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Jun 16 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH DAWSON,

APPELLANT

APPELLATE CASE NO. 2025-000114

BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the circuit court violate Appellant's Sixth Amendment right to an impartial jury when it did not dismiss or replace Juror 230 with an alternate or conduct an evidentiary hearing to examine Juror 230 as to his potential bias?

STATEMENT OF THE CASE

Appellant Kenneth Dawson was indicted in Charleston County for murder and a weapons charge and on January 13, 2025, was tried before the Honorable Frank R. Addy and a jury. R. 1. Mallory V. Haliena and J. Durham Hill represented the State. R. 1. Rachel C. Anora and E. Ted Smith represented appellant. R. 1. The jury convicted appellant. R. 406-07. Judge Addy sentenced appellant to life imprisonment for murder and imposed no sentence on the weapons charge. R. 424.

On October 22, 2025, Counsel for appellant filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967). On May 21, 2026, this Court denied the petition to be relieved as counsel and ordered briefing of the issue raised in this brief.

STANDARD OF REVIEW

This case involves an error of law which should be reviewed de novo.

ARGUMENT

The circuit court violated Appellant's Sixth Amendment right to an impartial jury when it did not dismiss or replace Juror 230 with an alternate or conduct an evidentiary hearing to examine Juror 230 as to his potential bias.

Factual Background

The defense never contested that the decedent, Olivia Goff, died from a single stab wound to the chest. R. 106-07. Dawson testified in his own defense. Dawson met Goff when they worked together at a restaurant. R. 323. They met in November 2019 and broke up in May 2020. R. 323-24.

On June 13, 2020, Dawson worked that morning and then returned to his residence. R. 325-27. Goff's new boyfriend, Elbert Simpkins, began calling Dawson on his cell phone and land line. R. 327-30. Simpkins made repeated threats against Dawson. R. 327-30. He continued calling even though Dawson would hang up on him. R. 327-30. Simpkins then made threatening comments about Dawson's daughter. R. 327-30.

Dawson decided to go to Goff's family's house because he did not know where Goff or Simpkins lived. R. 327-30. When he got to the house, Dawson saw Goff and Simpkins. R. 330. Dawson approached Simpkins and asked why he was calling. R. 330. Dawson was about six feet away from Simpkins. R. 330-331. They began arguing and Simpkins drew a black knife. R. 331.

Dawson was scared and nervous. R. 331. Dawson drew his own brown-handled knife from his back pocket to defend himself. R. 331-32. Simpkins then stood behind Goff and pushed Goff at Dawson. R. 332. Dawson admitted that because Simpkins pushed Goff at him, he accidentally stabbed her. R. 350-51.

Dawson panicked and ran back to his residence. R. 332. Several of Goff's family members were on the porch and two of them chased Dawson. R. 146-47. R. 166-68. The police arrived and followed the family members. R. 167. An officer saw Dawson enter his room. R. 237. The officer testified he got the master key to the room and arrested Dawson. R. 238-39. Dawson testified he voluntarily let the police into the room. R. 344-45.

Dawson gave a statement to the police after his arrest. R. 334. State's Ex. 30. His statement conflicted with his trial testimony because he was afraid and the detective pressured him. R. 334. The State used Dawson's statement to claim he acted with malice and killed Goff because he saw her with another man. R. 280-82. State's Ex. 30. One of Goff's family members claimed Dawson jumped out of the bushes when Goff was alone, stabbed her once, then ran. R. 165.

Goff's other family members testified that Goff made her way to their front porch after the accident. R. 130. Goff's aunt said Goff told her that Dawson stabbed her. R. 130-131. The family called 911, but the stab wound penetrated Goff's aorta and heart and the pathologist said she would have died within minutes. R. 131. R. 221-22. R. 226-27.

Jury Selection

During roll call and jury qualification, Juror 230 gave his name, age of 28, and then said, "I am a middle school teacher and my wife is a solicitor." Supp. R. 14. During jury selection for appellant's trial, the judge asked if anyone had any close business or social relationships with the attorneys and Juror 230 did not stand. R. 25. When Juror 230 was called, appellant did not exercise a peremptory strike or move to strike for cause. R. 43-44.

After the jury was selected and after lunch, defense counsel told the judge, "It was brought to our attention during the break that I believe it was Juror 230 is the husband of the

solicitor Ms. Tyra Roberts. And I don't know if that was made apparent during jury selection.”

