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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**

In the Matter of the Care and Treatment of Alonza V.
Gibson, Jr., Appellant.

Appellate Case No. 2024-002086

Appeal From Clarendon County
Brian M. Gibbons, Circuit Court Judge

Unpublished Opinion No. 2026-UP-422
Submitted June 1, 2026 – Filed August 19, 2026

REVERSED AND REMANDED

Kindle Kay Johnson, of K. Johnson Law Firm, LLC, of
Charleston, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Christopher Runyan,
of Columbia, both for Respondent.

PER CURIAM: In this appeal from a civil commitment proceeding under the Sexually Violent Predator Act (the Act), Alonza V. Gibson argues the circuit court abused its discretion by allowing the State's expert to present highly prejudicial hearsay testimony. He further contends the circuit court erred in failing to give a curative instruction addressing the State's closing argument. We reverse and remand.

Facts and Procedural History

In 2013, Gibson pled guilty to third-degree criminal sexual conduct (CSC) with a minor, second-degree assault and battery, and threatening the life of a public official. The circuit court sentenced him to ten years' imprisonment, suspended to thirty months and three years' probation. Gibson's probation was revoked in 2015, and he was ordered to serve five years of the original ten-year sentence. After his release from the Department of Corrections (SCDC), Gibson committed various offenses until 2019, when he pled guilty to first-degree assault and battery and was sentenced to three years in prison. In 2022, Appellant pled guilty to second-degree assault and battery and was sentenced to eighteen months with credit for 265 days' time served. Prior to his release from SCDC on this 2022 conviction, the State initiated an action seeking Gibson's civil commitment for long term control, care, and treatment as a sexually violent predator.¹ The circuit court found probable cause and ordered Gibson to undergo a full psychological evaluation. The matter was then tried for two days in December 2024.

Dr. Emily Gottfried, the Director of the Medical University of South Carolina's (MUSC) Sexual Behavior Clinic and Lab (SBCL) conducted an independent forensic evaluation of Gibson. Dr. Gottfried diagnosed Gibson with sexual sadism disorder and other specified personality disorder with antisocial and psychopathic traits and opined that he met the criteria of a sexually violent predator. However, Dr. Gottfried acknowledged that only one of Gibson's twenty-nine convictions was for a sexually violent offense.

At the civil commitment trial, Dr. Gottfried was qualified without objection as an expert in clinical and forensic psychology and forensic sex offender evaluations. She testified at length about Gibson's criminal history and gave detailed statements and descriptions of his various violent criminal acts. Dr. Gottfried reviewed police reports and court documents, as well as SCDC and detention center records and forensic reports. She also conducted in-person testing and a clinical interview, but she acknowledged that she had no personal knowledge of Gibson's offenses and that some of the information she reviewed may not have been accurate. Over Gibson's objections, Dr. Gottfried gave detailed testimony regarding the incidents discussed below, stating she relied on this information in making her clinical diagnoses and to form her opinion that Gibson met the criteria of a sexually violent predator.

¹ See S.C. Code Ann. §§ 44-48-10 to -170 (2018 & Supp. 2025).

In 2009, Gibson was arrested for first-degree CSC, kidnapping, and assault and battery of a high and aggravated nature (ABHAN) in Manning. All charges were later dismissed and expunged. Nevertheless, Dr. Gottfried testified:

So, in 2009, it was reported to police or the police reports indicated that it was a 37-year-old victim, and that Mr. Gibson went to her house and said somebody was looking for her. They started walking down the street, and he struck her on the side of the face with a wrench. She lost consciousness for some period of time. When she came to, he reportedly dragged her into a yard and pulled down her pants and raped her vaginally, anally, and orally. It was in the reports that he said that if she told anyone, he would get his father's gun and shoot her, and then he fled the scene. She was transported to the hospital and had a rape kit completed. That was 2009, and he was arrested for that.

