct. App. 1993). 13

United States v. Jorell, 73 M.J. 878 (A.F. Ct. Crim. App. 2014). 17, 18

United States v. Kalaydjian, 784 F.2d 53 (2d. Cir. 1986). 18

United States v. Maynes, 880 F.3d 110 (4th Cir. 2018). 18

United States v. Sampol, 636 F.2d 621 (D.C. Cir. 1980). 17

United States v. Summers, 666 F.3d 192 (4th Cir. 2011). 11

Constitutional Provisions, Statutes, and Rules:

U.S. Const. amend. VI. 12

S.C. Const. art. I, § 14. 12

Fed. R. Evid. 610. 13

Rule 610, SCRE. 13, 14, 16, 17

Fla. Stat. Ann. § 90.611. 14

Other Authorities:

Luke (New International Version). 15

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https://en.wikipedia.org/w/index.php?title=Angels_in_Islam&oldid=1100793931. 16

STATEMENT OF ISSUE ON APPEAL

"Did the trial judge err in limiting cross-examination of the State's witness pursuant to Rule 610, SCRE, when the proposed questioning did not involve religious beliefs or opinions and was relevant as to the witness's credibility?"

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did the trial judge somehow manifestly abuse his discretion or otherwise err by prohibiting Appellant from cross-examining the victim about her sincerely-held beliefs concerning angels when those beliefs were religious in nature and, thus, evidence of those beliefs was not admissible for the purpose of attacking the victim's credibility based on the plain and unambiguous language of Rule 610 of the South Carolina Rules of Evidence?

STATEMENT OF THE CASE

In July of 2019, Appellant Craig Antonio George was arrested after his aunt reported he had kidnapped, sexually assaulted, and robbed her. In December of 2019, the Florence County Grand Jury indicted Appellant for kidnapping and first-degree criminal sexual conduct. Prior to trial, the solicitor served timely notice on Appellant indicating the State would seek a mandatory sentence of life without parole upon conviction based on Appellant's prior "most serious" convictions.[1] On May 17, 2021, a jury trial was commenced in the Florence County Court of General Sessions with the Honorable D. Craig Brown, circuit court judge, presiding. At the conclusion of the three-day trial, the jury convicted Appellant as indicted. Following the verdict, the trial judge sentenced Appellant to concurrent terms of imprisonment of life without parole for his offenses.[2] Appellant then timely filed a notice of appeal.

[1] Before committing his most-recent crimes, Appellant had previously been convicted of the "most serious" offenses of kidnapping, first-degree criminal sexual conduct, and armed robbery. (R. p. 260; pp. 285). According to the solicitor, the facts of Appellant's earlier crimes were "eerily" similar to the facts of his most-recent ones, and Appellant committed his most-recent crimes within just a few months of being released from a prison sentence he was serving in connection to those earlier crimes. (R. pp. 260-261).

[2] In addition to sentencing Appellant for his most-recent convictions, the trial judge found Appellant violated the terms of his community supervision stemming from his earlier convictions and, therefore, ordered his community supervision to be revoked. (R. pp. 265-266; p. 270).

STATEMENT OF FACTS

On the morning of July 13, 2019, Dr. Bernetha George ("Victim"), a seventy-five-year-old retired physician, received an unexpected text message from Appellant, who was her brother's son, inquiring if she had any work that needed to be done. (R. pp. 50-53; pp. 55-56; p. 60; p. 78). At that time, Victim owned an out-of-use rental property on Layton Street in Florence, South Carolina, and it was in need of cleaning and repair. (R. pp. 53-55). Meanwhile, Victim's back was broken at that time, so she was not able to perform the necessary maintenance herself. (R. p. 56; p. 103). In light of that, Victim responded to Appellant's text message and alerted him she did indeed have some work for him to perform. (R. p. 56). The two then arranged to meet at the Layton Street house around noon that day. (R. p. 56; pp. 59-60).

Consistent with those plans, Victim obtained cleaning supplies and headed over to the Layton Street residence later that day. (R. pp. 60-61). When she arrived, Appellant was already there along with his father, and they all chatted with one another for a bit.[3] (R. p. 61). Following that, Appellant's father left, and Victim showed Appellant the areas of the rental house that needed to be cleaned. (R. p. 61). Appellant then began cleaning the home as directed, and, over the course of the next hour or so, Victim sat nearby and spoke with him while he carried out his tasks. (R. pp. 66-67).