R. 58. Defense counsel also noted that Tyra Roberts had been Judge Jefferson's law clerk when a motion to be relieved as counsel was heard in appellant's case. R. 58. She added, “[B]ut we're concerned about maybe some impartiality [sic] on his part.” R. 58.

The solicitor argued that Juror 230 could serve as long as he could be fair and impartial. R. 58. The solicitor added that Juror 230 disclosed his wife's occupation during roll call. R. 58-59. He said Tyra Roberts had “no engagement or interaction or involvement in this case” and had been instructed by the elected solicitor “not to discuss this case with her husband.” R. 59.

The trial judge noted that his notes indicated he could not hear what Juror 230 said when he disclosed his wife's employment during roll call. R. 60. Judge Addy asked defense counsel for any additional thoughts. R. 60. Defense counsel said, “I don't know if it's possible to bring him out individually and question him if he had any prior knowledge through his wife of the case.” R. 60.

Judge Addy responded that he had asked every juror if they knew anything about the case. R. 60. The court indicated he believed the juror would have said something if “something was said to him about this case that stuck in his mind.” R. 60. The judge concluded, “We'll put a pin in that, but I'm inclined to think that he did not have any—he did not respond to any of those questions, so it stands to reason that he would know nothing about the case.” R. 60-61. At the end of the case, Juror 230 was polled and indicated the guilty verdict reached by the jury was still his verdict. R. 410.

Discussion

The trial court erred in not bringing Juror 230 out for individual questioning and in not dismissing him. Appellant had the right to an impartial jury. U.S. Const. amends. VI, XIV. While trial judges are vested with great discretion in determining whether a potential juror is qualified, this discretion has limits. State v. Jones, 440 S.C. 214, 891 S.E.2d 347 (2023) (stating standard of review for juror challenges in capital cases); State v. Rowell, 444 S.C. 109, 906 S.E.2d 554 (2024) (discussing prejudice standard when a juror fails to disclose information during voir dire).

South Carolina recognizes that potential jurors with even tangential pecuniary interests in the outcome of a case must be excused. “A stockholder in a corporation is incompetent to serve as a juror in a case in which the corporation is a party or has any pecuniary interest.” Southern Bell Tel. & Tele. Co. v. Shepard, 262 S.C. 217, 221-22, 204 S.E.2d 11, 11-12 (1974). In Shepard, the trial court asked whether any juror was employed by Southern Bell or AT&T, but refused to ask whether any jurors owned stock. Id. The Supreme Court reversed, finding that the appellant had the legal right to find whether any juror had an interest in the cause as a stockholder. Id.

In a more recent case, an even more tangential financial interest sufficed to disqualify a juror. Alston v. Black River Elec. Co-op, 345 S.C. 323, 548 S.E.2d 858 (2001). In Alston, potential jurors identified themselves as “customers, i.e., members” of the defendant electric co-operative. Id. at 326, 548 S.E.2d at 859. The plaintiff asked the trial court to remove these jurors for cause, but the trial court refused. Id. The Supreme Court adopted a per se rule of disqualification of jurors who are members of an electric co-operative because their right to receive distributions could be affected by a verdict. Id. The Court stressed that “it is

fundamental that each party is entitled to a trial by an impartial jury.” Id. at 329, 548 S.E.2d at 861. If a concern that someone’s electric company might not add credits to a bill is sufficient to excuse a potential juror, then a juror’s spouse’s employment with a party should also be sufficient.

Older case law states that jurors are not automatically disqualified because of their relationship with the attorneys trying the case. See State v. Nicholson, 221 S.C. 399, 70 S.E.2d 632 (1952). In Nicholson, the trial court refused to disqualify the solicitor’s brother. Id. at 406-07, 70 S.E.2d at 635. The defendant had to use a peremptory strike. Id. The Court first expressed its surprise that the solicitor did not join defense counsel in asking for his brother to be excused. Id. But the Court then held nothing required disqualification of the solicitor’s brother as a matter of law. Id. The Court said no rule of common law or statute mandated “disqualifying a juror on account of his relationship to an attorney in the case, either by affinity or consanguinity, within any degree.” Id. The defendant also failed to use all of his peremptory strikes and the juror was not asked about whether he could be impartial. Id.

