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**Sep 03 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM AIKEN COUNTY  
COURT OF GENERAL SESSIONS

Hon. Jocelyn Newman  
Circuit Court Case No. 1985-GS-02-00847

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Appellate Case No.: 2023-000961

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Timothy F. Green, ..... Appellant,

v.

State of South Carolina, ..... Respondent.

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REPLY BRIEF OF APPELLANT

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September 3, 2024.

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## ARGUMENT IN REPLY

### I. THE APPLICANT'S ENTITLEMENT TO RELIEF UNDER STATE LAW WAS SUFFICIENTLY ARGUED BELOW TO PRESERVE THE ISSUE FOR APPELLATE REVIEW.

The inability of the State to produce the original samples or any records relating to their whereabouts or destruction as a basis for relief was sufficiently argued below to allow appellate review. (Supp. R. 59, l. 22-61, l. 7). The Appellant argued below that he was entitled to relief based on the State's post-trial loss of potentially exculpatory evidence, as well as its failure to maintain records relating to that evidence. Appellant argued that State's failure to preserve the evidence and records, whether negligent or in bad faith, entitled him to relief. (Supp. R. 66, l. 22-Supp. R. 67, l. 7). While not specifically citing S.C. Const. Art. 1, Sec. 3, the Appellant's argument was clear and therefore adequately preserved for appellate review.

The State asserts that Petitioner's argument is unpreserved. We disagree. While defense counsel could have articulated his objection more clearly, his objection adequately preserved the issue for this Court's review. *See State v. Brannon*, 388 S.C. 498, 502, 697 S.E.2d 593, 595 (2010) ("Error preservation rules do not require a party to use the exact name of a legal doctrine in order to preserve an issue for appellate review.").

State v. Gamble, 405 S.C. 409, 747 S.E.2d 784, fn 3, (S.C. 2013).

### CONCLUSION

Based on the foregoing the decision of the circuit court should be reversed and the Appellant granted a new trial.

Respectfully submitted,  
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September 3, 2024