At some point during their conversation, Appellant brought up the subject of his parents, became agitated, and angrily confronted Victim based on his belief she had wrongly had his parents evicted from the rental property in the past. (R. pp. 66-70). Victim responded by trying to explain to Appellant why she had done what she had done regarding his parents, and she

[3] Later on during trial, Victim explained Appellant's father did *not* have permission to be at the Layton Street house due to his past behavior. (R. pp. 66-67).

walked over to the thermostat in an attempt to demonstrate to Appellant one of the specific issues she had experienced as a result of Appellant's father staying there.[4] (R. pp. 71-73).

When she did, Appellant moved behind Victim and suddenly placed her into a life-threatening chokehold. (R. pp. 73-74). Appellant then dragged Victim to a nearby room, pushed her against a wall, announced he needed money, and told her he would kill her if she did not get him $2,000 immediately. (R. pp. 75-76; p. 85). In response to Appellant's demands, Victim attempted to reason with him and questioned why he needed the money. (R. pp. 76-78). Appellant responded to that by forcing Victim to remove her clothing, digitally penetrating her vagina, and groping her buttocks. (R. pp. 76-78; p. 83; p. 190).

As those shocking events were occurring, Victim attempted to get Appellant to stop by warning him he would not be able to get any money if he hurt her, and Appellant advised her he had to have it in order to pay his bail bondsman.[5] (R. p. 78). Upon hearing that, Victim convinced Appellant she could get the money he needed from a bank if he released her, and Appellant responded by permitting her to put her clothes back on. (R. p. 79). After that, the two went to her car, which was parked outside, and Appellant, who had taken Victim's purse and keys, forced Victim to drive him to the bank. (R. pp. 84-88).

When they arrived at that location, the bank was closed since it was a Saturday, and Victim was not able to obtain any money from it. (R. p. 88). At that point, Appellant called his

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[4] According to Victim, Appellant's father routinely set the thermostat to a low level when he stayed at the residence, which resulted in costly and unaffordable electric bills. (R. p. 73).

[5] Earlier that month, Appellant—following an arrest for leaving the scene of an accident—was released from jail after his brother enlisted the services of a bail bondsman. (R. p. 131; pp. 187-188). However, Appellant's brother was only able to pay a portion of the bail bondsman's fee, and, as a scare tactic to encourage full payment, the bail bondsman warned Appellant he would be returned to jail if he did not pay the remaining portion of the fee owed within the next seven to ten days. (R. pp. 131-132). Significantly, the date of the incident was close to the payment deadline the bail bondsman had set for Appellant. (R. p. 133).

mother to find out where a Western Union branch was located, and Appellant's mother indicated a nearby IGA grocery store had one located inside it. (R. pp. 89-90). In response, Victim and Appellant headed to the grocery store. (R. p. 91).

Upon arriving there, the two went inside and proceeded to the counter for the grocery store's Western Union branch. (R. pp. 91-92; pp. 137-139). With Appellant standing close by, Victim then attempted to arrange for a wire transfer in the amount of $2,000 to be sent from her bank account. (R. p. 92; pp. 138-139). However, due to safety protocols in place, Victim was only able to obtain $999 in cash, and Appellant promptly took possession of that money as soon as it was received. (R. pp. 92-93; pp. 138-139).

After they had obtained all the money they could through the wire transfer, Victim asked how she could obtain more money and was directed to an ATM inside the grocery store. (R. pp. 93-94). With Appellant again nearby, Victim obtained an additional $500 in cash from the ATM and promptly turned that money over to Appellant. (R. p. 96). The two then began heading back to her car, which was parked outside. (R. p. 96).

Upon exiting the store, Victim noticed it had started to rain. (R. p. 96). Thinking quickly, Victim used the rain as an excuse to separate herself from Appellant and advised him he needed to retrieve the car for them because she did not want to get wet. (R. pp. 96-97). Appellant then headed to the car alone, and Victim went back into the store while claiming she needed to get a grocery item before they left. (R. p. 97).

As soon as she was away from Appellant, Victim fled to the back of the grocery store, entered a non-public area for employees, and sought help from anyone she could find. (R. pp. 97-98; p. 146). Through her efforts, Victim was able to obtain assistance from some of the

grocery store's staff members, and they permitted her to hide in a private area while she called the authorities. (R. pp. 144-146; pp. 151-152; pp. 177-178).

