



The South Carolina Court of Appeals

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May 17, 2023

The Honorable Renee Elvis
PO Box 677
Conway SC 29528-0677

REMITTITUR

Re: The State v. Kevin J. McKinnon
Lower Court Case No. 2020GS2601366
Appellate Case No. 2020-001378

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy".

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
David Alexander, Esquire
Ambree Michele Muller, Esquire
Jimmy A. Richardson, II, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Kevin J. McKinnon, Appellant.

Appellate Case No. 2020-001378

Appeal From Horry County
Steven H. John, Circuit Court Judge

Unpublished Opinion No. 2023-UP-162
Submitted April 1, 2023 – Filed April 26, 2023

AFFIRMED

Appellate Defender David Alexander, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Ambree Michele Muller, both of
Columbia; and Solicitor Jimmy A. Richardson, II, of
Conway, all for Respondent.

PER CURIAM: Kevin J. McKinnon appeals his conviction of first-degree
criminal sexual conduct with a minor and sentence of thirty-five years'

imprisonment. On appeal, he argues the trial court erred by refusing to allow him to identify a prior abuser of the victim's (Victim's) cousin. We affirm.

We hold the trial court did not abuse its discretion by refusing to allow McKinnon to identify a prior abuser of Victim's cousin by name. *See State v. Saltz*, 346 S.C. 114, 121, 551 S.E.2d 240, 244 (2001) ("The admission or exclusion of evidence is left to the sound discretion of the trial judge, whose decision will not be reversed on appeal absent an abuse of discretion."); *Fields v. Reg'l Med. Ctr. Orangeburg*, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005) ("An abuse of discretion occurs when the ruling is based on an error of law or a factual conclusion that is without evidentiary support."). Evidence of the cousin's prior abuse was admitted through the testimony of multiple individuals at trial. *See Grovenstein v. State*, 340 S.C. 210, 219, 530 S.E.2d 406, 411 (Ct. App. 2000) ("[E]vidence of a child victim's prior sexual experience is relevant to demonstrate that the defendant is not necessarily the source of the victim's ability to testify about alleged sexual conduct."). Furthermore, the jury was presented with Victim's and Cousin's conflicting testimonies and still found McKinnon guilty. Accordingly, we find allowing McKinnon to identify the prior abuser by name would not have altered the jury's verdict. *See Vaught v. A.O. Hardee & Sons, Inc.*, 366 S.C. 475, 480, 623 S.E.2d 373, 375 (2005) ("To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., there is a reasonable probability the jury's verdict was influenced by the wrongly admitted or excluded evidence."); *State v. Reyes*, 432 S.C. 394, 401, 853 S.E.2d 334, 338 (2020) ("[T]he credibility of a witness is exclusively for the jury to decide.").

AFFIRMED.¹

WILLIAMS, C.J., and GEATHERS and VERDIN, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.