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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Honorable Daniel Hall, Circuit Court Judge

Appellate Case No. 2022-000627

THE STATE, ...RESPONDENT,

v.

CLINTON WARREN BEEBE, ...APPELLANT.

INITIAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

Whether the trial court reversibly erred by permitting the State's key witness – Appellant's Wife – to testify regarding Appellant's alleged prior violence and abuse toward her as the basis for Wife lying to police where the alleged conduct was irrelevant to the charged offense, where it failed to meet the legal standards or exceptions required under Rule 404(b), where Appellant did not first enter character trait evidence of his peacefulness or domestic tranquility, and where any probative value was substantially outweighed by the danger of unfair prejudice, confusion of issues, or misleading the jury?

RESPONDENT'S COUNTERSTATEMENT OF ISSUES ON APPEAL

Whether the trial court properly allowed Appellant's wife Peggy "Dani" Beebe to explain why she lied to law enforcement for five years about what really happened the night of Adam Davis' death because evidence attacking and supporting the credibility of a witness – even the party's own witness – is admissible under Rules 607 and 608, SCRE, and because the court only allowed in generalities of the prior, marriage-long abuse and not specifics?

STATEMENT OF THE CASE

Appellant Clinton Warren "C.W" Beebe was indicted at the February 2019 term of the grand jury for Kershaw County for murder. (2019-GS-28-00132). The case was prosecuted by Deputy Solicitors Curtis Anthony Pauling, IV, April Sampson, and Dale Scott, and Assistant Solicitor Christina Allard; Appellant was represented by William S. Tetterton, Esquire. Tr. 1. Appellant proceeded to trial by jury from April 25 to 29, 2022, before the Honorable Daniel Hall, after which Appellant was found guilty as charged. Judge Hall sentenced him to life without parole. Tr. 973, Tr. 979-980. Appellant timely filed a notice of intent to appeal his convictions and sentence and subsequently submitted a Brief in support of his Appeal. This Brief of Respondent follows.

STANDARD OF REVIEW

"In determining harmless error regarding any issue of witness credibility, we will consider the importance of the witness's testimony to the prosecution's case, whether the witness's testimony was cumulative, whether other evidence corroborates or contradicts the witness's testimony, the extent of cross-examination otherwise permitted, and the overall strength of the State's case." *State v. Fossick*, 333 S.C. 66, 70, 508 S.E.2d 32, 34 (1998).

ARGUMENT

I. The trial court properly allowed Appellant's wife – the sole eyewitness – to support her own credibility under Rules 607 and 608, SCRE, and explain why she lied to law enforcement for five years during this he-said, she-said trial.

Appellant argues the trial court erred by allowing generalities of Appellant's past abuse of his wife, Peggy "Dani" Beebe, into evidence to explain why it took her five years to come forward with the truth. He also argues that although he called seven separate character witnesses during his case in chief who testified about how good of a person they thought he was, the State erred by cross-examining a witness who said he had never seen Appellant abuse his wife with brief specifics of the abuse. The State disagrees and submits Appellant's arguments are without merit. This case is not about 404(b) at all, but rather Rules 607 and 608, SCRE, regarding the admissibility of evidence to support the credibility of a witness. This Court should affirm.

First, the second argument or any argument regarding the State's closing summation were not raised in Appellant's statement of issue on appeal, which Rule 208(b)(1)(B), SCACR, requires for the issue to be heard by this Court.[1] Therefore, Appellant is procedurally barred from raising them, and Respondent will not address them. As to the first argument, the case was a he-said she-said – because Appellant testified – and as there were no other eyewitnesses or witnesses that testified about bad blood between Appellant and the victim, the case came down to who the jury believed most: Dani, or Appellant. The jury therefore had the right to hear the generalities of the prior abuse to properly assess the truth about why Dani changed her story after five years and to weigh and balance her credibility against Appellant's, who was also thoroughly cross-examined about how and why he changed his story three times. The State never argued to

[1] "Ordinarily no point will be considered which is not set forth in the statement of issues on appeal."

the jury that Appellant's abuse of his wife meant he did the crime; they did not offer it to prove propensity or action in conformity therewith. Instead, they only offered it to show Dani's motive for lying initially and why she continued to lie for five years. The State introduced the reasons why Dani was lying first to mitigate the questions the defense would undoubtedly ask her about why she lied, which they had every right to do under Rules 607 and 608, SCRE. If error did occur, however, it was harmless because the evidence against Appellant was very strong. He changed his story three times, engaged in an elaborate crime scene cover-up, and buried and re-buried the body four times to elude accountability.[2] This Court should affirm.

