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Sep 24 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions
The Honorable Daniel McLeod Coble, Circuit Court Judge

Appellate Case No. 2023-001215

THE STATE,

Respondent,

v.

JAMIRA U. DAVIS

Appellant.

Opinion No. 6163 (filed September 9, 2026)

PETITION FOR REHEARING

On September 9, 2026, this Court issued a published opinion reversing Appellant Jamira Davis's conviction for murder. State v. Davis, Op. No. 6163 (S.C. Ct. App. filed September 9, 2026) (Howard Adv. Sheet no. 34 at 17). The Court ruled the trial court abused its discretion when it declined to question a juror about alleged discussions with a family member concerning her jury service. Pursuant to Rule 221 of the South Carolina Appellate Court Rules, the State respectfully petitions for rehearing.

The State respectfully submits that this Court misapprehended the law when it held the trial court abused its discretion by declining to question the juror. Even assuming witness Ashley Berry did in fact overhear a conversation about the deliberations in this case, a

circumstance which is not clear from this record, the facts to which Berry testified did not justify a presumption of prejudice under Remmer v. United States, 350 U.S. 377 (1956), and the trial court acted within its discretion by declining to question the juror.

Remmer involved an attempted bribe of a juror, an outside influence which clearly carried the potential to affect the impartiality of the jury. In this case, there was no evidence the juror was exposed to any extrinsic evidence about the facts of the case, or even an opinion about the case by a non-juror. Instead, the juror allegedly discussed the state of the deliberations with a family member. This was information going out, not in, and not about the underlying facts of the case. Cf. Mattox v. United States, 146 U.S. 140, 150–51 (1892) (finding prejudice where jurors were exposed to a newspaper article stating “the defendant had been tried for his life once before; that the evidence against him was claimed to be very strong by those who had heard all the testimony; that the argument for the prosecution was such that the defendant’s friends gave up all hope of any result but conviction; and that it was expected that the deliberations of the jury would not last an hour before they would return a verdict,” and where bailiff told jury “[t]his is the third fellow [defendant] has killed”). The few facts which were allegedly discussed—the defendant’s age and the fact that a victim was shot—were basic, publicly-available facts which do not indicate the juror engaged in any in-depth discussions about the facts of the case.

In fact, Berry testified that the conversation she overheard revealed the juror told the family member multiple times that she could not “discuss the facts of the case.” R.927. Thus the juror did not violate the court’s instruction not to “discuss the case” or “do any independent research.” R.910. There is an important distinction between a juror discussing the merits of a case—and potentially being exposed to extrinsic evidence or an outside opinion about the facts—and merely discussing the fact that the deliberations were at an impasse, and that the juror

was “upset.” The latter scenario is not an “outside influence,” does not call into question the juror’s impartiality, and does not justify a presumption of prejudice. See United States v. Huntress, 956 F.2d 1309, 1317 (5th Cir. 1992) (finding no prejudice where juror discussed with non-juror “the general type of case involved and not to the substance of the evidence”); State v. Clements, 715 S.E.2d 59, 63 (Ga. 2011) (“Where a juror’s unauthorized contact with another does not involve discussion about the merits of the case, such an irregularity will not necessarily require a new trial.”); People v. Linton, 56 Cal. 4th 1146, 1195, 302 P.3d 927, 966 (2013) (finding no misconduct where “the record reflects there was no actual back and forth ‘discussion’ or ‘conversation’ between Juror No. 1 and her husband”).

The trial court agreed to hear Berry’s testimony and found the facts, even if true, did not show the juror violated her oath. Based on this finding, the court decided no further inquiry was warranted. This decision was within the trial court’s discretion. See Blake by Adams v. Spartanburg Gen. Hosp., 307 S.C. 14, 17, 413 S.E.2d 816, 817 (1992) (“It is within the discretionary power of the trial court to decide whether to examine a juror.”); State v. Galbreath, 359 S.C. 398, 403, 597 S.E.2d 845, 847 (Ct. App. 2004) (explaining trial court did not abuse its discretion by declining to question jurors about alleged misconduct where facts, even if true, were not sufficient to establish prejudice).

Further, even if the trial court erred by not examining the juror, reversal is not the proper remedy. Rather, the proper course is remand for a determination whether Davis was prejudiced, i.e. whether the juror’s conduct affected the deliberations. See Remmer v. United States, 347 U.S. 227, 230 (1954) (“We therefore vacate the judgment of the Court of Appeals and remand the case to the District Court with directions to hold a hearing to determine whether the incident complained of was harmful to the petitioner, and if after hearing it is found to have been harmful,

to grant a new trial.”); State v. Rowell, 444 S.C. 109, 117, 906 S.E.2d 554, 558 (2024) (remanding for hearing to determine “whether Rowell has proven prejudice” from juror’s failure to truthfully answer voir dire question); cf. State v. Murdaugh, 448 S.C. 1, 15, 931 S.E.2d 294, 301 (2026) (reversing conviction after full evidentiary hearing on outside influence claim where record did not support the circuit court’s ruling).

CONCLUSION

This Court should grant rehearing and affirm Davis's conviction or, in the alternative, remand for an evidentiary hearing.

Respectfully submitted,

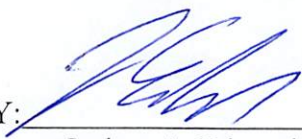
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PROOF OF SERVICE

I, Grace Sommer, certify that I have served the within Petition for Rehearing on Appellant by sending an electronic copy to Molly M. Keegan, Esquire, and Joanna K. Delany, Esquire, to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.
This 24th day of September, 2026.



Grace Sommer
Administrative Support Manager



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

September 24, 2026

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Jamira U. Davis
Appellate Case No. 2023-001215

Dear Ms. Kitchings:

The above-referenced matter is currently pending before this Court. With the court's permission, I respectfully request to please be added as counsel of record for the State. Please forward all future correspondence regarding this matter additionally to me, and do not hesitate to contact me if you have any questions or need any additional information from this office. Thank you very much.

Sincerely,

Joshua A. Edwards
Assistant Deputy Attorney General
SC Bar No. 101188

JAE/gs

cc: Joanna K. Delany, Esquire (copy via electronic filing)
Molly M. Keegan, Esquire (copy via electronic filing)
Victim Advocacy Division