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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Jasper County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAVERIS TREMANE WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2024-001362

INITIAL REPLY BRIEF OF APPELLANT

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ARGUMENT IN REPLY

The trial court’s error in admitting alleged prior inconsistent statements without the proper foundation was preserved for appellate review.

While conceding error in admitting prior inconsistent testimony, Respondent argues the issue is not properly preserved for review by this Court. Brief of Respondent p. 24. To preserve an issue for appellate review, the “objecting party must be sufficiently clear in framing the objection; however, the party is not required to use the exact name of a legal doctrine to preserve the issue.” Cone v. State, 443 S.C. 487, 493–94, 905 S.E.2d 368, 372 (2024). “[A]ppellate courts are to be ‘mindful of the need to approach issue preservation rules with a practical eye and not in a rigid, hyper-technical manner’ and thus should not apply preservation rules in a manner that ‘elevat[es] form over substance to trap trial lawyers so as to prevent the appeal of a legitimate issue.’” Moses v. State, 442 S.C. 263, 269, 898 S.E.2d 174, 177 (Ct. App. 2024) (citing State v. Morales, 439 S.C. 600, 889 S.E.2d 551 (2023)).

Here, the trial court was informed that appellant’s counsel objected to the recall of a witness to admit “new” evidence regarding prior inconsistent statements:

MR. JOHNSON: Your Honor, I would object to that. The State had their witness on. He testified. He has been released. That was the State's own witness they put up. So they're putting another detective, the same detective that's already testifies, to then impeach their own witness. And once again --

R. 302, ll. 10 - 16.

At this point, the lower court interrupted trial counsel to clarify the argument with the solicitor:

THE COURT: Well, it came out that he had given two inconsistent statements originally. Because it came out this is talking about Reginald, right?

MS. CAMPBELL: That's correct.

THE COURT: Yeah, he had originally testified, the first one he gave, he knew nothing about nothing, right? And then it changed. I think she can recall him. I think she can recall him.

MR. JOHNSON: Just for clarification, but is she -- is he then allowed to bring *up new evidence that he didn't originally testify to before*?

MS. CAMPBELL: No, that is up and down. That is zero focused. *When I bring him back, that's the only reason I'm putting him back up, is to counter that testimony that was given here yesterday. Again, based upon the jail phone call, that I learned about last night.*

THE COURT: And Rodgers correct me if I'm wrong, Rodgers testified before Reginald, correct?

MS. CAMPBELL: Absolutely.

THE COURT: Okay, I just wanted to make sure.

MS. CAMPBELL: Yeah.

THE COURT: Okay. Yeah, he can go ahead and testify. That's fine.

R. 302, l. 17 – 303, l. 20 (emphasis added).

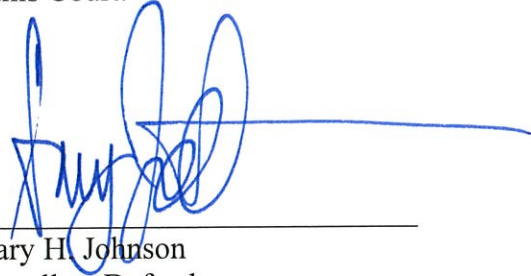
While 613(b), SCRE, was not specifically mentioned, the trial court, the solicitor, and appellant's counsel all knew the basic argument regarding the admissibility of these alleged prior inconsistent statements: had the solicitor laid the proper foundation to impeach their own witness with "new" evidence from another witness. Appellant argued that any "new evidence" regarding prior statements were not proper for the recalled witness. The state argued that the evidence was to counter the testimony that had just been elicited from the witness they desired to impeach. The

trial court asked several questions regarding both the timing of the witnesses and the nature of the prior inconsistent statements.

“Appellate courts should not apply preservation rules ‘in a technical manner as if this is some sort of game of ‘gotcha’ elevating form over substance to trap trial lawyers so as to prevent the appeal of a legitimate issue.’” Cone, 443 S.C. at 494, 905 S.E.2d at 372. Here, the trial court erred in admitting the prior inconsistent statement as the state failed to properly lay the foundation. The argument before the admission of this testimony was sufficient to give the trial court a fair opportunity to rule that the basis for admitting the alleged inconsistent statements had not been properly established.

CONCLUSION

As the error in admitting prior inconsistent statements without a proper foundation was preserved for appellate review, this Court should reverse appellant's conviction on this ground and the other grounds asserted in his primary brief before this Court.



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This 17th day of November 2025.