Meanwhile, after waiting for a short period outside, Appellant entered the grocery store and began searching around for Victim. (R. p. 139; p. 144; State's Ex. # 2 (Recorded Statement)). However, his efforts to locate her were unsuccessful since she was hiding in a non-public area, and Appellant again exited the store. (State's Ex. # 2). Upon doing so, Appellant saw law enforcement officers approaching the grocery store, and he responded by quickly fleeing into the woods. (State's Ex. # 2). Appellant then hurried to his home in such a rush he lost his shoes along the way. (State's Ex. # 2).

As Appellant was in the midst of fleeing through the woods, the responding officers entered the store and met with Victim, who alerted them of what had occurred. (R. pp. 151-154; pp. 161-165; pp. 168-169; pp. 177-178; p. 190). Based on what Victim reported, the officers began rapidly attempting to locate Appellant. (R. pp. 154-155; p. 178).

A little later on, Appellant returned to the grocery store along with his mother, and he agreed to speak with Sergeant Jimmy Cantey from the Florence Police Department. (R. pp. 177-178; State's Ex. # 2). During the interview, Appellant admitted he contacted Victim that day in an effort to obtain work, and he confirmed he confronted Victim about "family problems" while he was cleaning up the Layton Street residence.[6] (State's Ex. # 2). He further reported he alerted Victim he needed money, and, when she told him she would pay him when the work was done, he stated he advised her he needed more than she was going to pay. (State's Ex. # 2). At that point, Appellant claimed Victim told him he could have come to her if he needed money, he

[6] At one point in the interview, Appellant claimed he had been doing work at the Layton Street house for three weeks. (State's Ex. # 2). However, when confronted with the fact he not been out of jail for three weeks, Appellant quickly pivoted and claimed he had actually meant he worked at the house three weeks earlier *before* going to jail. (State's Ex. # 2).

accused her of not caring about him, and she responded by getting him to come with her to the bank. (State's Ex. # 2). Appellant alleged Victim then wanted to find a Western Union branch, he called his mother in an effort to locate one, and they went to the one at the grocery store based on what his mother told them. (State's Ex. # 2). After that, Appellant asserted Victim got money from the Western Union branch and an ATM at the grocery store, they started to leave, she went back into the store, and he subsequently could not find her despite searching for her. (State's Ex. # 2). Appellant acknowledged he then exited the grocery store and fled as soon as he saw the approaching officers. (State's Ex. # 2). However, Appellant nevertheless denied knowing what was going on at that time. (State's Ex. # 2).

Based on what Appellant revealed, one of the officers accompanied Appellant's mother to the home she shared with Appellant. (R. pp. 168-171). While there, Appellant's mother retrieved $700 in cash that had been hidden underneath a bed and turned the money over to the officer. (R. pp. 168-171). Meanwhile, after initially falsely claiming to have already used the money to pay his bail bondsman, Appellant admitted roughly $800 of Victim's money was currently in his possession. (State's Ex. # 2). Furthermore, Appellant offered to return the money when told Victim said she had not given it to him willingly. (State's Ex. # 2).

At the conclusion of the interview, Appellant was arrested in connection to the incident. (R. p. 184; pp. 279-282). Thereafter, he was indicted for kidnapping and first-degree criminal sexual conduct. (R. pp. 26-27; pp. 275-276).

Before Appellant was brought to trial on those charges, the solicitor filed a motion seeking the exclusion of any evidence regarding Victim's religious beliefs based on Rule 610 of the South Carolina Rules of Evidence. (R. p. 7; pp. 283-284). In so moving, the solicitor noted Victim had written several books "on the topic of her Christian faith" that contained references

to interactions with angels, and he further noted Appellant's defense counsel had expressed an intention to attempt to impeach Victim's credibility by cross-examining her regarding that matter, which the solicitor maintained would be improper in light of Rule 610's express language. (R. pp. 283-284). In response, the trial judge conducted a pre-trial hearing on the matter. (R. p. 7).

