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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALGERNARD DEVINCENT YOUNG,

APPELLANT

APPELLATE CASE NO. 2023-000994

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge abuse her discretion by admitting evidence that Appellant was physically abusive toward his ex-wife during their relationship and that his ex-wife obtained an order of protection after the couple separated because of domestic violence, since such evidence was not relevant, was improper propensity evidence, was not admissible pursuant to Rule 404(b), SCRE, was not part of the *res gestae*, and any probative value of the evidence was substantially outweighed by the danger of unfair prejudice pursuant to Rule 403, SCRE?

STATEMENT OF THE CASE

A Charleston County grand jury indicated Appellant on April 3, 2023, for murder and possession of a weapon during the commission of a violent crime. R. 667 – 670. His case was called to trial on June 5, 2023, before the Honorable Deadra Jefferson, and a jury. R. 1. Assistant Solicitors Jessica Baldwin and Timothy Finch represented the state. Shaun Kent and Nathan Williams represented Appellant. R. 1.

On June 9, 2023, the jury found Appellant guilty as indicted. R. 603, ll. 16. He was sentenced to forty years for murder and five years concurrent for the weapons offense. R. 608, ll. 8-18.

This appeal follows.

STATEMENT OF FACTS

Appellant and Gladys Singleton knew each other for decades. Sometime in 2017, the two got married. About a week after they married, Singleton alleged Appellant became controlling and physically abusive. Consequently, a couple of months later, the two separated. Despite their separation, they had regular contact with each other. Their divorce was finalized in October 2019. Singleton alleged that after they separated, Appellant would "follow her around." He would "pop up" wherever she was several times a week even after their divorce was final. Singleton claimed she continued to communicate with Appellant because if she did not, "he would pop up" or "be angry" and "put his hands on [her]." Appellant would show up outside her apartment, at her sister's house, or at the bus stops along the route she drove as a driver for the public transportation system. R. 45, l. 19 – 47, l. 17; R. 62, l. 4 – 64, l. 8.

Sometime in early 2019, Singleton met David Alston, the decedent, at a laundromat. Shortly thereafter, the two started dating. After they started dating, Singleton learned Alston was married. Despite this, Singleton claimed she and Alston had a "wonderful" relationship. R. 64, l. 9 – 65, l. 14.

Singleton worked on November 15, 2019. She claimed Appellant was "calling [her] phone a lot that day" and she "was ignoring him." Toward the end of her shift, she thought she saw Appellant's stepfather's car parked at the aquarium along her bus route. While she did not see Appellant, she maintained she saw "his body structure." When Singleton got off work, she called the non-emergency line for the Charleston Police Department and asked the individual to stay on the line with her until she arrived home. She told the individual her "ex-husband was still bothering her." Singleton claimed she was afraid Appellant was going to be at her apartment and "pop out." R. 67, l. 12 – 69, l. 11.

When Singleton got home, she called Alston, the decedent. She told Alston that he needed to come over because she saw Appellant down by the aquarium. Alston became upset with Singleton and told her that he was tired of Singleton allowing Appellant to "control" her. Singleton told Alston that Appellant was calling her and that she planned to answer "just to see what he [Appellant] wants." After speaking with Appellant, Singleton talked to Alston and admitted she answered Appellant's call. Alston became upset, told Singleton "he was sick of it" and was going to bring "the stuff" she left at his house to her apartment. R. 69, l. 14 – 70, l. 4.

A short time later, Alston arrived at Singleton's apartment. Singleton and Alston argued in the doorway and Alston left Singleton's belongings on the ground outside her door. He then left. Singleton thought Alston would come back. However, when she looked out the window of her apartment, Alston was gone. While she was looking for Alston, Singleton allegedly saw Appellant and his stepfather's car across the street. Appellant called Singleton again. Singleton claimed Appellant said she should have told him another man was bringing "stuff to [her] house." Singleton hung up with Appellant and called Alston. She told Alston she thought Appellant was outside and heard them arguing. Alston, who was on his way home, said he did not care and was "not scared" of Appellant. Singleton, who saw Appellant "peel out of the parking lot," told Alston to "be careful" because she thought Appellant was following him. According to Singleton, Appellant continued to call her phone. When they spoke, Appellant was screaming, asking her whether she loved him, and "threatening to kill her boyfriend and kill himself." Singleton tried to calm Appellant down. R. 70, l. 15 – 72, l. 19.

