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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOVA PIERRE KNOWLIN,

APPELLANT

APPELLATE CASE NO. 2025-000314

FINAL BRIEF OF APPELLANT

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Over appellant's objection, the trial court allowed the solicitor to ask the alleged victim's mother, "How has this impacted your life?" and to enter a photograph of the alleged victim prior to her injuries. Did the trial court err in allowing this irrelevant and needlessly prejudicial victim impact evidence?

STATEMENT OF THE CASE

Appellant Christova Knowlin was indicted in Horry County for domestic violence of a high and aggravated nature and on February 11, 2025, was tried before the Honorable Michael Nettles and a jury. R. 1. Lauree Richardson Ortiz and Catherine Girgan Johnson represented the State. R. 1. Jonathan Hiller represented appellant. R. 1. The jury convicted appellant. R. 198. Judge Nettles sentenced appellant to twenty years' imprisonment. R. 208. This appeal follows.

STANDARD OF REVIEW

Both evidentiary issues in this case are governed by the abuse of discretion standard. State v. Nelson, 440 S.C. 413, 420, 891 S.E.2d 508, 511 (2023).

ARGUMENT

1.

The trial court erred in refusing to allow appellant to impeach a key fact witness with her pending drug charges.

Introduction

The main factual question for the jury in this domestic violence trial was whether the complainant received her injuries at the hands of appellant Christova Knowlin ("Knowlin") or from a fall several hours after a seizure. It was undisputed complainant had a seizure on the day of the incident. R. 163. When the manager at the hotel where Knowlin and complainant lived called 911, she told the operator complainant had a seizure. R. 59. At trial the manager testified that she only told 911 about the seizure because she was scared of Knowlin. R. 59-60. The trial court did not allow Knowlin to cross-examine the manager about her pending drug charges. R. 43-47.

Complainant's Seizure and the Aftermath

The Southern Breeze Hotel in Myrtle Beach catered to a long-term clientele instead of tourists. R. 50-51. A police officer testified he was familiar with the Southern Breeze because he "had responded there many times." R. 94. The hotel and its companion property had a lot of tenants with a mix of daily, weekly, and monthly rentals. R. 51; 63-64. Kimaysh Lyles ("Lyles") was the Southern Breeze's property manager. R. 48. She lived in a room on the property. R. 48-49. Knowlin and his girlfriend, complainant, had been living at the Southern Breeze for approximately a month. R. 52.

On the night of September 28, 2023, Lyles' birthday party was at the hotel. R. 50. Tenants and Lyles' friends attended. R. 50. Knowlin cooked on the grill. R. 51. Lyles told

Knowlin to bring complainant down to the party. R. 51-52. Knowlin brought complainant to the party somewhere between 7:00-10:00 PM. R. 53.

Complainant sat with everyone at the party while they were waiting to eat. R. 53. Lyles described complainant as a quiet individual. R. 53. Lyles then saw complainant choking on food with her eyes rolling back in her head. R. 53. Lyles' father had epilepsy and Lyles immediately knew complainant was having a seizure. R. 53-54.

Lyles characterized Knowlin's reaction to complainant's seizure as "a little aggressive telling her to snap out of it." R. 54. Lyles told the jury Knowlin was embarrassed by complainant's seizure. R. 54. Lyles "pushed" Knowlin out of the way to attend to complainant and make sure she did not choke on food. R. 54.

When complainant came out of the seizure, she told Lyles she did not want an ambulance. R. 55. Complainant said she just needed to take her medication. R. 55. Lyles said this seizure "wasn't really major," but then a few questions later said she had to help complainant back to her room because complainant "couldn't walk." R. 55. When asked if complainant could communicate, Lyles expressed uncertainty whether her nonverbal responses on the way back to the room were a result of the seizure or just innate reticence saying "it was very hard to tell." R. 55-56. Lyles guessed it was somewhere around 10:00 PM when she and Knowlin helped complainant get back to her room. R. 55-56 Lyles helped them get up the stairwell and Knowlin took complainant into the room. R. 65.

About three or four hours after helping the postictal complainant back to her room, Lyles was back in her room when she heard a loud knock on the door. R. 56. Lyles' husband opened the door and saw Southern Breeze housekeeper T'Kiera Nelson ("Nelson") holding her baby. R. 56. Nelson dropped the baby and her husband caught the child. R. 56-57. Lyles asked

Nelson what was wrong with her. R. 57. Nelson told Lyles that appellant beat complainant and Lyles went up to the room with her husband. R. 82. R. 57.

