RECEIVED
Sep 30 2026
SC Court of Appeals

.STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Kershaw County

Hon. Heath Taylor
Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

ALEXANDER HARMON,

APPELLANT.

# INITIAL BRIEF OF APPELLANT

Benjamin Stitely (SC BAR 75339)
Williams, Stitely & Brink, PC
200 E. Main St.
Lexington, SC 29072
(803) 359-9000
bstitely@wsblegal.com

Attorneys for Appellant

TABLE OF CONTENTS

TABLE OF AUTHORITIES .....3

STATEMENT OF ISSUES ON APPEAL .....5

STATEMENT OF THE CASE .....6

STATEMENT OF FACTS .....7

STANDARD OF REVIEW IMPROPERLY ADMITTED EVIDENCE..... 9

ARGUMENT RE: IMPROPERLY ADMITTED EVIDENCE.....9

I. The trial court err by admitting extensive text-message evidence portraying Appellant as controlling/angry and implying bad character and propensity, over repeated defense objections under Rules 401–403 and 404(b), SCRE, where the defense's limited reference to suicide-related texts did not justify the breadth and prejudicial nature of the State's responsive evidence and argument .....9

STANDARD OF REVIEW: DISCOVERY VIOLATION .....13

ARGUMENT RE: DISCOVERY VIOLATION .....13

I. The trial court err when it abused its discretion by allowing the State to proceed with forensic-related testimony and evidence while the defense had not received requested SLED bench notes/underlying materials (including GSR/DNA/latent prints/firearms/toxicology materials), after the defense moved to compel, continue, and requested exclusion as a remedy under Rule 5(b)(2), SCRCrP, thereby impairing meaningful cross-examination and trial preparation and violating Rule 5 and due process .....13

CONCLUSION ..... ....16

## TABLE OF AUTHORITIES

### Case Law

State v. Bryant, 307 S.C. 458, 415 S.E.2d 806 (1992) .....13, 14, 15

State v. Cheeseboro, 346 S.C. 526, 552 S.E.2d 300 (2001) .....9, 10, 11

State v. Davis, 309 S.C. 56, 419 S.E.2d 820 (Ct. App. 1992) .....13

State v. Gulledge, 326 S.C. 220, 487 S.E.2d 590 (1997) .....10

State v. Jones, 343 S.C. 562, 541 S.E.2d 813 (2001) .....10

State v. King, 422 S.C. 47, 810 S.E.2d 18 (2017) .....11

State v. Landon, 370 S.C. 103, 634 S.E.2d 660 (2006) .....13, 15

State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923) .....9, 10, 11

State v. Pagan, 369 S.C. 201, 631 S.E.2d 262 (2006) .....9, 10, 11

State v. Proctor, 358 S.C. 417, 595 S.E.2d 476 (2004) .....13, 14, 15

State v. Sweat, 362 S.C. 117, 606 S.E.2d 508 (Ct. App. 2004) .....11

State v. Taylor, 333 S.C. 159, 508 S.E.2d 870 (1998) .....10

State v. Trotter, 322 S.C. 537, 473 S.E.2d 452 (1996) .....13, 15

State v. Wallace, 384 S.C. 428, 683 S.E.2d 275 (2009.....11

State v. Wilkins, 310 S.C. 81, 425 S.E.2d 68 (Ct. App. 1992) .....15

### South Carolina Rules

Rule 403, SCRE .....9, 10, 11

Rule 404(b), SCRE .....9, 10, 11

Rule 404, SCRE .....9

Rules 401–403, SCRE .....9

Rule 5, SCRCrP .....13, 14

Rule 5(b)(2), SCRCrP .....14

Rule 803(3), SCRE .....9, 10

## STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err by admitting extensive text-message evidence portraying Appellant as controlling/angry and implying bad character and propensity, over repeated defense objections under Rules 401–403 and 404(b), SCRE, where the defense's limited reference to suicide-related texts did not justify the breadth and prejudicial nature of the State's responsive evidence and argument?

2. Did the trial court err and/or abuse its discretion by allowing the State to proceed with forensic-related testimony and evidence while the defense had not received requested SLED bench notes/underlying materials (including GSR/DNA/latent prints/ firearms/toxicology materials), after the defense moved to compel, continue, and requested exclusion as a remedy under Rule 5(b)(2), SCRCrP, thereby impairing meaningful cross-examination and trial preparation and violating Rule 5 and due process?

## STATEMENT OF THE CASE

This is an appeal from Alexander Harmon's conviction for Murder on Indictment 2018GS2801400 out of Kershaw County on September 17, 2025. Harmon was arrested on June 3, 2018, and ultimately tried September 15-17, 2025. Along with a multitude of other objections, the Defendant specifically objected to the use of evidence derived from cell phone chats between himself and the victim, and the use of forensic evidence due to violations of rule 5 and due process.