While she was on the phone with Appellant, Singleton suddenly heard Appellant's voice outside of her apartment. Appellant was trying to get Singleton to come outside and talk to him, but Singleton refused. Singleton claimed Appellant eventually said she needed to tell him about

the man bringing stuff to her apartment and that the man "had the audacity to come back to your house." After several back and forth phone calls between Singleton and Appellant and Singleton and Alston, Singleton claimed she heard three gunshots, then Appellant scream, then several more gunshots. Singleton thought Appellant was firing into the air. She called 911 and told the dispatcher that someone was outside firing a gun. She later claimed it was her ex-husband who was shooting. R. 73, l. 22 – 78, l. 9; State's Exhibit No. 51 (911 Call Redacted).

When law enforcement arrived, they found Alston dead in between his car and another vehicle in the parking lot. R. 161, 5-24. He suffered several gunshot wounds, including two fatal wounds to the head. R. 252, l. 1 – 257, l. 5. There were no eyewitnesses to the shooting. R. 123, ll. 22-25. Appellant was arrested roughly two hours after the shooting when he returned to Singleton's apartment complex. R. 165, l. 5 – 166, l. 15.

STANDARD OF REVIEW

"The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion." State v. Atieh, 397 S.C. 641, 647, 725 S.E.2d 730, 733 (Ct. App. 2012) (quoting State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)) (internal quotation marks omitted). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." Id. (quoting Pagan, 369 S.C. at 208, 631 S.E.2d at 265) (internal quotation marks omitted).

ARGUMENT

The trial judge abused her discretion by admitting evidence that Appellant was physically abusive toward his ex-wife during their relationship and that his ex-wife obtained an order of protection after the couple separated because of domestic violence, since such evidence was not relevant, was improper propensity evidence, was not admissible pursuant to Rule 404(b), SCRE, was not part of the *res gestae*, and any probative value of the evidence was substantially outweighed by the danger of unfair prejudice pursuant to Rule 403, SCRE.

Relevant Facts

Appellant moved pretrial to exclude evidence that Appellant was allegedly physically abusive toward Gladys Singleton, his ex-wife, during their marriage and that Singleton had an order of protection against Appellant because of domestic violence pursuant to Rule 404(b), SCRE, and Rule 403, SCRE. Initially, Appellant moved to redact the recording of the 911 call Singleton made at 1:31 a.m. immediately after the shooting occurred. During the call, Singleton stated, "I have an order of protection against him [Appellant] from domestic violence." See State's Exhibit No. 51 (911 Call Redacted) at 3:12 through 3:19. Defense counsel argued the state sought to admit the evidence to show Appellant is a "bad actor towards Ms. Singleton and somehow that equates to a motive to kill Mr. Alston [the decedent]." When the trial judge asked why an order of protection constitutes a prior bad act, counsel explained that "the order of protection clearly implies that she [Singleton] was being protected from him [Appellant] from some danger, meaning that he was a dangerous person that she needed protection from." R. 24, l. 8 – 26, l. 4.

The assistant solicitor argued the evidence was admissible to show motive. She maintained the evidence suggested Appellant shot the decedent because the decedent was

"seeing his ex-wife." The solicitor also argued the evidence was part of the *res gestae* of the case. She asserted, "The jury needs to hear what was going on with the rest of their world and to understand why the defendant would shoot somebody who he presumably did not know." R. 26, ll. 10-19.

Defense counsel countered that evidence of the order of protection did not link Appellant to the decedent. He argued that evidence Appellant may have harmed Singleton in the past did not suggest Appellant fatally shot the decedent. R. 26, l. 21 – 27, l. 12.

The trial judge ruled the evidence was admissible. She reasoned, "Why else would a complete stranger be in a parking lot and shoot a complete stranger? There has to be some evidentiary link, some factual link." She found the evidence was relevant, probative, and the probative value was not outweighed by any prejudice to Appellant because counsel would have the opportunity to cross-examine Singleton and challenge her credibility. R. 27, l. 15 – 30, l. 4. However, the judge told the state to proffer any testimony from Singleton about the order of protection before Singleton testified about it before the jury. R. 30, l. 23 – 32, l. 12.