During the course of the hearing, defense counsel—in opposition to the solicitor's motion—contended he should, in fact, be permitted to cross-examine Victim about her books because those books contained statements about experiences she and others had purportedly had with angels several decades earlier. (R. pp. 7-10). As support for that contention, defense counsel maintained Victim's books indicated the information about the angels was "absolute fact," and, in light of that, defense counsel—who conceded Victim discussed things such as church, Satan, and "illegal lords" in her books—claimed it did not concern "her religion." (R. pp. 7-11). Defense counsel further maintained cross-examination of Victim concerning her books would be "very probative" as to her credibility because the information contained in the books demonstrated she had "a very active imagination." (R. p. 8; p. 11). Conversely, the solicitor asserted the books authored by Victim were "religious in nature," were premised on Victim's Christian faith, and involved encounters with angels or "the divine." (R. p. 8). As a result, the solicitor contended any questioning regarding Victim's books would be overly prejudicial and would violate Rule 610, which was expressly designed to prohibit attacks on credibility that were based on a person's religious beliefs. (R. pp. 8-9). Ultimately, after considering the arguments of counsel, the trial judge granted the solicitor's motion and ruled defense counsel would not be permitted to question Victim about the contents of her books due

to Rule 610. (R. pp. 11-12). However, the trial judge indicated defense counsel would be permitted to proffer any testimony he wished on the matter. (R. pp. 11-12).

A few days later, Appellant's case was brought to trial. (R. pp. 26-27). Towards the outset of trial, defense counsel availed himself of the opportunity extended by the trial judge and proffered the testimony he wanted to elicit from Victim concerning her books. (R. pp. 28-29). During that proffer, Victim confirmed she had authored a multi-volume book series entitled "Words from Awaki, the Third and Final Covenant." (R. p. 29). As to what that book series was about, Victim explained she wrote about a period in which angels visited places throughout the universe, including Baltimore, Maryland, in 1995 and 1996. (R. p. 30). During the visits, Victim indicated the angels, including one named "Awaki," communicated with groups of people during forty-to-forty-five-minute "sessions" by using someone's body as a "host." (R. pp. 30-31; p. 35). Victim further explained most of the information contained in the books had been reported to her by others or obtained through recordings, but she noted she had also had one personal experience in March of 1996 that lasted around thirty to forty-five minutes. (R. p. 31; pp. 36-37). In addition to that, Victim indicated she described the sessions discussed in the books as factual. (R. p. 31). Beyond that, she acknowledged describing an incident in her books in which a colleague's nephew had an experience with a chanting pinky ring, fainted, and was physically possessed by an angel named "Shakardak." (R. pp. 31-34).

Following the presentation of that proffered testimony, defense counsel contended none of his questioning during the proffer concerned Victim's religious beliefs or opinions and, thus, was purportedly not impermissible pursuant to Rule 610. (R. p. 38). However, the trial judge disagreed and reaffirmed his earlier ruling prohibiting the questioning. (R. pp. 39-40). In ruling in that manner, the trial judge noted angels and religion were topics that went hand and hand, and

he further noted the Bible contained numerous references to angels. (R. pp. 39-40). Based on that, the trial judge found defense counsel was seeking to use the evidence concerning Victim's writings to suggest her credibility was impaired based on her beliefs and opinions, which was exactly what Rule 610 was designed to prohibit. (R. p. 40).

As the trial proceeded forward, Victim testified about her harrowing experiences with Appellant on the date of the incident, including about how Appellant choked her, sexually assaulted her, and held her against her will.[7] (R. pp. 50-106; pp. 117-129). Significantly, during her testimony before the jury, defense counsel did not ask Victim any questions concerning her beliefs regarding angels in light of the trial judge's earlier ruling. (R. pp. 117-129).

Ultimately, at the conclusion of trial, the jury convicted Appellant as indicted after a little over an hour of deliberations. (R. p. 254; p. 256). The trial judge then sentenced Appellant to mandatory terms of incarceration of life without parole for his offenses based on Appellant's prior convictions for "most serious" offenses. (R. pp. 270-271).

[7] In addition to Victim's testimony, the officers who responded on the date of the incident recounted what they uncovered, and a recording of Appellant's interview with Sergeant Cantey was admitted into evidence and played for the jury. (R. pp. 151-165; pp. 168-175; pp. 177-190; State's Ex. # 2). Likewise, several of the employees at the grocery store recounted their experiences on the date of the incident, including their experiences with Victim seeking help and Appellant searching around the store trying to find Victim. (R. pp. 137-140; pp. 143-149). Furthermore, Appellant's bail bondsman confirmed Appellant contacted him on the afternoon of the date of the incident and advised him he had obtained the money he owed him. (R. pp. 131-136).