Following the trial the Defndant was convicted of Murder and was sentenced to Life without the possibility of parole. Thereafter, this appeal was timely filed.

## STATEMENT OF FACTS

Alexander Francis Harmon was tried for the murder of Katelin Crocker after she was found deceased in a bathroom with a fatal shotgun wound to the head. The State's evidence attempted to show that Crocker had been preparing to leave the residence with multiple packed bags were located near the front door, and her vehicle was loaded with belongings creating the State's theory that an argument occurred as she was leaving.

Law enforcement testified that Harmon was detained outside the residence and, after being advised of Miranda rights, made statements captured on body-worn camera indicating that during a heated argument Crocker picked up the shotgun, "pulled it back," and that Harmon took it from her and "shot her". Investigators later conducted a recorded custodial interview after Harmon signed a written Miranda waiver; the investigator testified Harmon maintained a struggle narrative but gave shifting versions as to whether it was an accident and other surrounding details

The State introduced numerous scene photographs and a diagram documenting the home's layout, the bedroom and bathroom areas, and the position/condition of the shotgun and ammunition. SLED crime scene testimony described a double-barrel 12-gauge shotgun found on the bed in a breached condition, with one unfired shell present and spent shells recovered from the bedroom area. Photographs of packed bags, the victim's vehicle loaded with property, and other scene items were admitted and published to the jury.

A SLED firearms examiner testified as an expert that the recovered fired shells were fired by the submitted shotgun, one shell from each barrel. A SLED gunshot residue analyst testified that particles characteristic of primer gunshot residue was found on Harmon's hand samples,

while also explaining that GSR may be deposited by firing, being in proximity to a discharge, or handling a recently fired weapon

A forensic pathologist testified that the cause of death was a shotgun wound to the head and the manner of death was homicide. The pathologist described an intermediate-range discharge and estimated the muzzle-to-target distance at approximately two to four feet. The pathologist also testified to additional injuries including bruising and an ear laceration consistent with blunt force trauma and reported the victim's blood alcohol level as 0.103.

The defense called a SLED DNA analyst who testified that the trigger swab was a two-person mixture with very strong support that both Crocker and Harmon contributed to.

The State also over objection presented evidence that Harmon later failed to appear and was in Iowa using the alias "Sean Michael Daldry," with identification and documents in that alias name, offered as evidence of flight/consciousness of guilt.

In disputed admissibility texts, through investigator testimony, the State elicited themes from text messages portraying Harmon as controlling and angry (including "total control" and "extreme rage"), while the defense referenced reported suicidal statements attributed to the victim in texts.

## STANDARD OF REVIEW: Improperly admitted evidence

A trial court's evidentiary rulings are reviewed for abuse of discretion. Evidence is inadmissible if its probative value is substantially outweighed by the danger of unfair prejudice. Rule 403, SCRE; *State v. Pagan*, 369 S.C. 201, 631 S.E.2d 262 (2006). Evidence of other crimes, wrongs, or acts is inadmissible when offered solely to prove propensity; it may be admitted only for a proper noncharacter purpose and remains subject to Rule 403. Rule 404(b), SCRE; *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923); *State v. Cheeseboro*, 346 S.C. 526, 552 S.E.2d 300 (2001).

## ARGUMENT: Improperly admitted evidence

I. THE TRIAL COURT ERRED BY ADMITTING PREJUDICIAL TEXT-MESSAGE EVIDENCE THAT FUNCTIONED AS IMPROPER CHARACTER/PROPENSITY EVIDENCE UNDER AN OVERBROAD "OPENED THE DOOR" RULING.

A. The defense's limited inquiry about suicide-related texts did not justify the State's broad character attack through "control/anger" texts.

During cross-examination, the defense elicited that law enforcement was aware of text messages suggesting the decedent had threatened suicide if the relationship ended. (Tr. pp. 181, 193.) After that limited inquiry, the State asserted the defense had "opened the door" and sought admission of additional texts portraying Appellant as controlling, enraged, and prone to "extreme rage." (Tr. pp. 208–215.)

The defense objected repeatedly under Rules 401, 403, and 404, SCRE, and raised limits on mental-state hearsay under Rule 803(3). (Tr. pp. 208–214.) The trial court overruled these objections, ruling the defense opened the door. (Tr. pp. 208–214.) The State then elicited and used

inflammatory text content, including references to "total control," "enraged," and "extreme rage," and later relied on that theme in closing. (Tr. pp. 208–215; 431–434.)