Shortly after Singleton began testifying, the assistant solicitor told the judge there was a matter of law and the judge excused the jury from the courtroom. The state then proffered Singleton's testimony about her relationship with Appellant. Singleton testified *in camera* that Appellant was verbally and physically abusive, controlling, and "started following [her] around" after they got married. According to Singleton, this behavior continued after Appellant and Singleton separated.

After the proffer, defense counsel stated he only objected to Singleton's testimony that Appellant was physically abusive. Counsel asserted the objection was similar to Appellant's objection to Singleton's statement during the 911 call that she had an order of protection due to

domestic violence. Counsel argued the evidence was not relevant because whether Appellant was physically abusive toward Singleton in the past did not make it "more probable" that Appellant shot the decedent. He contended the evidence was highly prejudicial and should be excluded pursuant to Rule 404(b), SCRE, and Rule 403, SCRE. R. 50, l. 13 – 51, l. 6.

The assistant solicitor argued the evidence that Appellant was physically abusive toward Singleton was necessary to explain why Singleton continued to communicate with Appellant. R. 51, ll. 8-14.

The trial judge found evidence that Appellant was physically abusive toward Singleton was admissible pursuant to Rule 404(b) to show motive, intent, absence of mistake or accident, and even identity. The judge further found the probative value of the evidence was not outweighed by the danger of unfair prejudice. The judge concluded the evidence was relevant and probative to show why Appellant would have shot the decedent. R. 51, l. 17 – 53, l. 22.

Singleton testified before the jury that Appellant was physically abusive, controlling, and followed her around. This behavior started about a week after they got married and continued even after they separated. R. 62, l. 4 – 63, l. 19. Singleton claimed that she continued to communicate with Appellant because if she did not "he would be angry, sometimes put his hands on [her]." R. 63, l. 22 – 64, l. 3.

When the state later sought to admit the recording of Singleton's 911 call, which was marked as State's Exhibit No. 51, the trial judge stated, "Marked and admitted subject to the objection and the Court's earlier ruling." R. 79, ll. 5-9.

Discussion

The trial judge abused her discretion by admitting evidence that Appellant was physically abusive toward Gladys Singleton, his ex-wife, during their relationship and that Singleton

obtained an order of protection after the couple separated because of domestic violence, since the evidence was not relevant, was improper propensity evidence, was not admissible pursuant to Rule 404(b), SCRE, was not part of the *res gestae*, and any probative value of the evidence was substantially outweighed by the danger of unfair prejudice pursuant to Rule 403, SCRE.

As a general rule, all relevant evidence is admissible. Rule 402, SCRE. "'Relevant evidence' means 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. "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice . . ." Rule 403, SCRE. Unfair prejudice pursuant to Rule 403 "is the tendency of the evidence to suggest a decision based on something other than the legitimate probative force of the evidence." State v. Phillips, 430 S.C. 319, 328, 844 S.E.2d 651, 656 (2020) (citing State v. Gray, 408 S.C. 601, 616, 759 S.E.2d 160, 168 (Ct. App. 2014)); See State v. Torres, 390 S.C. 618, 623, 703 S.E.2d 226, 228-229 (2010).

Evidence that Appellant was physically abusive toward Singleton in the past and that Singleton obtained an order of protection against Appellant due to domestic violence was not relevant as to whether Appellant shot and killed the decedent. The allegations of physical abuse and evidence of the order of protection did not make it more probable or less probable that Appellant was the shooter. For the same reasons, the evidence was not probative. It did not help the jury decide whether Appellant was guilty of murder. However, the evidence was unfairly prejudicial to Appellant because it suggested he was a bad person, the type of person who would kill his ex-lover's new boyfriend. Accordingly, any probative value of the evidence was clearly outweighed by the danger of unfair prejudice.