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). When reviewing an evidentiary ruling, the appellate court gives great deference to the trial judge because both the reception or exclusion of evidence and the scope of cross-examination are matters left largely to the sound discretion of a trial judge. State v. Groome, 274 S.C. 189, 190-191, 262 S.E.2d 31, 32 (1980); see State v. Torres, 390 S.C. 618, 625, 703 S.E.2d 226, 230 (2010) ("The appellate court reviews a trial judge's ruling on admissibility of evidence pursuant to an abuse of discretion standard and gives great deference to the trial court."); State v. Miller, 258 S.C. 573, 577, 190 S.E.2d 23, 25 (1972) (explaining trial judges have "a broad discretion in determining the general range and extent of cross-examination"). Significantly, an appellate court will not reverse a trial judge's decision to admit or exclude evidence absent a clear prejudicial abuse of the trial judge's broad discretion in evidentiary matters. State v. Gaster, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002); see State v. Kelley, 319 S.C. 173, 176, 460 S.E.2d 368, 370 (1995) ("A trial judge has considerable latitude in ruling on the admissibility of evidence and his rulings will not be disturbed absent a showing of probable prejudice."). Likewise, an appellate court will generally not disturb a trial judge's ruling on the scope of cross-examination unless a "manifest abuse of discretion" has occurred. State v. Burgess, 408 S.C. 421, 442, 759 S.E.2d 407, 418 (2014). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." State v. McDonald, 343 S.C. 319, 325, 540 S.E.2d 464, 467 (2000); see also United States v. Summers, 666 F.3d 192, 197 (4th Cir. 2011) (instructing an appellate court will not find a trial judge's evidentiary ruling constituted an abuse of discretion unless it was arbitrary and irrational).

ARGUMENT

The trial judge did not abuse his discretion or otherwise err by prohibiting Appellant from cross-examining the victim about her sincerely-held beliefs concerning angels because those beliefs were religious in nature and, thus, evidence of those beliefs was not admissible for the purpose of attacking the victim's credibility based on the plain and unambiguous language of Rule 610 of the South Carolina Rules of Evidence.

Appellant contends the trial judge reversibly erred by refusing to permit cross-examination of Victim concerning books she had written in which she discussed experiences with angels that invaded the bodies of "hosts" and communicated through them. As support for that contention, Appellant maintains such cross-examination was *not* prohibited by Rule 610 of the South Carolina Rules of Evidence because it purportedly did not concern Victim's faith or religion and, instead, merely showed she "may have a tendency toward hallucination or altered perceptions[.]" To the contrary, Victim's beliefs about the existence of angels serving as messengers did, in fact, concern matters of religion, and, therefore, evidence of those beliefs was not admissible for the purpose of impugning Victim's credibility based on the plain and unmistakable language of Rule 610. As a result, the trial judge did not abuse his discretion or otherwise err by adhering to our state's evidentiary rules and prohibiting Appellant from improperly cross-examining Victim on the impermissible and irrelevant subject of her sincerely-held religious beliefs. Appellant's convictions should be affirmed.

Unquestionably, a defendant in South Carolina has both a state and federal constitutional right to defend against a criminal charge by confronting his or her accuser and cross-examining any adverse witnesses. U.S. Const. amend. VI; S.C. Const. art. I, § 14; see State v. Mizzell, 349 S.C. 326, 330, 563 S.E.2d 315, 317 (2002) ("The Sixth Amendment rights to notice, confrontation, and compulsory process guarantee that a criminal charge may be answered through the calling and interrogation of favorable witnesses, the cross-examination of adverse

witnesses, and the orderly introduction of evidence." (citations and internal quotations omitted)). Nevertheless, the right to confrontation is *not* completely unfettered, and, instead, a trial judge may permissibly place reasonable limitations on the scope of cross-examination "based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant." Delaware v. Van Arsdall, 475 U.S. 673, 679 (1986); see State v. Turner, 373 S.C. 121, 130, 644 S.E.2d 693, 698 (2007) (recognizing trial judges retain "wide latitude" to impose reasonable limits on cross-examination); State v. Williams, 432 S.C. 515, 522, 854 S.E.2d 166, 169 (Ct. App. 2021) (explaining the right to conduct meaningful cross-examination does *not* strip trial judges of their typical discretion to limit to the scope of cross-examination); see also State v. D'Alessio, 848 A.2d 1118, 1124 (R.I. 2004) ("The right to cross-examination does not include an unfettered license to ask any question that the defendant may desire.").

