

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Sep 14 2026

SC Court of Appeals

Appeal from Beaufort County
Honorable Robert J. Bonds, Circuit Court Judge
Appellate Case No. 2023-000288
Opinion No. 2026-UP-414 (submitted July 1, 2026-filed August 19, 2026)

State of South Carolina,

Respondent,

vs.

Justin Brodie Granet,

Appellant.

RETURN TO PETITION FOR REHEARING

On August 19, 2026, this Court affirmed the trial court's exclusion of evidence regarding the victim's reputation for violence. This Court held that the trial court did not err in excluding the statements in the NCIC reports labeling victim as "armed and dangerous" as inadmissible hearsay statements because "the statements were not testimony but were, instead, general descriptions contained in a report and were not specific instances of conduct that Granet could have questioned the victim about during cross-examination.

Hearsay is defined as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Rule 801(c), SCRE. The rule against hearsay prohibits the admission of evidence of an out of court statement by someone other than the person testifying which is used to prove the truth of the matter asserted. State v. Vick, 384 S.C. 189, 199, 582 S.E.2d 275, 280 (Ct. App. 2009). Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court of this State or by statute. Rule 802, SCRE. Rule 803, SCRE lays out the exceptions to the hearsay Rule. Rule

803(21) states “Reputation as to Character. Reputation of a person’s character among associates or in the community.” Rule 803(21), SCRE. The commentary on this rule indicates that there are no South Carolina cases interpreting this exception, but that Rules 404, 405, and 608 deal with when reputation evidence may be admissible. Rule 803(21), SCRE.

Rule 404(a) states “evidence of a person’s character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion.” Rule 404(a), SCRE. Rule 404(a)(2) gives an exception when evidence of a victim’s character is admissible stating “evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor.” Rule 404(a)(2), SCRE. The State never introduced evidence that Victim was a peaceful or nonviolent person. Nor did the State attempt to introduce any evidence that Appellant had a reputation for violence. The purpose of Victim’s testimony was to explain the events that occurred on the day in question. Therefore, the evidence that Victim had a “violent reputation” because a rap sheet stated he was “armed and dangerous” does not fall into the exception because there was nothing to rebut.

Even if there had been evidence to rebut, Rule 405 addresses the methods of proving character. “In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.” Rule 405(a), SCRE. This Court addressed the statements at issue here were made in NCIC reports and thus are not testimony. This Court cites to the Black’s Law dictionary defining testimony as

“[e]vidence that a competent witness under oath or affirmation gives at trial or in an affidavit or deposition.” Black’s Law Dictionary (11th ed. 2019).

Introducing the words “armed and dangerous” is not testimony to reputation for violence nor is it testimony in the form of an opinion. There is no indication on whether “armed and dangerous” is part of the NCIC and is attributed to certain charges or whether it was an opinion of a specific person. The statement “armed and dangerous” does not fall into any exception to the hearsay rule and therefore the trial judge did not err in finding it inadmissible.

This Court also addressed Appellant’s argument that the statements in the NCIC report were not hearsay because the State adopted them by providing them to Granet on the prosecutor’s office letterhead and that the NCIC reports were being used to discredit the caliber of the investigation. Rule 801(d) addresses the statements that fall outside the definition of hearsay and are considered nonhearsay. Rule 801(d), SCRE. A statement that “is offered against a party and is (A) the party’s own statement in either an individual or a representative capacity, or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy. Rule 801(d)(2), SCRE.

Under Brady¹, the State is required to “provide to the defendant any evidence in the prosecution’s possession that may be favorable to the accused and material to guilt or punishment.” Hyman v. State, 397 S.C. 35, 45, 723 S.E.2d 375, 380 (2012)(quoting Porter v. State, 368 S.C. 378, 384, 629 S.E.2d 353, 356 (2006)). In its opinion this Court properly found:

¹ Brady v. Maryland, 373 U.S. 83 (1963).

This does not mean that whenever the State provides the defense with evidence in compliance with this precedent that the State adopts all statements contained within the evidence as its own, even if placed on State letterhead. Thus, by providing the defense with the NCIC reports on office letterhead, the prosecutor's office, and thus the State, did not adopt or assert as truthful the statement that the victim was armed and dangerous. Additionally, Granet failed to introduce the NCIC reports prior to or during the cross-examination of law enforcement. Further Granet had already discredited the caliber of the investigation and the decision to charge Granet through cross-examination of law enforcement. Granet offered the NCIC reports as evidence to prove the truth of the matter asserted: because the victim was listed as armed and dangerous on the NCIC reports, the victim was armed and dangerous during the altercation with Granet, which would have strengthened Granet's self-defense claim.

State v. Granet, Opinion No. 2026-UP-414 (submitted July 1, 2026-filed August 19, 2026). In the notes of Rule 803, it states that subsection 803(21) is included in the rules to ensure that reputation evidence is not excluded by the hearsay rule and that Rules 404, 405, and 608 govern the admission of such evidence. As mentioned above this Court properly found that the statements that the victim is armed and dangerous in the reports are not admissible under Rules 404 and 405.

Appellant further argues that this Court only looked at subpart (B) in regards to SCRE Rule 801(d)(2), however none of the other subparts are applicable. (A) is not applicable because it is not the party's own statement it's a NCIC report from Ohio. (C) is not applicable because the State did not authorize Ohio to place "armed and dangerous" on the NCIC report. (D) is not applicable because there was no relationship between the State and the party in Ohio generating or creating these reports. (E) is not applicable because there are no coconspirators. Therefore, this Court properly discussed the subpart that was relevant to this issue.

Lastly, this Court properly found that any error excluding the statements would be harmless because Appellant testified regarding the victim's reputation for violence. "To constitute error, a ruling to admit or exclude evidence must affect a substantial right. However, error is harmless where it could not reasonably have affected the trial's outcome." State v. Curry, 370 S.C. 674, 680,

636 S.E.2d 649, 652 (Ct. App. 2006). Appellant wanted to introduce the statement “armed and dangerous” to show that the Victim had a reputation for violence, however Appellant testified extensively about Victim’s reputation for violence. During Appellant’s testimony, he was asked if he had ever known Victim to be “dangerous or aggressive” to which Appellant responded with “I mean I knew that he had told me stories of him being a part of different biker gang, and some of the violent things that they did as a whole.” (R. 682-683). He further testified that he had seen Victim carry a gun multiple times and that it was common for him to carry a gun. (R. 683). Appellant was again asked “and at that point you’d said that you knew Corey had done some bad things and was dangerous and was a big dude. I mean at that point, were you concerned about any possible physical altercation that may happen?” to which Appellant responded “I was.” (R. 695-696). Appellant further testified that Victim had “violent tendencies” and that Appellant felt threatened and was worried about his safety. (R. 709-710, 727). This was ample evidence that was introduced to show Victim had a reputation for violence and excluding that the statement “armed and dangerous” was harmless. This Court properly found that the jury was presented with testimony depicting the victim as “dangerous” and known to carry a weapon, even if it was not through the NCIC reports and therefore the exclusion of the statements was harmless.

CONCLUSION

For all the foregoing reasons coupled with the reasons articulated in the State's brief and during oral argument before this Court, the State respectfully asks this Court to deny Appellant's Petition for Rehearing.

Respectfully submitted,

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PROOF OF SERVICE

I, Grace Sommer, certify that I have served the State's Return to Petition for Rehearing on James A. Brown, Jr., Esquire, counsel of record for the Appellant, by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.

This 14th day of September, 2026.



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