Lyles let herself into the room with her master key. R. 57. She testified she saw, "Him in the back of her, and she was bent over the mattress. . . . Just laying there crying and bleeding." R. 57. Lyles said complainant was bleeding from her face and other places on her body and looked like she had been hit. R. 58. "The whole room was a mess." R. 59. Lyles saw "blood all over the walls" and the room's furniture askew. R. 59. Lyles helped complainant walk out of the room and called 911. R. 58. EMTs took complainant to the hospital. R. 21-28. An EMT testified that complainant reluctantly told him she had been assaulted. R. 24-25.

Weirdly, the housekeeper Nelson could not remember why she went to Knowlin and complainant's room when it was nearly midnight. R. 79-80. R. 21. Nelson was not there "to perform housekeeping duties." R. 84. Nelson was with her boyfriend. R. 80. Defense counsel asked, "So you went to their room, you don't know why, you knocked first, didn't get an answer, so you went on in?" R. 85. Nelson replied, "I don't remember," to whether she got an answer to her knock, but agreed she went in the room using her key. R. 85-86. During closing argument, defense counsel speculated Nelson may have been attempting to burglarize the room. R. 177. Nelson only worked at the Southern Breeze for "a couple of months." R. 74.

On direct-examination, Nelson said when she opened the door she saw complainant sitting on the toilet with her face swollen and bloody. R. 80-81. She left to get Lyles. R. 81-82. When Lyles called 911, she testified she "told them that [complainant] just had a seizure." R. 59. The solicitor asked Lyles, "Why did you tell them that?" R. 59. Lyles replied, "Because he was around, and I didn't want to make a problem bigger than it was, because I didn't know how he would act

if I told what really happened. So I just, you know, thought maybe say she had a seizure, and then I told her to tell the ambulance what happened and follow protocol from there." R. 59-60.

Lyles' testimony about Nelson's involvement differed from what she told the 911 operator. R. 67-68. Lyles admitted she told the 911 operator that she received a phone call telling her to come to Knowlin's room. R. 68. Defense counsel asked on cross-examination, "But today you said it was a completely different of how you became involved?" R. 68. Lyles replied, "Correct. And that night I also told the police that, too." R. 68. On re-direct, she again confusingly blamed appellant's presence as why she gave an inaccurate account to 911. R. 71-72.

After the police arrived, Knowlin told them that after getting complainant back up to the room from the party, he left the room again. R. 101-102. When he returned, he found complainant on the floor in the bathroom. R. 102. He tried to get complainant in the bed, tried to clean up the mess, and called Lyles. R. 102. The police said Knowlin had blood on the lower leg of his pants, but none on his shirt. R. 99. An officer testified he recalled a detective inspecting Knowlin's hands. R. 105-106. The State did not call that detective to testify. Nor did the State call complainant to testify.

Complainant's injuries were significant. The hospital's trauma director said she had injuries to her face and a brain bleed. R. 120-121. She had surgery on her eye socket. R. 122. She stayed in the hospital for a couple of weeks until her brain injury improved. R. 121-122. The trauma director on direct examination said it would be difficult to say whether complainant's injuries were sustained in a single fall because she had injuries on both sides of her face. R. 120-121. On cross-examination, the doctor admitted that depending on where a person fell, they could have injuries to both sides of their face. R. 130. Injuries to the face bleed copiously. R. 131. Complainant was on a blood thinner which the doctor explained can cause more bleeding during

a trauma. R. 124-125. Defense counsel theorized in closing that a fall in the small, enclosed space of a hotel bathroom with many counters and sharp objects could explain complainant's injuries. R. 178-180.

The Hotel Manager's Criminal Record

Before Lyles took the stand the solicitor alerted Judge Nettles that Lyles had a criminal history. R. 43. She told the court that Lyles' only conviction was for a false report to law enforcement. R. 43. Appellant argued this conviction was a crime of dishonesty and he should be allowed to impeach Lyles with it. R. 43-44. The court agreed. R. 44-45.

Referring to Lyles, defense counsel then told the court, "I do believe that she's currently being prosecuted by the Fifteenth Circuit Solicitor's Office, and has an attorney who has a contract with our office." R. 45. Judge Nettles asked the nature of the charge and defense counsel replied it involved drugs. R. 45. The court replied, "Well, you know, just being charged and prosecuted, as we all know, she's presumed to be innocent of all of that. So my initial inclination is that that is not—you are not allowed to bring that up." R. 45.