Meanwhile, pursuant to the mandates of South Carolina's evidentiary rules, "[e]vidence of the beliefs or opinions of a witness on matters of religion is *not* admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced." Rule 610, SCRE (emphasis added); cf. Fed. R. Evid. 610 ("Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility."). Significantly, Rule 610's prohibition exists because a witness's religious beliefs are generally irrelevant while inquiry into such beliefs carries a high potential of being improperly prejudicial or inflammatory. See State v. Heinz, 485 A.2d 1321, 1329 (Conn. App. Ct. 1984) ("The religious beliefs of a witness are generally not a proper subject of cross-examination for the purpose of impeaching her credibility. Such an inquiry is ordinarily irrelevant to the issues at hand, inflammatory and unduly prejudicial." (citations omitted)); State v. Prokos, 631 N.E.2d 684, 689 (Ohio Ct. App.

1993) ("[A]ny line of questioning which attempts to discredit a witness based on his nationality, ethnic background, color, *religion*, or accent [is] repugnant to the principles of American law." (emphasis added)). Accordingly, a trial judge should ordinarily not permit cross-examination of a witness concerning matters of religion unless relevant to some identifiable issue *other than* credibility. Rule 610, SCRE; see State v. Aleksey, 343 S.C. 20, 34, 538 S.E.2d 248, 255 (2000) (recognizing a trial judge's limitation of the scope of cross-examination to comply with the South Carolina Rules of Evidence constituted a proper exercise of discretion).

Notably, while no published appellate decisions have been issued in South Carolina interpreting our state's version of Rule 610, the Florida District Court of Appeals—in Reeves v. State, 862 So. 2d 60, 60-61 (Fla. Dist. Ct. App. 2003)—addressed an issue concerning a strikingly-similar statutory provision. Compare Fla. Stat. Ann. § 90.611 ("Evidence of the beliefs or opinions of a witness on matters of religion is inadmissible to show that the witness's credibility is impaired or enhanced thereby."); with Rule 610, SCRE ("Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced."). In that case, Reeves was charged with a number of offenses against a minor victim, and, during trial, he sought to cross-examine his victim concerning statements she had previously made in an effort to impeach her credibility. Reeves, 862 So. 2d at 61. More specifically, Reeves sought to question the victim "about her statements . . . that when she told her mother what happened to her, *she saw Jesus standing in the room*, demons were cast out of her, and she rolled on the floor and 'spit out the evil that [Reeves] . . . put in [her].' " Id. (emphasis added). Ultimately though, based on the clear language of Section 90.611 of the Florida Statutes, the trial judge refused to permit Reeves's desired cross-examination, the jury convicted Reeves of a number of offenses, and

Reeves appealed. Id. at 60-61. On appeal, the Florida District Court of Appeals affirmed. Id. In doing so, the Florida District Court of Appeals noted Reeves's self-acknowledged purpose for his desired cross-examination of the victim was "so the jury would find the victim's experiences and practices so unusual that it would consider them 'fantasy,' thereby impairing the victim's credibility." Id. at 61. However, the Florida District Court of Appeals explained: "Even though [Reeves] considered seeing Jesus to be so unconventional or unusual so as to be 'fantasy,' section 90.611 does not permit evidence to be admitted that discussed the witness's practice of 'unconventional or unusual religion.' " Id. (citations omitted). Accordingly, the Florida District Court of Appeals found the trial judge correctly prohibited Reeves's desired cross-examination of the victim. Id.