"Rule 404(b) prevents the State from introducing evidence of a defendant's other crimes for the purpose of proving his propensity to commit the crime for which he is currently on trial." State v. Perry, 430 S.C. 24, 30, 842 S.E.2d 654, 657 (2020). "South Carolina law precludes evidence of a defendant's prior crimes or other bad acts to prove the defendant's guilt for the crime charged except to establish (1) motive, (2) intent, (3) the absence of mistake or accident, (4) a common scheme or plan, or (5) the identity of the perpetrator." State v. King, 334 S.C. 504, 512, 514 S.E.2d 578, 582 (1999) (citing Rule 404(b), SCRE, and State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923)). "As a threshold matter, the trial court must determine whether the proffered evidence is relevant as required under Rule 401, SCRE." State v. Cope, 405 S.C. 317, 337, 748 S.E.2d 194, 204 (2013) (citing State v. Clasby, 385 S.C. 148, 154, 682 S.E.2d 892, 895 (2009)). "If the trial court finds the evidence is relevant, it must then determine whether the bad act evidence fits within an exception in Rule 404(b)." Id.

"To be admissible, the bad act must logically relate to the crime with which the defendant has been charged." Clasby, 385 S.C. at 155, 682 S.E.2d at 895 (quoting State v. Gaines, 380 S.C. 23, 29, 667 S.E.2d 728, 731 (2008) (internal quotation marks omitted). "If the defendant was not convicted of the prior crime, evidence of the prior bad act must be clear and convincing." Cope, 405 S.C. at 337, 748 S.E.2d at 204 (quoting Gaines, 380 S.C. at 29, 667 S.E.2d at 731) (internal quotation marks omitted). "Even if prior bad act evidence is clear and convincing and falls within an exception, it must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice to the defendant." Cope, 405 S.C. at 337-38, 748 S.E.2d at 204-05 (citing Clasby, 385 S.C. at 155, 682 S.E.2d at 896); See Rule 403, SCRE. "Unfair prejudice means 'an undue tendency to suggest [a] decision on an improper basis, commonly, though not necessarily, an emotional one.'" State v. Sweat, 362 S.C. 117, 128, 606 S.E.2d 508, 514 (Ct.

App. 2004) (quoting State v. Alexander, 303 S.C. 377, 382, 401 S.E.2d 146, 149 (1991)) (alteration in original).

The *res gestae* theory "recognizes 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." King, 334 S.C. at 512, 514 S.E.2d at 582 (citing State v. Adams, 322 S.C. 114, 470 S.E.2d 366 (1996), *overruled on other grounds by* State v. Giles, 407 S.C. 14, 754 S.E.2d 261 (2014)). Our Supreme Court explained the theory of *res gestae* in Adams:

> One of the accepted bases for the admissibility of evidence of other crimes arises when such evidence "furnishes part of the context of the 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 the 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'" or the "uncharged offense is 'so linked together in point of time and circumstances with the crime charged that one cannot be fully shown without proving the other ...' [and is thus] part of the res gestae of the crime charged." And where evidence is admissible to provide this "full presentation" of the offense, "[t]here is no reason to fragmentize the event under inquiry" by suppressing parts of the "res gestae."

Adams, 322 S.C. at 122, 470 S.E.2d at 370-71 (quoting United States v. Masters, 622 F.2d 83, 86 (4th Cir. 1980)) (alterations in original). "Under this theory, it is important that the temporal proximity of the prior bad act be closely related to the charged crime." King, 334 S.C. at 513, 514 S.E.2d at 583 (citing State v. Hough, 325 S.C. 88, 480 S.E.2d 77 (1997)).

In State v. Sweat, 362 S.C. 117, 606 S.E.2d 508 (Ct. App. 2004), this Court affirmed the admission of evidence of a prior bad act of domestic violence pursuant to Rule 404(b), and as part of the *res gestae*. Sweat was charged with first degree burglary, assault and battery with intent to kill, and three counts of assault of a high and aggravated nature after he invaded a home occupied by his estranged wife, her boyfriend, and several others on December 11, 2001. Sweat,

362 S.C. at 121-22, 606 S.E.2d at 510-11. The state introduced testimony from Sweat's estranged wife about a domestic violence incident that took place two months earlier in October 2001. Id. at 122, 606 S.E.2d at 511. Sweat's wife reported the prior incident to law enforcement and Sweat spent forty-five days in jail. Id. While he was in jail, Sweat's wife ended their relationship and became romantically involved with another man. Id.