The solicitor stated she agreed with that ruling and that Lyles was being prosecuted by the Attorney General, not her office. R. 45. She added, "So there has been no deals made with her, no exchanges, no wink-wink, nod-nod. I was perfectly clear today was my first day actually speaking with her attorney." R. 45. After briefly touching on another matter, the solicitor said no proffer agreement or otherwise existed with Lyles. R. 45-46. Defense counsel attempted to press his argument, stating, "That's where I was going. I certainly agree she's innocent until proven guilty, but it was more of—" and the court interrupted him. R. 46. The judge said the solicitor had indicated "as an officer of the court" that no deals had been offered and defense counsel said he accepted the solicitor's statement. R. 46.

Pending Charges are Admissible Evidence of a Witness's Bias

The trial court erred in refusing to permit appellant to impeach Lyles with her pending charges. State v. Sims, 348 S.C. 16, 23-26, 558 S.E.2d 518, 522-24 (2002). Sims recognized that pending charges are relevant to a witness's bias. Id. The Court wrote that, "There was the substantial possibility [the witness] would give biased testimony in an effort to have the solicitor highlight to his future trial judge how he had cooperated in the instant case." Id. Sims also held that defendants may get into the specifics of the pending charges and the amount of time a witness might be facing or avoiding. Id. See also State v. Brown, 303 S.C. 169, 171-72, 399 S.E.2d 593, 594 (1991) (holding the defense was entitled to ask a State's witness about the potential sentence she avoided to impeach for bias); State v. Gracely, 399 S.C. 363, 372, 731 S.E.2d 880, 885 (2012) (holding trial court erred in preventing defendant from cross-examining witness about mandatory minimum sentence avoided); Rule 608(c), SCRE ("Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.").

The solicitor's statement to the trial judge that no deal existed should not have prevented appellant from impeaching Lyles about her pending charges. See State v. Mizell, 349 S.C. 326, 332-33, 563 S.E.2d 315, 318 (2002). In Mizell, a State's witness had been charged with the same crimes as the defendants and testified for the prosecution. Id. The Court rejected any argument that the absence of a deal for the witness's testimony meant the defendants could not cross-examine him about his sentencing exposure. Id. "The fact the witness has yet to reach a plea bargain or been found guilty should not prevent the admission of such evidence." Id. "The lack of a negotiated plea, if anything, creates a situation where the witness is more likely to engage in biased testimony in order to obtain a future recommendation for leniency." Id.

The Attorney General's status as the prosecuting officer for Lyles makes no difference, either. The state constitution "firmly establishes the Attorney General as the chief prosecuting officer of the State of South Carolina for both criminal and civil proceedings." State v. Long, 406 S.C. 511, 514, 753 S.E.2d 425, 426 (2014). "The Attorney General shall be the chief prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record." S.C. Const. art. V, § 24. From the perspective of a witness looking to curry favor with her testimony, the solicitors and the Attorney General would seem to be one entity. The motivation to please the State with her testimony is heightened given she was being prosecuted by its chief prosecuting officer.

Even prosecutions by different sovereigns does not render a witness's pending charges inadmissible. United States v. Landerman, 109 F.3d 1053, 1061-63 (5th Cir. 1997). In Landerman, multiple defendants were prosecuted by federal authorities for white collar crimes. One of the government's witnesses had pending drug charges in state court. Id. The Fifth Circuit reversed because the district judge refused to allow the defendants to cross-examine the witness about his state drug charge. Id. The court emphasized that the jury, not the judge, should have assessed the weight of the pending charge related to the witness's credibility. Id. See also Stevens v. Bordenkircher, 746 F.2d 342, 346-47 (6th Cir. 1984) ("In our view, failure to permit cross-examination of a *key* government witness concerning bias, prejudice, or motive cannot be construed reasonably as harmless error.").

Lyles was a key witness for the State. Her testimony about Knowlin's callous attitude toward complainant during her seizure at the party made Knowlin look bad to the jury. She testified about finding complainant and telling her how to inform the authorities that she had been beaten. Lyles also backtracked on what she told the 911 operator concerning complainant's

seizure. Had the jury learned Lyles was being prosecuted on drug charges, it would have undermined her credibility and made appellant's version of events more likely in the jury's eyes. The limited cross-examination of this witness cannot be harmless in this case and this Court should reverse.