In State v. Gullledge, 277 S.C. 368, 287 S.E.2d 488 (1982), a juror concealment case, the Court stated that a juror’s relation by blood or marriage to a police officer involved in the case did not require automatic disqualification. The Court reversed because the concealment prevented the defense from making a challenge for cause or using a peremptory strike. Id. See also Crosby v. Southeast Zayre, Inc., 274 S.C. 519, 265 S.E.2d 517 (1980) (reversing because trial court refused to ask about relationships between jurors and the law firms). While the juror made no affirmative act to conceal his relationship, the judge did not hear where his wife worked at roll call and it seems highly likely that defense counsel also could not have heard the juror.

In a case from Florida, the intermediate appellate court found error in a trial judge's refusal to strike for cause an attorney working as a prosecutor in the same office prosecuting the defendant. Bethel v. State, 122 So.3d 944, 947-48 (Fla. Dist. Ct. App. 2013). The potential juror/employee said she could be fair. Id. The lawyers repeatedly asked whether the juror could be fair in several different ways and she insisted she could. Id. Despite these assertions, the court held it was error because her "assurances do not overcome our conclusion that each assistant state attorney in an office charged with prosecuting a defendant has a sufficient interest to warrant disqualification from that defendant's jury pursuant to section 40.013(3), Florida Statutes." Id. See also State v. West, 200 S.E.2d 859, 865-66 (W. Va. 1973) ("But when the defendant can demonstrate even a tenuous relationship between a prospective juror and any prosecutorial or enforcement arm of State government, defendant's challenge for cause should be sustained by the court."). If a juror's assurances do not overcome a court's concern, then the trial judge's assumptions about the juror's impartiality also cannot overcome this court's concern.

A case from Georgia illustrates that the appearance of impropriety and bias that results from putting even a non-lawyer employee of a prosecutor's office on a criminal defendant's jury is reason enough to excuse such jurors for cause. Beam v. State, 400 S.E.2d 327, 327-28 (1991) rev'd on other grounds by Willis v. State, 820 S.E.2d 640, 658 (2018) (removing presumption of prejudice from use of peremptory strike). In Beam, the juror was a secretary in the prosecutor's appellate section. Id. at n.2. Reversing, the court wrote, "Even if the juror in this case was actually unbiased, her service as a juror while she was an employee of the same district attorney who prosecuted the appellant created a substantial appearance of impropriety." Id. at 328. "The trial court should have stricken the juror to preserve public

respect for the integrity of the judicial process.” Id. Here, the juror’s wife’s income depended on the solicitor’s office prosecuting appellant.

The reasoning of the Georgia court in Bell is sound and should be applied by this Court. Spouses of solicitors should not sit in judgment on cases prosecuted by that office. The solicitor’s office should have joined in the objection, as our Supreme Court noted in Nicholson.

Furthermore, the trial judge should have called the juror out for individual questioning. In Rowell, a juror concealed that he had been arrested a week before the defendant’s trial. Rowell at 112-13, 906 S.E.2d at 555-56. The Supreme Court held the trial court erred in denying a request for an evidentiary hearing on whether the juror’s pending charges could cause bias. Id. at 116-17, 906 S.E.2d at 557-58. “Although we stop short of requiring a full-blown evidentiary hearing based on the mere allegation of juror nondisclosure, a trial court must document cogent and compelling reasons for not holding one.” Id. Here, instead of granting an inquiry or placing concerns on the record, the trial court just assumed that Juror 230 knew nothing about the case.

The State will likely claim this error is not preserved for appeal because the trial court said, “We’ll put a pin in that.” This Court should interpret Judge Addy’s statement in context. The judge next indicated he thought the juror could be fair. No further action was taken by the parties, which indicates defense counsel likely believed Judge Addy’s ruling was final. As this issue involves the important constitutional issue of a defendant’s Sixth Amendment right to an impartial jury, any doubt about issue preservation should be resolved in appellant’s favor. See State v. Jones, 435 S.C. 138, 866 S.E.2d 558 (2021) (relaxing error preservation requirements when constitutional issues are involved). This Court should reach the merits of this issue and reverse appellant’s case.

CONCLUSION

For the foregoing reasons, this Court should reverse appellant's convictions and remand for a new trial.

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SC Court of Appeals



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This 16th day of June, 2026.