B. "Opening the door" permits only fair, proportional rebuttal; it does not suspend Rules 404(b) and 403.

South Carolina recognizes responsive admissibility where a party introduces evidence or creates a misleading impression, permitting the opposing party to respond to rebut or correct it. *State v. Taylor*, 333 S.C. 159, 508 S.E.2d 870 (1998); *State v. Gulledge*, 326 S.C. 220, 487 S.E.2d 590 (1997); *State v. Jones*, 343 S.C. 562, 541 S.E.2d 813 (2001). But the doctrine is corrective not punitive and it is not an independent exception to the Rules of Evidence. Even when a "door" is opened, the responsive evidence must remain within the scope necessary to correct the impression and must still satisfy Rule 404(b) and Rule 403. See Rule 404(b), SCRE; *Lyle*, 125 S.C. 406, 118 S.E. 803; *Cheeseboro*, 346 S.C. 526, 552 S.E.2d 300; *Pagan*, 369 S.C. 201, 631 S.E.2d 262.

Here, the defense's limited suicide-text inquiry was not a claim that the relationship was peaceful, harmonious, or free of conflict, nor a sweeping assertion that Appellant never exhibited anger. (Tr. pp. 181, 193.) It was a narrow point relevant to the defense theory. The State's response was not limited to preventing distortion; it became a broad, character-focused presentation inviting the jury to convict because Appellant was controlling or angry in the relationship. (Tr. pp. 208–215; 431–434.) That is precisely what Rule 404(b) prohibits use of other acts or communications as propensity proof. *Lyle*, 125 S.C. 406, 118 S.E. 803; Rule 404(b), SCRE.

C. The text evidence was not properly limited to a non-propensity purpose; instead, it was used to prove malice through character.

Other acts evidence is admissible only if it is logically relevant to a proper, non-

character purpose (e.g., motive, intent, absence of mistake/accident) and if its probative value is not substantially outweighed by unfair prejudice. Rule 404(b), SCRE; *Cheeseboro*, 346 S.C. 526, 552 S.E.2d 300. Although South Carolina recognizes that prior difficulties or relationship history between an accused and the victim may, in appropriate cases, bear on motive, intent, or malice, such evidence is not automatically admissible and must still be analyzed under Rule 404(b) and Rule 403. See *State v. Wallace*, 384 S.C. 428, 683 S.E.2d 275 (2009); *State v. Sweat*, 362 S.C. 117, 606 S.E.2d 508 (Ct. App. 2004); *State v. King*, 422 S.C. 47, 810 S.E.2d 18 (2017).

On this record, the admitted texts went beyond contextual relationship evidence and operated as a substitute for proof of malice, inviting the jury to infer: Appellant is the type of person who has "extreme rage" and seeks "total control," therefore he must have acted with malice on the charged occasion. (Tr. pp. 208–215; 431–434.) That is an improper propensity inference under Rule 404(b) and *Lyle*.

D. Rule 403 required exclusion because the danger of unfair prejudice substantially outweighed any probative value.

Unfair prejudice under Rule 403 is an undue tendency to suggest decisions on an improper basis, commonly an emotional or character-based basis. *Pagan*, 369 S.C. 201, 631 S.E.2d 262. Here, the texts were highly inflammatory and likely to inflame juror passions and shift the focus away from the charged act and its contested mental state. (Tr. pp. 208–215; 431–434.)

Moreover, the transcript reflects no limiting instruction contemporaneous with the admission of the expanded text evidence to reduce the risk of propensity use. (See Tr. pp. 208–215.) In a murder trial where intent/malice was disputed, the danger that the jury would use relationship texts as character proof was substantial. The trial court's failure to meaningfully limit

the scope of the State's "reply in kind" response, and to exclude or redact prejudicial portions, was an abuse of discretion.

E. Prejudice: The State relied on the texts as a central malice/motive theme.

The State highlighted control and rage as part of its narrative, and closing argument tied those themes to guilt. (Tr. pp. 431–434.) Because the evidence was used to support malice and undermine accident/struggle theories, the erroneous admission of broad character-based texts reasonably could have affected the verdict. A new trial is required.

## STANDARD OF REVIEW: Discovery violations

Discovery rulings and remedies under Rule 5, SCRCrP are reviewed for abuse of discretion, and reversal generally requires a showing of prejudice. *State v. Landon*, 370 S.C. 103, 634 S.E.2d 660 (2006). Rule 5 authorizes the court to order discovery, grant of a continuance, prohibit introduction of undisclosed evidence, or enter any other just order. *State v. Trotter*, 322 S.C. 537, 473 S.E.2d 452 (1996). Where underlying notes/materials are disputed and a supported showing of material impeachment/reliability value exists, the court must conduct in camera review and may not rely solely on a witness's or the State's characterization. *State v. Bryant*, 307 S.C. 458, 415 S.E.2d 806 (1992); *State v. Proctor*, 358 S.C. 417, 595 S.E.2d 476 (2004).