In 2011, those charges were dismissed due to a lack of victim cooperation, is what the record said.

Dr. Gottfried admitted that Gibson denied these allegations, including the sexual assaults, and that she had recently learned these records were expunged. Gibson again denied these allegations when evaluated by the South Carolina Department of Mental Health's expert, Dr. Marie Gehle.

In 2013, Gibson pled guilty to the sexually violent offense of third-degree CSC, second-degree assault and battery, and threatening the life of a public official. Charges for first-degree CSC, kidnapping, strong-arm robbery, and first-degree assault and battery arising from this incident were dismissed. Dr. Gottfried gave the following testimony as to these offenses:

According to the police reports, officers were dispatched to Clarendon Memorial Hospital emergency department where a 17-year-old reported that she had been raped. She reported that she had been sitting under a tree at about 1:30 in the morning. A male stranger—reported to be Mr. Gibson—approached her, started talking to her, agreed to buy her a pack of cigarettes.

At some point, they walk to an abandoned building where he pulled up her shirt, [and] a fight ensued. Specifically it was reported that he struck her in the eye. When she tried to fight back, he choked her causing her to lose consciousness for some period of time. He attempted to remove her clothing and vaginally raped her. He covered her mouth during that because she was reportedly screaming.

Dr. Gottfried testified that the high level of violence involved in this attack was significant and a "stranger victim is important when looking at someone's risk." She further reported that during his evaluation, Gibson claimed the victim lied and said that he raped her. "They had gotten into a physical altercation, but that she called rape, and they couldn't prove it, which was confusing because he pled guilty to this as a sexual offense, but wasn't clear in explaining that discrepancy."

In 2019, Gibson pled guilty to first-degree assault and battery. Again, the more serious charge—this time, first-degree burglary—and additional assault charges were dismissed. Regarding these offenses, Dr. Gottfried testified,

A. Well, these are related to an assault and battery in Sumter in 2018. Mr. Gibson was convicted for having an altercation with a 73-year-old woman at her house. She had visible injuries to her face, knots.

Counsel: I renew my objection.

The Court: Objection overruled.

A. Swelling on her forehead. It was reported that she was profusely bleeding out of her nose. So what is striking is the level of violence that kind of—the assault and battery ranged over multiple counties, and it wasn't his first assault and battery.

In 2022, Appellant pled guilty to second-degree assault and battery. Charges for first-degree CSC and criminal domestic violence of a high and aggravated nature were dismissed. Dr. Gottfried recounted:

This was a 41-year-old woman who reported that she got assaulted by her boyfriend of, I think she said, one to one-and-a-half months. She was walking, and he came up behind her, presented a knife, pushed her into a parking lot. Again, presented the knife, hit her with a closed fist, threw her to the ground, physically assaulted her while she was on the ground, vaginally raped her while she was on the ground. At the hospital, the records indicated that she had lacerations to her head. Her face was swollen . . . a laceration to her eye.

Dr. Gottfried further testified, "He denied that. He denied the sexual assault. I believe he admitted to the physical fight with the person."

In its closing argument, the State referenced Gibson's sexual offense history, including the offenses for which he was not convicted:

[Gibson's counsel] told you in these charges there was no evidence—no evidence that he did these things, *but there was evidence*. Dr. Gottfried and Dr. Gehle talked about the records they reviewed, the law enforcement records, the incident reports, victim statements that they reviewed, where they got the details from, and they talked to us about them. *They didn't just make them up*. They came from those records that these doctors used, and typically use, and relied on in these high-stake evaluations.

(emphasis added).

Gibson objected, arguing the State's comments conveyed to the jury that the past accusations—for which Gibson had not been convicted—were substantiated and supported by evidence. He then requested a curative instruction.

The State denied that its argument gave the impression that the records were reliable, arguing both experts had reviewed the records to form their opinions. The solicitor noted experts in this field typically use such records, which include law enforcement, school, and mental health records, in forming their opinions.