Pre-Trial Hearing

Before the trial began, the defense moved to suppress Dani's March 30, 2022, 96-minute statement to law enforcement about the crime and any testimony of prior marital discord with Appellant. Tr. 68-69. The defense argued under Rule 404(b), SCRE, that the testimony would not go to motive, intent, a common scheme, or a plan, while the State argued they were only going to elicit testimony of the chronic abuse, not the infidelity; but either way it was too early for a ruling. The court agreed. Tr. 68-69.

At Trial

The defense re-raised their objection before the State's direct examination of Dani, arguing:

1. **Testimony of chronic domestic violence was irrelevant. Tr. 430-431, Tr. 434.**
2. **The domestic violence happened a long time ago. Tr. 430-431.[3]**
3. **Evidence of prior bad acts was inadmissible to show criminal propensity under Rule 404(b), SCRE, and *State v. King* unless it was logically related. Tr. 433**

[2] It is important to note from the outset that Appellant is *not* raising sufficiency of the evidence or that the trial court erred by denying the motion for a directed verdict, which was all about whether malice aforethought existed. Tr. 640-642.

[3] The court ruled on this by telling the defense they could thoroughly cross-examine her on the timeline. Tr. 439-440. This was also not raised in Appellant's Statement of Issue on Appeal.

4. **The defense had not put Appellant's character in evidence so the State could not either. Tr. 433-434.**

5. **Even if the testimony was relevant, its probative value was substantially outweighed by the prejudicial effect. Tr. 433-434.**

The State responded saying it was relevant to explain the wife's motive for lying to the police for five years. Tr. 431-432. "Rule 404(b) never once says it has to be used for the defendant's motive. It says it's not admissible to show conduct in conformity therewith, and we're not doing that." Tr. 430-432. Rule 404(b), SCRE, says prior crimes and wrongdoings may be admissible to show motive, identity, existence of a common scheme or plan, the absence of mistake or accident, or intent. Dani Beebe is a co-conspirator and co-defendant, so her intent behind why she lied is relevant and admissible. "We're using it to show why she is in fear of him, why she acts accordingly, why she continues to cover up what happened, and why she did not tell law enforcement until recently." Tr. 432

The State also said:

> [A]ll of this is relevant unless he is not going to bring in or talk about the fact that she changed her story, which he already said that. So, he's going to get into that. The jury will be left with, "she just changed it without knowing why, and there's no way with res gestae[4] that we should be hamstrung into not being able to present a full picture." . . . .
>
> Anything we do is going to be prejudicial. It's whether it's more prejudicial than probative.

Tr. 436-437.

After asking about the nature of the past conduct of Appellant and learning Dani was only going to testify about violence to her ("She's not talking about him being violent to anyone else"),

4 "Under the res gestae theory, evidence of other bad acts may be an integral part of the crime with which the defendant is charged or may be needed to aid the fact finder in understanding the context in which the crime occurred." *State v. Sweat*, 362 S.C. 117, 132, 606 S.E.2d 508, 516 (Ct. App. 2004) (citations omitted).

the trial court held the State was "allowed in a general way to ask why she testified one way in 2017 and why she testified another way in March of 2022." Tr. 435-438.

> I don't have a problem with asking in a general sense why did you change, why did you say one thing in 2017. Why did you say something else in 2022 in general – in a general way about her fear but go into specific – you know it's sort of a fine line. To go into specific instances of conduct about the defendant would be improper, and I'm not going to allow that in.

Tr. 438 (emphasis added.)

The court continued its ruling with:

> It becomes problematic . . . [if you] go into specific instances of conduct such as putting . . . a gun in her mouth or to her head, then you enter into a world of a trial within a trial about whether that, in fact, too place and whether it did or didn't take place, and that becomes problematic and not allowed under our rules.

Tr. 439 (emphasis added.)