In the case sub judice, Appellant sought for his victim's credibility to be attacked based on her sincerely-held beliefs regarding the existence of angels, which Appellant—apparently not personally holding the same beliefs—characterizes as "fanciful." But just as the trial judge recognized, angels—by their very definition—unmistakably relate to religion and religious beliefs. See New Oxford American Dictionary 59 (3rd ed. 2010) (defining "angel" as "a spiritual being believed to act as an attendant, agent, or messenger of God, conventionally represented in human form with wings and a long robe"). Demonstrating that fact, angels are referenced throughout the Bible, including in verses in which angels are described as visiting people and delivering messages to them. See, e.g., Luke 1:26-28 (New International Version) ("In the sixth month of Elizabeth's pregnancy, God sent the angel Gabriel to Nazareth, a town in Galilee, to a virgin pledged to be married to a man named Joseph, a descendant of David. The virgin's name was Mary. The angel went to her and said, 'Greetings, you who are highly favored! The Lord is with you.' "). Similarly, in Islamic theology, "[b]elief in angels is one of

the main articles of faith[.]" Wikipedia, "Angels in Islam," available at https://en.wikipedia.org/w/index.php?title=Angels_in_Islam&oldid=1100793931; see also Harold J. Berman, Law and Logos, 44 DePaul L. Rev. 143, 147-148 (1994) ("[I]n Islam, there is at least a weak belief in a holy spirit, which is identified with those angels—especially Gabriel—through whom God communicates with his human family." (footnote omitted)). Likewise, an in-person visit from an angel was described as playing a pivotal role in the founding of the Church of Jesus Christ of Latter-day Saints. See, e.g., Jon Krakauer, Under the Banner of Heaven: A Story of Violent Faith 59-64 (1st Anchor Books ed. 2004) (recounting the story of the creation of the Book of Mormon, the "sacred touchstone and guiding scripture" of the Latter Day Saint religious movement, and noting Joseph Smith, the religious movement's founder, claimed to have translated the book from solid golden plates after he was visited by an angel named Moroni, who was sent to him by God to lead him to the sacred text inscribed on the plates). Therefore, Victim's beliefs regarding decades-old encounters with angels—which, by defense counsel's own admission, were discussed in writings that also referenced other religious matters such as church and Satan—did relate to "matters of religion," and, as a result, Rule 610 expressly prohibited evidence of those beliefs from being introduced in an attempt to impugn Victim's credibility. Rule 610, SCRE; see also Gov't of the Virgin Islands v. Petersen, 553 F.2d 324, 328 (3d Cir. 1977) (affirming the district court judge's decision to exclude testimony concerning a witness's Rastafarian beliefs and noting Rule 610 of the Federal Rules of Evidence—which is virtually identical to Rule 610 of the South Carolina Rules of Evidence—"clearly" prohibits the use of such testimony for credibility purposes); cf. People v. Calloway, 446 N.W.2d 870, 872 (Mich. Ct. App. 1989) ("Under the statute [which prohibits any witness from being questioned about opinions on religion] as written, *there is little room for discussion*." (emphasis added)).

Because Rule 610's plain language prohibited the exact type of cross-examination Appellant wished to engage in, the trial judge committed no conceivable error by faithfully adhering to that straightforward evidentiary rule and restricting the scope of cross-examination. Rule 610, SCRE; see State v. Lynn, 277 S.C. 222, 225, 284 S.E.2d 786, 788 (1981) (instructing "the cross-examination of a witness to test his credibility is largely within the discretion of the trial judge"); cf. United States v. Jorell, 73 M.J. 878, 883 (A.F. Ct. Crim. App. 2014) ("[The defense's] fundamental argument was that [the victim]'s beliefs were so ridiculous that they were evidence of her being out of touch with reality and unworthy of belief. The defense was attempting to use the witness's faith or religious beliefs to create a prejudice against her so she would not be believed when she testified as to what the appellant had done to her. This is precisely the sort of evidence not allowed under Mil. R. Evid. 610."). And, by doing so, the trial judge—consistent with the very reason Rule 610 exists—prudently prevented any possibility of prejudice resulting from the irrelevant subject of religious beliefs being broached during trial, including the prejudice that could have potentially resulted *to Appellant* if any of the jurors shared the same personal beliefs regarding angels Appellant wished to assail.[8] See People v. Wood, 488 N.E.2d 86, __ (N.Y. 1985) (explaining attempts to discredit or penalize a witness because of the witness's religious belief are improper because such a factor is "irrelevant to the issue of credibility"); cf. United States v. Sampol, 636 F.2d 621, 666 (D.C. Cir. 1980) ("Rule 610 bans the admission of evidence of the religious beliefs of a witness for the purpose of showing that his credibility is impaired as a result of those beliefs. The purpose of the rule is to guard against the prejudice which may result from disclosure of a witness's faith. The scope of the