Gibson responded that the issue was not that the experts had used the records, but that the State gave the impression that the accusations in the records were true,

even though the records were not in evidence and Gibson was not convicted of the charges. Moreover, the State's remarks effectually bolstered the inadmissible hearsay, giving the jury the impression that the records were valid and trustworthy.

After some discussion, the circuit court overruled Gibson's objection, agreeing with the State that the experts had already testified as to their reliance on the challenged records in reaching their opinions. Still, the circuit court allowed Gibson to submit this potential curative instruction: "You may have heard testimony about criminal records. The only evidence you are to consider is the evidence before you. Hearsay testimony about records does not, in and of itself, validate a record or make it reliable." The State objected, arguing the proposed curative instruction improperly commented on the facts. The circuit court then presented this modified instruction: "You may have heard testimony about criminal records. The only evidence you are to consider is before you. Hearsay testimony about records does not, in and of itself, validate a record or make it reliable." Again, the State objected, asserting the proposed modified charge is "telling the jury that the law is saying to ignore everything they said about those criminal records, and that is a problem." The circuit court attempted another modification before ultimately declining to give *any* curative instruction.

The jury unanimously found Gibson is a sexually violent predator, and the circuit court civilly committed him to a secure treatment facility.

Standard of Review

The standard of review for evidentiary rulings is typically very deferential. *In re Care & Treatment of Bilton*, 432 S.C. 157, 161, 851 S.E.2d 442, 444 (Ct. App. 2020). "The admission or exclusion of evidence is a matter within the trial court's sound discretion, and an appellate court may only disturb a ruling admitting or excluding evidence upon a showing of a manifest abuse of discretion accompanied by probable prejudice." *State v. Commander*, 396 S.C. 254, 262–63, 721 S.E.2d 413, 417 (2011) (cleaned up).

Analysis

Gibson argues the circuit court abused its discretion by allowing the State's expert to present highly prejudicial and minimally probative hearsay testimony detailing multiple unproven, denied—and even expunged or dismissed—allegations of violent and sexual criminal misconduct simply because the hearsay allegations were relied on to form the expert's opinion. We agree.

In *Matter of Wilson*, Op. 2022-UP-087 (S.C. Ct. App. filed Mar. 2, 2022), this court addressed the question of whether the circuit court erred in admitting hearsay related to alleged sexual misconduct, not the subject of a conviction, in violation of Rule 403, SCRE. *Id.* at *1. There, "the State's expert, Dr. Donna Maddox, relayed to the jury allegations of sexual misconduct set forth in written police charges, incident reports, and victim and witness statements." *Id.* On appeal, Wilson argued the probative value of this evidence was substantially outweighed by the danger of unfair prejudice. *Id.*

Although *Matter of Wilson* is an unpublished opinion, it is helpful to our consideration of the propriety of the State's use of an expert witness as a conduit for non-conviction hearsay in an SVP jury trial:

Dr. Maddox's testimony relaying the contents of the incident reports and victim statements in disturbingly graphic detail had an undue tendency to suggest a verdict on an improper basis, namely assuming the truth of these out-of-court statements. The suggestive nature of the testimony was compounded by Dr. Maddox's testimony that she relied on these out-of-court allegations of sexual misconduct in completing her risk assessment and by the State's closing argument to the jury emphasizing the alleged pattern of behavior and suggesting the truth of these out-of-court statements: "[T]hese crimes **happened** back in 2009 or earlier." (Emphasis added). . . . Although experts may be entitled to rely on certain types of hearsay in forming an opinion[, Rule 703, SCRE] does not authorize the automatic admission of the hearsay itself into evidence.

. . . .