The court further held Dani could say "in general she was abused by the defendant throughout their relationship" but could not "get into specific instances." Tr. 439. Regarding *State v. King*,[5] the court held that case was in the context of statements the defendant gave, whereas the statements at issue here were from "just a witness" so it did not apply. Tr. 433. The court stated the testimony was being offered for the purpose of explaining why she said one thing on January 11, 2017, and why she said something else on March 30, 2022, 5 years later. Tr. 434. The State responded saying it would "make that really clear" and asked for a curative or charging instruction telling the jurors what they were limited to using the testimony for. Tr. 434-435. The State clarified:

> My understanding of what [Dani] can say is in general she was abused by the defendant throughout their relationship. She can't get into specific instances . . . Can she be asked, what does say he had the same look on his face as he did on a previous occasion during abuse? I won't have her say when or mention the gun.

[5] 424 S.C. 188, 818 S.E.2d 204 (2018) (holding the State's introduction of a portion of a murder defendant's recorded interview referencing his unrelated murder charges was not harmless.)

Tr. 439.

The court concluded with, "I don't have a problem with that. She can be cross-examined on all of that. The jury can determine what weight to give all of that so I will allow that." Tr. 439. The defense then, after attempting to keep all the testimony out, then asked for permission to impeach Dani Beebe with the *entire* 96-minute interview because the jury had "the right to see the demeanor of the witness making the statement at the time it is made . . . [i]t's for credibility purposes for them to see her demeanor." Tr. 440-441. The court said no to that but said the defense could use parts of the statement for cross-examination purposes. Tr. 441.

Dani's Testimony

At trial, Peggy "Dani" Beebe testified that she married Appellant when she was 15 and he was 23, and she got pregnant by him the very next year. Tr. 446-447. After relating some of what happened the day Appellant killed Adam Davis, she said she had lied in January 2017 when she spoke to law enforcement for the first time because:

> [E]very time I wanted to tell I was told I was a stupid s*** b**** and that I'd be stupid if I said anything because he wouldn't be the only one going down, that I'd be taken away from my daughter and I would never see her again, and he knew that she was my life . . . .
>
> It wasn't true that Adam went off partying and someone else had picked him up. I told them no when they asked if I was afraid of C.W. I didn't like talking about the abuse. I didn't talk about it. I lied about whether he intimidated me. There was no denying the cheating because of the multiple children, but I tried to hide the physical abuse with makeup, clothing, etc.

Tr. 479-481.

She continued by saying "I was told by C.W. things to say to [law enforcement], and I was scared to tell the truth." Tr. 461. Later, she stated, "He's always – has always been abusive to me and had – had threatened me in the past, but once I seen that he was capable of doing that, [shooting someone for no reason] I was not going to argue with him." Tr. 471. "I was terrified of C.W." Tr.

473. “I was afraid of him because there wasn’t a day, week, month, or year that he was just being nice and good to me. He’s always been abusive, mentally, physically since I was 15. If I wasn’t being physically hit, I was being told I was a stupid shit bitch or I was trash. I was constantly being called names.” Tr. 491.

On cross-examination, after the defense asked, she went into how C.W. had had affairs and had a child with someone while they were together. Tr. 505-507. When asked why she changed her story years later, she said, “I’m telling the truth now because I feel different. I don’t feel like his prisoner anymore or his little punching bag or his ragdoll or get throwing into walls or into tables and my head beat into the floors or I don’t get called stupid or fat or trash or worthless. I was told I was worthless every day.” Tr. 563. She said he was not a good person, and she was not blind any more. Tr. 563-564.

Relevance

Appellant argues his prior abuse of his wife was not relevant to proving any elements of the crime of murder. IBOA p. 14. He is right, it was not. This fact distinguishes this case from *State v. Williams*, where the State sought to impeach the petitioner’s wife with evidence of past, specific incidences of domestic violence to contradict her statement that her husband was not violent, and therefore was just scared when he committed the murder at hand. *State v. Williams*, 430 S.C. 136, 145-146, 844 S.E.2d 57, 62 (2020). The State in *Williams* sought to establish the petitioner’s intent and establish the shooting was not a mistake or accident. *Id*. The State did nothing of the sort here. Instead, they only argued the testimony was relevant to show Dani’s motive for lying, which is admissible under Rule 404(b), and the State did *not* introduce the testimony to show conforming conduct of Appellant or any of the elements of murder. The

impeachment of a witness was not at issue here, as the testimony was elicited on direct, and Dani was not declared (or was even argued to be) a hostile witness.

Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. The evidence of Dani's state of mind at the time of the murder and her state of mind for five years while she lied to law enforcement is extremely relevant to the jury's determination of her credibility, especially when compared to Appellant's. The case came down to who the jury thought was most credible: Dani or Appellant. Credibility was a fact of consequence. Appellant himself put her credibility at issue in his opening statement when he discredited her in front of the jury and told them she changed her story after five years. Tr. 88-89. He then made credibility the most important part of the trial when he said, "as the judge told y'all, you get to judge – judge the credibility of the witnesses. Y'all get to decide who's telling the truth about what happened . . . ." Tr. 89. The State therefore had the right to elicit the reason why Dani lied to law enforcement. It was part of the res gestae of the crime.

Rule 403, SCRE – Probative Value Versus Prejudicial Effect, Confusion of Issues, Misleading the Jury

Relevant evidence may be excluded, however, "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Rule 403, SCRE. Evidence is unfairly prejudicial "if it has an undue tendency to suggest a decision on an improper basis, such as an emotional one." *Williams*, 430 S.C. at 151, 844 S.E.2d. at 65 (citations omitted.) The trial court made a 403 ruling when it allowed in generalities of the prior abuse only, and not specific instances. The court specifically said it did

not want to do a trial within a trial. Therefore, Appellant's arguments regarding proportionality, time limits, and whether the State proved any acts of abuse by clear and convincing evidence are null and void, as the court ruled the parties were not to get into specifics. This was a fair ruling supported by the evidence and was not an error of law.

Rules 404(a), 607, and 608 SCRE, and Character Evidence of Witnesses

Appellant next argues that evidence "of a person's character or trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion." Rule 404(a), SCRE. However, he then argues that the testimony about marriage-long general violence between husband and wife only fell under Rule 404(a)(1), Character of the Accused. However, the State was clear that it was not offering the testimony to prove Appellant's character at all, (but to any extent it was interpreted that way, it was admissible under the 404b exception of motive of the witness), but instead the character of Dani, the witness, which would fall under Rule 404(a)(3), Character of a Witness. It was offered to show why she lied for five years. Therefore, Rules 607 and 608, SCRE, would apply instead to define what she could and could not talk about.

The case came down to credibility, and Dani was being honest about her credibility. Virtually every law student is taught that in trials, it is better to introduce uncomfortable evidence first before the other side inevitably does, to mitigate it. That is what the State's intentions were in eliciting the testimony from Dani. Rule 607, SCRE, Who May Impeach, says, "the credibility of a witness may be attacked by any party, including the party calling the witness." Rule 608, SCRE, goes on to say:

> **(a)** Opinion and Reputation Evidence of Character. "The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: **(1)** the evidence may refer only to character for truthfulness or untruthfulness, and **(2)** evidence of truthful character is admissible only after the

character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise."

Section **(b)** goes on to say specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility may not be proved by extrinsic evidence, which was not done here. Dani was impugning her own reputation through her testimony, telling the jury she lied because she had put up with abuse for so long that her mind was affected, and she was ruled by fear. She was very upfront about her own character for truthfulness, freely admitting she was not truthful because of the psychological impacts the abuse had had on her. Her character for truthfulness had been called into question by the defense in their opening, so she was both attacking and supporting her own credibility by telling the jury the whole story.

The marriage-long domestic violence testimony was about her – and the State made sure the jury knew it.[6] Every part of Rules 607 and 608, SCRE, were complied with here. If the State had not asked Dani the questions, the defense would have, making Rules 607 and 608, SCRE, the correct rules to analyze the evidence under. Solicitors are allowed to anticipate the "inevitable cross examination" of a witness and dispel any notion they "are hiding something from the jury." *State v. Shuler*, 344 S.C. 604, 629, 545 S.E.2d 805, 817 (2001).

404(b), SCRE and Character Trait Evidence of Peacefulness or Domestic Tranquility

"Character evidence is not admissible to prove the accused possesses a criminal character or has a propensity to commit the crime with which he is charged." *State v. Brown*, 344 S.C. 70, 73, 543 S.E.2d 552, 554 (2001). "Evidence of a person's character or trait of character is not

[6] The defense brings up how the prosecution proffered that Dani would tell the jury Appellant "had the same look in his eye" right before he shot Adam Davis as he did before he beat her. However, in reviewing the record, that question was never asked of Dani. It was never told to the jury. Tr. 436.

admissible for the purpose of proving action in conformity therewith on a particular occasion."