## ARGUMENT: Discovery violations

II. THE TRIAL COURT ABUSED ITS DISCRETION BY ALLOWING THE STATE TO PROCEED WITH FORENSIC-RELATED EVIDENCE WITHOUT TIMELY PRODUCTION OF REQUESTED SLED BENCH NOTES AND UNDERLYING FORENSIC MATERIALS, DESPITE A DEFENSE MOTION TO COMPEL AND REQUESTED RULE 5 REMEDIES.

A. Rule 5 authorizes meaningful remedies, including exclusion, where late/incomplete production creates uncurable prejudice.

Rule 5, SCRCrP provides the enforcement tools necessary to ensure disclosure is meaningful in time for use. When noncompliance is found, the court may order immediate discovery, grant a continuance, prohibit introduction of the undisclosed evidence, or enter any other just order. *Trotter*, 322 S.C. 537, 473 S.E.2d 452. While sanctions are discretionary, a Rule 5 violation is reversible when it results in prejudice. *Landon*, 370 S.C. 103, 634 S.E.2d 660; *State v. Davis*, 309 S.C. 56, 419 S.E.2d 820 (Ct. App. 1992) (sanctions reviewed for abuse of discretion).

B. Bench notes and underlying forensic materials implicate reliability and impeachment; South Carolina requires judicial scrutiny when a supported showing is made.

South Carolina has recognized that underlying notes may contain impeachment material not captured in formal reports. *Bryant*, 307 S.C. 458, 415 S.E.2d 806. Where a defendant establishes a factual basis to believe such material contains significant exculpatory or impeachment information, the material must be submitted to the trial court for in camera inspection; the court may not accept the State's or a witness's summary of what the notes contain. *Bryant*, 307 S.C. at 458, 415 S.E.2d at 806.

Similarly, where underlying forensic materials bear on reliability and impeachment, a supported request triggers judicial review, and the court must not rely solely on law enforcement or laboratory assurances in lieu of inspection. *Proctor*, 358 S.C. 417, 595 S.E.2d 476 (2004). Although *Proctor* ultimately found harmlessness on its facts, it confirms the necessity of judicial evaluation of disputed underlying forensic materials once a threshold showing is made.

C. The record reflects the defense sought SLED bench notes/underlying materials; the court declined to continue and allowed the State to proceed.

The defense sought SLED bench notes and underlying documentation for forensic testing (including, GSR, DNA, latent prints, firearms, and toxicology). The State/SLED represented production would take "4 to 6 weeks," and the defense requested preclusion of the State's witnesses/evidence under Rule 5(b)(2) absent timely production. The trial court declined to continue the case and allowed the State to proceed. (Tr. Pp. 82) At a minimum, the Defense should have been afforded a continuance, and the State should have been compelled to have SLED produce the specific notes as requested.

D. The remedy selected did not cure prejudice where forensic evidence was presented without the defense having necessary underlying materials.

South Carolina recognizes that the appropriate remedy depends on whether the defense suffered prejudice that could be cured by inspection time or a continuance. *Trotter*, 322 S.C. 537, 473 S.E.2d 452; *Landon*, 370 S.C. 103, 634 S.E.2d 660; *State v. Wilkins*, 310 S.C. 81, 425 S.E.2d 68 (Ct. App. 1992) (emphasizing causation and actual prejudice from delay). Here, the defense's position, was that without bench notes/underlying data it could not meaningfully test, consult about, or cross-examine forensic evidence. In these circumstances, simply "noting" an objection while allowing the State to proceed did not restore the defense's fair opportunity to meet expert proof.

Where the State is permitted to present forensic evidence while foundational, underlying materials remain unproduced, the prejudice is not merely theoretical: it strikes at the core ability to confront the State's scientific case. See *Bryant*, 307 S.C. 458, 415 S.E.2d 806; *Proctor*, 358 S.C. 417, 595 S.E.2d 476.

## CONCLUSION

For the foregoing reasons, Appellant respectfully requests that the Court reverse the conviction and sentence and remand for a new trial.

By: _____

BENJAMIN ALLEN STITELY (S.C. Bar No. 75339)
Attorney for Appellant
200 East Main Street
Lexington, SC 29072
(803) 359-9000
bstitely@wsblegal.com

Lexington, South Carolina
September 30, 2026