This Court held the prior episode of domestic violence was admissible under Rule 404(b) as evidence of motive and intent. Id. at 124, 606 S.E.2d at 512. The Court found from the October incident that the jury could have inferred both (1) motive—that Sweat was driven by anger over his estranged wife causing him to go to jail and terminating their relationship; and (2) intent—that Sweat maliciously sought to inflict harm upon his estranged wife and her boyfriend. Id. at 126, 606 S.E.2d at 513. This Court held the evidence was relevant because it tended to make the state's version of the case more probable and was logically related to why Sweat went to the house that night and to his intentions once there. Id. at 127, 606 S.E.2d at 514.

Additionally, this Court held the evidence was admissible as part of the *res gestae* and was properly admitted to "complete the story of the crime on trial." Id. at 133, 606 S.E.2d at 517. The Court concluded that the October incident, and the events that followed, including Sweat's estranged wife moving out and ending their relationship, provided the jury with "an appropriate context in which to place the December 11 attack." Id.

In this case, allegations that Appellant was physically abusive toward Singleton in the past and that Singleton obtained an order of protection against Appellant because of domestic violence was not admissible pursuant to Rule 404(b). Unlike the trial judge found, the evidence was not admissible to establish motive, intent, or identity. Evidence that Appellant was physically abusive toward Singleton did not establish his motive to kill Alston nor did it establish

his intent to kill Alston or his identity as the shooter. Rather, the evidence merely established that Appellant had the propensity to shoot and kill Alston because Appellant was a violent person and acted in conformity therein.

As explained above, in Sweat, there was a specific episode of domestic violence that led to Sweat's arrest and incarceration. During Sweat's incarceration, his estranged wife began dating another man. Two months later, upon his release from jail, Sweat invaded a home occupied by his estranged wife, her boyfriend, and several others and physically assaulted the occupants. Evidence of the prior event and its surrounding circumstances was necessary to establish Sweat's motive for burglarizing the home and assaulting its occupants and his intent. Here, however, evidence that Appellant was generally physically abusive toward Singleton did not establish a motive for why Appellant would have shot the decedent or establish his intent or identity.

Additionally, the evidence was not admissible as part of the *res gestae*. The vague allegation that Appellant was physically abusive toward Singleton in the past and that Singleton had obtained an order of protection was not necessary to "complete the story of the crime on trial." Adams, 322 S.C. at 122, 470 S.E.2d at 371. Unlike in Sweat, the state could have fully presented its case without admitting evidence that Appellant was physically abusive as the alleged past abuse against Singleton was not so linked together with the shooting of Alston. See State v. Curry, 330 N.E.2d 720, 725 (Ohio 1975) (explaining the *res gestae* exception is necessary because "it would be virtually impossible to prove that the accused committed the crime charged without also introducing evidence of the other acts"). The state could have argued Appellant shot the decedent because he was jealous Singleton ended their relationship and was dating another man without admitting any evidence regarding the order of protection or the

allegations that Appellant was physically abusive toward Singleton during their marriage and subsequent separation.

Because the allegations of physical abuse and the order of protection was not evidence of motive, intent, or identity, and was not necessary to the state's theory of the case, it had no probative value. However, it was unfairly prejudicial to Appellant because it suggested a decision on an improper basis, namely that Appellant was guilty because he was a violent person. The evidence was improper propensity evidence and should have been excluded.

Respectfully, this Court should hold the trial judge abused her discretion by admitting evidence that Appellant was physically abusive toward Singleton and that Singleton had obtained an order of protection against Appellant because of domestic violence, reverse Appellant's convictions, and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his convictions and sentence and remand for a new trial.

Respectfully submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of July, 2025.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant 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."

July 14, 2025.

Lara M Caudy

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STATE OF SOUTH CAROLINA

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Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

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ALGERNARD DEVINCENT YOUNG,

APPELLANT

APPELLATE CASE NO. 2023-000994

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above referenced case has been served upon J. Anthony Mabry, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 14th day of July, 2025.

Lara M. Caudy

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

From:	Mcinnis, Sara
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Cc:	Donna D"Alessio; Caudy, Lara
Subject:	2023-000994 The State v. Algernard D. Young Final Brief of Appellant
Date:	Monday, July 14, 2025 2:08:00 PM
Attachments:	2023-000994 The State v. Algernard D. Young Final Brief of Appellant.pdf

Good Afternoon Mr. Mabry,

Attached for service in the above-referenced case is the final brief of appellant, which will be filed with the Court of Appeals today, July 14, 2025, via email filing.

Respectfully,

Sara McInnis
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