Rule 404(a), SCRE.

> Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

Rule 404(b), SCRE.

Appellant argues the trial court erred by allowing the State to introduce the general fact of Appellant's abuse of his wife to the jury, but then also argues the court erred by not analyzing whether specific instances of prior bad act evidence were proved by clear and convincing evidence. IBOA pp. 15-16. The trial court, however, only allowed the State to introduce the fact that Appellant abused his wife in a general way, and very specifically disallowed specific instances of conduct to come in. Therefore, the trial court did not need to analyze any specific instances of conduct by clear and convincing evidence.

> It seems to me that the State is allowed to in a general way why she testified one way in 2017 and why she testified another way in March of 2022. It becomes problematic, I mean in a general sense if she says that she was scared of him and we've had instances of abuse and intimidation in the past . . . .
>
> That seems relevant and to why she would change, but then beginning and going into specific instances of conduct such as putting a bullet in – I mean a gun into her mouth or to her head, then you enter into a world of trial within a trial about whether that, in fact, took place and whether it did or didn't take place, and that becomes problematic and not allowed under our rules.
>
> . . . I don't have a problem with asking in a general sense why did you change, why did you say one thing in 2017, why did you say something else in 2022 in a general – in a general way about her fear, but to go into specific – you know, it's sort of a fine line. To go into specific instances of conduct about the defendant would be improper, and I'm not going to allow that in.

Tr. 438.

The trial court properly exercised its discretion and made the proper rulings.

> One of the accepted bases for the admissibility of evidence of other crimes arises when such evidence 'furnishes part of the context of a crime' or is necessary to a "full presentation" of the case, or is so intimately connected with and explanatory of the crime charged against the defendant and is so much a part of the setting of a case and its "environment" that its proof is appropriate in order 'to complete the story of the crime on trial by proving its immediate context or the 'res gestae.'"

Sweat, 362 S.C. at 132-133, 606 S.E.2d at 516.

The record is clear the trial court knew the rules of evidence and admitted the testimony both as motive for Dani to lie and as the res gestae of the crime. This Court should affirm.

Defense of Accident

The defense's theory of the case was even though Appellant never told anyone the shooting was an accident, and even though he changed his story three times, and even though he engaged in an elaborate and expensive crime scene clean up,[7] and even though he buried and re-buried the body four times, he had actually only shot Adam Davis by accident. This was an official defense at trial. The trial court instructed the jury on accident, laying out the elements the State must disprove: "An act may be excused on the ground of accident if it is show that:

- **The act was unintentional;**
- **The defendant was acting lawfully; and**
- **Reasonable care was used by the defendant in the handling of the weapon.**

"The burden is on the state to prove beyond a reasonable doubt that it was not an accident but was caused by the negligence or carelessness of the defendant or by the unlawful activity of the

[7] He replaced the back seat of his wife's Acura MDX, painted it, then lied to two different man about the transmission not working, then had one of those men try to crush the car, then junked it, then burned the recliner Adam Davis was sitting in, then melted down the gun and the bullet he shot Adam with, then puttied and painted the wall the bullet went through, then repaired and moved the cabinet the bullet went through in the kitchen, then buried and unburied and reburied the body four times. He also threw Adam Davis's cell phone in the river, joined search parties, and lied to Davis's family's faces about the fact that he had shot Davis.

defendant." Tr. 960; *State v. Owens*, 427 S.C. 325, 330-331, 831 S.E.2d 126, 128-128 (Ct. App. 2019).

Malice is not being challenged here. Appellant is claiming the gun accidentally went off, and Dani is the only one saying the opposite. She is the only witness who testified for the state regarding the reasonable care used by the defendant in the handling of the weapon. The jury, therefore, had the right to know why she lied for five years to assess her credibility and to determine whether she was telling the truth. The trial court also charged the jury on credibility, asking, "Does any witness have bias, interest, prejudice or other motive in this case? You may consider the appearance and manner of a witness while on the stand." Tr. 954. Dani's testimony about the prior abuse was materially related to her own bias, interest, or motive, and the trial court properly admitted the generalities only. Again, the trial court did not allow specifics.