2.

Over appellant's objection, the trial court allowed the solicitor to ask the alleged victim's mother, "How has this impacted your life?" and to enter a photograph of the alleged victim prior to her injuries. The trial court erred in allowing this irrelevant and needlessly prejudicial victim impact evidence.

Evidence about the effect of complainant's injuries on her mother was not relevant. Rules 401, 403 SCRE. Defense counsel warned the trial court the State would try to introduce victim impact evidence through complainant's mother. R. 90-92. Appellant moved in limine to prohibit "any kind of victim impact statement during the State's case in chief." R. 91.

The trial judge initially recognized that such testimony is improper. R. 91. The court responded to appellant's motion by saying, "I noticed there [were] comments about that in the opening statement. As a general rule, it's probably not appropriate to talk about how it impacts a person's life." R. 91. Judge Nettles correctly remembered the State's opening, in which the solicitor began setting the stage for sympathy evidence: "Most importantly, you are going to hear from the victim's family and about how it has impacted her, impacted them, how she can't drive." R. 13.

The State replied that complainant's mother would be testifying about the extent of complainant's injuries to prove great bodily injury. R. 91. Judge Nettles responded, "Well, I think she can talk in a general way about some type of impairment, but we're not going to talk about

how it affects her life." R. 91. The solicitor continued to argue that the effect on the mother's life was relevant and that it was the mother's "personal knowledge." R. 91-92. The judge told the State to confine the testimony to the complainant's disabilities, but that the issue before the jury was whether the defendant committed a crime, "not how it has affected them." R. 92.

The State called complainant's mother as its last witness. The solicitor asked how her daughter looked at the hospital and the mother replied she had "black and blue bruises on her face." R. 141. The solicitor then entered a photograph into evidence of complainant before her injuries as State's Exhibit Five. R. 141. (State's Ex. 5). Appellant objected to the photograph as "victim impact" and irrelevant. R. 141-142. The court admitted the photograph stating it was "relevant to show what she looked like at the time." R. 141-142. The photograph shows complainant nicely dressed and smiling sweetly at the camera. State's Ex. 5.

The solicitor then asked how complainant's injuries affected complainant. R. 142. The mother replied about complainant's trouble walking and with coordination. R. 142-143. The solicitor's next question was, "How has this—how has this event changed your life," and defense counsel objected. R. 143. Judge Nettles excused the jury. R. 143.

Once the jury left, the solicitor said, "She is her daughter's caregiver due to these permanent injuries, so I believe her testimony is relevant and outweighs any prejudice." R. 143. The trial judge then remarked that the testimony could be relevant to whether the complainant suffered a great bodily injury. R. 143. He then stated that he would not allow "any emotional rendition on what is going on. . . ." R. 143. Defense counsel restated his objection that "this would be drawing an undue victim impact into the case in chief, and object on the grounds of 403, more prejudicial than probative, and under 403 also cumulative." R. 143-144. He pointed out the State established complainant's injuries with the question immediately preceding the question about the

impact on the mother's life. R. 144. The court said, "Well, I'll allow this question," and brought the jury back into the courtroom. R. 144.

The solicitor's question after the jury returned was, "Ms. Priscilla, I'm going to reask my last question. How has this impacted your life?" R. 144. Complainant's mother replied:

> It has impacted my—all of our lives a great deal. A lot of the things that we used to do, we can't do it anymore because, for one, she cannot be left alone. She can't cook unless someone is there. A lot of things that I used to do—I'm in a lot of things. I had to change my whole life in a sense.
>
> When [complainant] first came out of the hospital, she spent two weeks with her sister. And her daughter and I—while Felicia worked—we took turns. I had to get up—I go to work—I have to be at work at 8:00, but I used to get up about 6:30—7 o'clock in order to take [minor child] over to Felicia's house so she can stay with her mom. I get off work at 2:00. I leave work, went straight there, be there until 9:00, 10 o'clock at night.
>
> So after two weeks, [complainant] came with me at my house, and this is where she's been until right now, and it's just hard. Everybody had to kind of turn their life upside down to be there to do things, take her places that—because she can't drive. So it's solely on either—the majority on me, but the rest on her sister, her kids. So it actually just turned our life upside down. We had to do some major changes.

R. 144-145. At this point, without any further objection from defense counsel noted in the record, Judge Nettles said, "Sustained. Sustained. I'll ask you to move on." R. 145.