[T]his court's more recent opinion in *Matter of Bilton* places limits on the admission of hearsay evidence through an expert in an SVP proceeding, expressing the concern that "allowing an expert to disclose hearsay to the jury has the potential to make that expert a 'conduit for hearsay.'" 432 S.C. 157, 164, 851 S.E.2d 442, 445 (Ct. App. 2020) (quoting [*State v.*] *Floyd Y.*, 2 N.E.3d [204, 209 (N.Y. Ct. App. 2013)]). The *Bilton* court

concluded that the admission of testimony from the State's expert, a forensic psychologist, allowed the expert to act as a conduit for another psychologist's scientific analysis of a test he administered to determine the respondent's sexual attractions. *Id.* at 166–67, 851 S.E.2d at 446. The court distinguished the case before it from [*In re Manigo*, 389 S.C. 96, 697 S.E.2d 629 (Ct. App. 2010)]: "The present case poses the different question of whether due process constrains the *extent* to which an expert may offer hearsay for the purpose of explaining the expert's opinion." *Id.* at 166[, 851 S.E.2d at 446] (emphasis added).

We express no opinion on the extent to which experts in other SVP cases may relay hearsay statements to the jury. We simply conclude that in the case before us, any possible probative value the challenged testimony possessed depended on the jury's acceptance of these sexual misconduct allegations as true. Therefore, their probative value was overwhelmed by the danger that the jury would base [its] verdict on inadmissible hearsay. . . . In other words, presenting the jury with the graphic contents of the victim and witness statements, police charges, and incident reports unfairly prejudiced Appellant, and this unfairness substantially outweighed the probative value of the evidence. *See* [*State v.*] *Huckabee*, 419 S.C. [414,] 423, 798 S.E.2d [584,] 589 [(Ct. App. 2017)] ("When juxtaposing the prejudicial effect against the probative value, the determination must be based on the entire record and will turn on the facts of each case." (quoting [*State v.*] *Lyles*, 379 S.C. [328,] 338, 665 S.E.2d [201,] 206 [(Ct. App. 2008)]). Therefore, the challenged testimony should have been excluded pursuant to Rule 403.

Id. at *3–7 (footnotes omitted).

As in *Matter of Wilson*, the State's expert in this case relayed to the jury allegations of brutal sexual misconduct from police reports and court documents, as well as incarcerative records and forensic reports. Dr. Gottfried read to the jury these

graphic allegations—which included vaginal, anal, and oral rape; assault with a wrench; and choking to unconsciousness. Gibson denied the allegations. Yet, these out-of-court statements were not introduced through any witnesses with firsthand knowledge, and the State's sole purported justification was that the allegations contributed to Dr. Gottfried's clinical opinion. Although undeniably probative, these graphic and detailed accounts undoubtedly prejudiced Gibson, triggering the precise due process concerns referenced in *Bilton* and again acknowledged in *Matter of Wilson*. See also *State v. Cross*, 427 S.C. 465, 474–78, 832 S.E.2d 281, 286–88 (2019) (recognizing the "insurmountable probative value" of the defendant's prior CSC conviction as an element of the charged offense, while nevertheless reversing his subsequent first-degree CSC conviction under Rule 403 due to the circuit court's denial of his motion to bifurcate "because of the inherently prejudicial stigma a prior sex-related offense undoubtedly carries").

Here, "the inherently prejudicial stigma" arose from allegations in multiple incidents in which the charges were dismissed. Thus, as in *Bilton* and *Matter of Wilson*, "this case presents exceptional circumstances" mandating that we reverse because most of the challenged testimony should have been excluded under Rule 403, SCRE.

The State's bolstering comments in closing argument and the lack of any curative instruction compounded the prejudice of this Rule 403 error. But because our ruling on this first issue is dispositive, we need not further address the question of the curative instruction. See *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (declining to address remaining issues where a prior issue was dispositive).

Conclusion

We reverse the order of civil commitment and remand for a new trial.

REVERSED AND REMANDED.²

THOMAS, MCDONALD, and TURNER, JJ., concur.

² We decide this case without oral argument pursuant to Rule 215, SCACR.