Harmless Error

Whether an error in the admission of evidence is harmless depends on the materiality of the evidence in relation to the entire case. *State v. Reeves*, 301 S.C. 191, 391 S.E.2d 241 (1990). The admission of character evidence when done in error is harmless beyond a reasonable doubt if its impact is minimal when compared to the entire record. *State v. Forney*, 321 S.C. 353, 468 S.E.2d 641 (1996). If any error occurred here, it was harmless. Appellant:

- ✓ Was extremely intoxicated that day on beer and cocaine. Tr. 176-177, Tr. 216, Tr. 451-453, Tr. 578.
- ✓ Was upset that his favorite team, Carolina, had lost in a bowl game that day. Tr. 106-107.
- ✓ Was acting strangely by sitting in the back seat of his wife's car while his best friend sat in the passenger seat as Dani drove them around that night. Tr. 214, Tr. 229, 452-453.
- ✓ Was "being mean" to Dani that whole night and was generally agitated. Tr. 453.
- ✓ Urinated in front of Darryle Coe's wife on the side of the road, and said he was feeling "a little good." Tr. 216, Tr. 459.

- ✓ Adam got back in the car after purchasing cocaine, and asked Dani, "What's his problem?" and "Why is he being an a-hole?" Tr. 458-459.

- ✓ Claimed he was placing the gun on the ottoman so Adam could look at it, but testimony was presented that if the gun were to have gone off accidentally, the shot would have been in Adam's groin or abdomen only. Instead, Adam was shot above his left eyebrow. Tr. 366, Tr. 398, Tr. 402-403.

- ✓ Instead of calling for help, he immediately got a Dollar General bag, said "he was f***ed", and said, "we've got to hurry and get him out of here before somebody comes or pulls up." Tr. 467-468.

- ✓ Buried his best friend in less than an hour after he shot him and told no one. Tr. 469, Tr. 475-476.

- ✓ Went back and got his best friend's phone and threw it in the Lynches River. Tr. 471.

- ✓ Lied to Adam Davis's boss, Adam's sister, and law enforcement about where Adam was. Made up an elaborate story about where and with whom he went. Tr. 95-96, Tr. 123-124, Tr. 135-137, Tr. 219, Tr. 476.

- ✓ Burned the recliner and used his shop vacuum to get the blood up. Tr. 476.

- ✓ Revisited and reburied the body four times. Tr. 476, Tr. 484-487. The last time he took ammonia and bleach to clean the body. Tr. 488-489.

- ✓ Showed up to the police station uninvited just wanting "to know what was going on" when Adam's family was there talking to law enforcement. Tr. 125-126, Tr. 137-139, Tr. 162-16, Tr. 583.

- ✓ Went to a search party organized by Adam's friends and locals four days after he shot him. Tr. 126.

- ✓ Went to a candlelight vigil in Bethune and told Adam's boss that "Adam just had no idea how much he was going to be missed." Tr. 127. Adam was still just a missing person at this point. Tr. 128.

- ✓ Made his wife lie about what happened to law enforcement. Tr. 392-393, Tr. 482-483.

- ✓ Got angry that law enforcement interviewed his wife and confronted his friend Sgt. Chuck Baxley about it. Tr. 172-173, Tr. 186.

- ✓ Searched high and low for a new back seat for his wife's Acura MDX they transported Adam's body in originally. Tr. 302-307.

- ✓ Bought black vinyl paint from O'Reilly's Auto Parts far away in Hartsville. Tr. 310-313.
- ✓ Lies to two different men about something being wrong with Dani's Acura's transmission and asked his friend to junk it. Both men testified there was nothing wrong with her transmission. Tr. 275-276, Tr. 294-295, Tr. 299-301.
- ✓ Asked his friend to take the car to Darlington even though there was a scrapper in Camden that paid more and was much closer. Tr. 284-286.
- ✓ Was told Adam Davis's blood was found in the Acura MDX after SLED got a search warrant. Tr. 373-381; 423-428; 589-595.

Only after all of the evidence and more was recovered and presented to Appellant did he come up with the story about it being an "accident." Evidence against Appellant was overwhelming in light of the record such that any error is harmless beyond a reasonable doubt. His actions show consciousness of guilt, and neither malice nor sufficiency of the evidence is not being challenged here.

CONCLUSION

For all of the foregoing reasons, the State respectfully requests that the judgment, conviction, and sentence of the lower court be affirmed.

Respectfully submitted,

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