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S.C. SUPREME COURT

The South Carolina Court of Appeals

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January 29, 2025

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Rebecca Lynch White
434 Wayside Drive
Winston Salem NC 27107

Re: Wendy Lynch v. Elizabeth Langley
Appellate Case No. 2022-001006

Dear Counsel and Ms. White:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

A handwritten signature in black ink that reads "Catherine Farnsworth, deputy". The signature is written in a cursive style with a large initial "C" and "F".

CLERK

cc: The Honorable H. Steven DeBerry, IV

**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**

Wendy Lynch, Respondent,

v.

Elizabeth Langley and Rebecca White Lynch,
Defendants,

of whom Elizabeth Langley is the Appellant and Rebecca
White Lynch is a Respondent.

Appellate Case No. 2022-001006

Appeal From Florence County
H. Steven DeBerry, IV, Circuit Court Judge

Unpublished Opinion No. 2025-UP-034
Submitted January 1, 2025 – Filed January 29, 2025

AFFIRMED

James Ross Snell, Jr., of Law Office Of James R. Snell,
Jr., LLC, of Lexington; and David E. Rigney, of Surfside
Beach, both for Appellant.

Joseph M. McCulloch, Jr. and Kathy R. Schillaci, both of
McCulloch and Schillaci, of Columbia; and Patrick James
McLaughlin, of Wukela Law Office, of Florence, all for
Wendy Lynch.

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Rebecca Lynch White, of Winston-Salem, North
Carolina, pro se.

S.C. SUPREME COURT

PER CURIAM: Elizabeth Langley appeals a jury verdict order in favor of Wendy Lynch and an order denying her post-trial motion for a new trial. She argues the circuit court erred when it (1) denied her directed verdict motion on the civil conspiracy cause of action, (2) denied her directed verdict motion on the intentional infliction of emotional distress (IIED) cause of action, (3) allowed a verdict form to be sent to the jury that did not separate actual and punitive damages for each cause of action, (4) admitted a voicemail message from a previous attorney, and (5) allowed the use of the word "kill" at trial. We affirm pursuant to Rule 220(b), SCACR.

1. We hold Langley's directed verdict motion on the civil conspiracy cause of action is not preserved for appellate review because she failed to renew her motion at the close of all evidence. *See Wright v. Craft*, 372 S.C. 1, 19, 640 S.E.2d 486, 496 (Ct. App. 2006) ("When a defendant moves for a directed verdict under Rule 50, [of the South Carolina Rules of Civil Procedure,] at the close of the plaintiff's case, he must renew that motion at the close of all evidence.").

2. We hold Langley's directed verdict motion on the IIED cause of action is not preserved for appellate review because she failed to renew her motion at the close of all evidence. *See id.* ("When a defendant moves for a directed verdict under Rule 50, SCRCPL,] at the close of the plaintiff's case, he must renew that motion at the close of all evidence.").

3. We hold Langley's verdict form argument is not preserved for appellate review because she did not raise her argument to the trial court and indicated she had no issues with the verdict form. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("[A]n issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.").

4. We hold the trial court did not abuse its discretion when it admitted a voicemail Eric Poston, Langley's former attorney, left for Lynch because the statements he made in the voicemail were admissible under Rule 801(d)(2)(D) of the South Carolina Rules of Evidence. *See Creed v. City of Columbia*, 310 S.C. 342, 344, 426 S.E.2d 785, 786 (1993) ("The admission of evidence is a matter addressed to the sound discretion of the trial judge."); *id.* ("Absent clear abuse of discretion

amounting to an error of law, the trial court's ruling will not be disturbed on appeal."). Langley testified Poston was representing her in a civil case at the time he left the voicemail; therefore, Poston was acting as Langley's servant and an employment relationship between the two existed at that time. Further, Poston made the statements within the scope of his employment relationship because Langley testified she hired Poston to represent her in a civil matter, Langley previously brought an action contesting their father's will in which she alleged Lynch had exerted undue influence over their father, and Lynch testified Poston indicated she was living on her father's farm when Langley "had every right" to go on the property. *See* Rule 802, SCRE ("Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court of this State or by statute."); Rule 801(d)(2)(D), SCRE ("A statement is not hearsay if . . . [t]he statement is offered against a party and is . . . a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship . . .").

5. We hold Langley's issue concerning the use of the word "kill" is not preserved for appellate review because prior to trial, Langley confirmed she did not object to the use of the word "killing" at trial, did not object when it was used at trial, and in her motion for a new trial, she did not raise the issue that she objected to the use of any term other than "tried to send Daddy to heaven early." *See Burke v. AnMed Health*, 393 S.C. 48, 55, 710 S.E.2d 84, 88 (Ct. App. 2011) ("When a party states to the trial court that it has no objection to the introduction of evidence, even though the party previously made a motion to exclude the evidence, the issue raised in the previous motion is not preserved for appellate review."); *State v. Wiles*, 383 S.C. 151, 156, 679 S.E.2d 172, 175 (2009) ("Generally, a motion *in limine* is not a final determination; a contemporaneous objection must be made when the evidence is introduced."); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) ("A party *must* file [a Rule 59(e) of the South Carolina Rules of Civil Procedure] motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.").

AFFIRMED.¹

KONDUROS, GEATHERS, and MCDONALD, JJ., concur.

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

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2101042

Wendy Lynch
PLAINTIFF(S)

Elizabeth Langley et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

JURY RENDERED A VERDICT IN FAVOR OF THE PLAINTIFF AGAINST THE DEFENDANT, ELIZABETH LANGLEY, IN THE AMOUNT OF \$60,000.00 ACTUAL DAMAGES AND \$250,000.00 PUNITIVE DAMAGES.

JURY RENDERED A VERDICT IN FAVOR OF THE PLAINTIFF AGAINST THE DEFENDANT, REBECCA WHITE LYNCH, IN THE AMOUNT OF \$40,000.00 ACTUAL DAMAGES AND \$250,000.00 PUNITIVE DAMAGES.

IT IS HEREBY ORDERED BY THIS COURT THAT THE DEFENDANTS, ELIZABETH LANGLEY AND REBECCA WHITE LYNCH WILL NOT HAVE ANY CONTACT WITH THE PLAINTIFF, WENDY LYNCH AND HER SON, DONALD JORDON .

IT IS FURTHER ORDERED THAT DEFENDANT, REBECCA WHITE LYNCH, WILL NOT HAVE ANY CONTACT WITH CASEA DAVID PERTAINING TO THIS CASE.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/06/2022 .

Rebecca White Lynch for Rebecca White Lynch
Rebecca White Lynch for Rebecca White Lynch

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NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Florence Common Pleas

Case Caption: Wendy Lynch VS Elizabeth Langley , defendant, et al
Case Number: 2019CP2101042
Type: Order/Electronic Form 4

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2022-05-06 11:20:01 page 3 of 3

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2101042

Wendy Lynch
PLAINTIFF(S)

Elizabeth Langley et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Defendant Langley's post trial motion for a new trial is denied. The court finds that the record contains ample evidence to support the jury's verdict.

Furthermore, the Plaintiff's motion for relief and sanctions including attorneys fees and costs is also denied.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/05/2022 .

Rebecca White Lynch for Rebecca White Lynch
Rebecca White Lynch for Rebecca White Lynch

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S.C. SUPREME COURT

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Court Reporter:

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Florence Common Pleas

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H. Steven DeBerry, IV

Circuit Court Judge 2771

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