The State said it had no further questions and appellant did not cross-examine the mother. R. 145. The State then rested, so the mother's testimony about how complainant's injuries affected the family was the last piece of evidence the jury heard. R. 145. The court sent the jury out after the State rested. R. 145-146.

Defense counsel then placed on the record what happened during the above-quoted testimony by complainant's mother. R. 146. Defense counsel said, "I do want to put on the record that as a result of that last question, to which I objected, that witness became emotional, as I

anticipated she would, tissues came out, all of the things that I was concerned about happened.... But I want to put on the record, since the record will be cold, that tissues did come out and [complainant's] mother was very emotional." R. 146. Neither the court nor the solicitor disputed defense counsel's description of the emotional testimony by the mother. The solicitor led with this theme when she began her closing argument stating, "A life-changing event for this victim, for her family members, for the witnesses of this case. It has been life-changing." R. 161.

The trial court erred in allowing this irrelevant evidence of the impact on the alleged victim's family. Under a Rule 403 analysis, the mother's testimony about the effect on her life bore on none of the facts at issue on this case. It had zero probative value, especially in light of the fact that the mother had just listed the complainant's deficits from her injury. The evidence was unfairly prejudicial because it suggested an improper basis for a verdict—sympathy for complainant's family. See Rule 403, SCRE.

In State v. Livingston, 327 S.C. 17, 488 S.E.2d 313, the Supreme Court reversed because of irrelevant victim impact evidence. The defendant in Livingston was charged with driving while intoxicated on marijuana. He lost control and the victim was killed when he ran into her car. Just like in appellant's case, the State saved as its last witness a family member who could elicit sympathy. Livingston at 19, 488 S.E.2d at 314. The State called the twenty-two year old female decedent's husband. Id. He testified they had only been married two months before the accident and the State entered a photograph of the two of them into evidence. Id. The Court determined the testimony by the husband was "of no consequence to the determination of this action. . . ." Id. at 20, 488 S.E.2d at 314. "We hold the trial judge erred in admitting this testimony and the photograph as they are irrelevant to any matter in issue." Id.

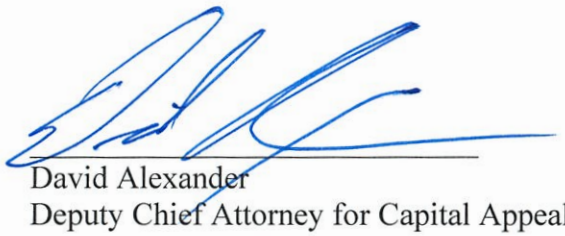
The Supreme Court reversed another case shortly after Livingston because of improper victim impact testimony. State v. Langley, 334 S.C. 643, 647-48, 515 S.E.2d 98, 100 (1999). In Langley, the State called the deceased victim's sister who testified about how he acquired his nickname of "Bunny," about their family, and the victim's participation in the high school band. Id. The sister also showed a photograph of the victim. Id. The Supreme Court held the sister's "testimony and the victim's photograph were not relevant to proving the guilt of appellant." Id.

More recently, the Supreme Court chastised solicitors for "prosecutorial overreach" in eliciting irrelevant impact testimony about a very sympathetic victim. See State v. Smith, 430 S.C. 226, n.9, 845 S.E.2d 495, n.9 (2020). The State called a witness in an attempted murder case to testify about the victim's difficulties with everyday tasks, future bathroom habits, and other conditions that would affect her future health. Id. The Court wrote, "To be sure, the facts of this case are tragic and heartbreaking. That reality would be evident even if the State had not sought to improperly appeal to the emotions of the jury." Id.

The State likely felt it needed to resort to such tactics because complainant did not testify. But that is no excuse for seeking the admission of testimony that is irrelevant and unfairly prejudicial. "Unfair prejudice means an undue tendency to suggest a decision on an improper basis." State v. Hawes, 423 S.C. 118, 129, 813 S.E.2d 513, 519 (Ct. App. 2018). Appellant was unfairly prejudiced by this testimony appealing to the jury's sympathy for complainant's family. And just like in Livingston and Langley, the State introduced an irrelevant photograph of the alleged victim. In this close case, the error cannot be harmless and this Court should reverse.

CONCLUSION

For the foregoing reasons, appellant's conviction should be reversed and this case remanded for a new trial.



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This 13th day of February, 2026.

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."

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