[8] Certainly, there can be no doubt at least *some* jurors in South Carolina possess sincerely-held religious beliefs. See, e.g., State v. Kelly, 331 S.C. 132, 140, 502 S.E.2d 99, 103 (1998) ("Two other members of the jury indicated they were reading their Bibles on their own.").

prohibition *includes unconventional or unusual religions*." (emphasis added and footnote omitted)); People v. Jones, 267 N.W.2d 433, 436 (Mich. Ct. App. 1978) ("The statute expressly states that questions as to religious opinions are not permissible. The purpose of the statute is to strictly avoid any possibility that jurors will be prejudiced against a certain witness because of personal disagreements with the religious views of that witness. This object recognizes the deep personal feelings many people hold on religion, feelings that may unavoidably conflict with a juror's sworn duty to decide solely on the evidence presented, without injection of personal prejudices."); Commonwealth v. Greenwood, 413 A.2d 655, 657 (Pa. 1980) (reversing Greenwood's conviction based on the prosecutor's cross-examination concerning Greenwood's religious beliefs because such questioning was irrelevant, tended to distract the jurors from the pertinent question to be resolved in the case, and "created an aroma not conducive to a fair trial"). Furthermore, by doing so, the trial judge wisely kept the focus of the trial on the actual pertinent issue—what occurred in Florence, South Carolina, on the date of the incident—as opposed to on the tangential and irrelevant issue of what truly happened decades earlier in Baltimore, Maryland, during "sessions" that had *nothing* to do with Appellant or the acts for which he was on trial. See United States v. Kalaydjian, 784 F.2d 53, 57 (2d. Cir. 1986) ("[E]xtensive questioning on the collateral issue of [a witness]'s religious beliefs might have confused the jury and distracted its attention from the principal task of determining whether appellants had conspired to deal in heroin."); cf. United States v. Maynes, 880 F.3d 110, 115 (4th Cir. 2018) (concluding the district court judge did not abuse his discretion by preventing defense counsel from eliciting "tangential testimony" from the victims for purposes of impeachment and noting "allowing such testimony ran the risk that the focus of the trial would shift from Maynes's activity to the victims' past lives"); Jorell, 73 M.J. at 884 ("The defense did not tie [the victim]'s

beliefs to her ability to perceive or recall the events at issue, nor did [the victim]'s beliefs impact her motivation or ability to truthfully testify. In short, even if [the victim]'s belief were held to be farfetched in one area of her life, there was no showing that these beliefs translated to her testimony about the events in question.").

Accordingly, just like the trial judge in Reeves, the trial judge in Appellant's case did not abuse his broad discretion—manifestly or otherwise—by adhering to the mandates of the applicable evidentiary rule and prohibiting an attack on a witness's credibility based purely on the witness's sincerely-held beliefs on matters of religion. See Aleksey, 343 S.C. at 34, 538 S.E.2d at 255 ("The trial court did not abuse its discretion in limiting the scope of cross-examination to comply with the South Carolina Rules of Evidence."); see also State v. Swilling, 249 S.C. 541, 553, 155 S.E.2d 607, 614 (1967) ("[T]he trial court has broad discretion in determining the general range and extent of cross examination, subject to the limitation that the inquiry must relate to matters pertinent to the issue, or to such as tend to affect the credibility and veracity of the witness; and the exercise of such discretion will not be disturbed except in cases of manifest abuse or injustice."); State v. Whatley, 407 S.C. 460, 466, 756 S.E.2d 393, 396 (Ct. App. 2014) ("As a general rule, a trial court's ruling on the proper scope of cross-examination will not be disturbed on appeal absent a manifest abuse of discretion."); cf. Reeves, 862 So. 2d at 61 ("Even though [Reeves] considered seeing Jesus to be so unconventional or unusual so as to be 'fantasy,' section 90.611 does not permit evidence to be admitted that discussed the witness's practice of 'unconventional or unusual religion.' " (citations omitted)). Appellant's convictions should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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August 31, 2022

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
Honorable D. Craig Brown, Circuit Court Judge
Appellate Case No. 2021-000581

THE STATE,

Respondent,

vs.

CRAIG ANTONIO GEORGE,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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