

STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Oct 08 2026

APPEAL FROM CHESTER COUNTY

SC Court of Appeals

Court of General Sessions
The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2025-000446

THE STATE,

Respondent,

v.

JOSEPH GARY LANDRY,

Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

RANDY E. NEWMAN
Solicitor, Sixth Judicial Circuit

P.O. Box 728
Chester, SC 29706
(803) 377-1141

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF THE ISSUE ON APPEAL	1
STATEMENT OF THE CASE	2
STANDARD OF REVIEW	4
ARGUMENT	5
The trial court correctly refused to allow a juror to testify about the jury's deliberations when there was no evidence of outside influence, extraneous evidence, premature deliberations, or racial bias.	5
CONCLUSION	10

TABLE OF AUTHORITIES

Cases

<u>Blake by Adams v. Spartanburg Gen. Hosp.</u> , 307 S.C. 14, 413 S.E.2d 816 (1992).	4, 6
<u>Fid. Sav. & Loan Ass'n v. Aetna Life & Cas. Co.</u> , 647 F.2d 933 (9th Cir. 1981).....	4, 8
<u>Legrande v. Legrande</u> , 178 S.C. 230, 182 S.E. 432 (1935).....	8
<u>McDonald v. Pless</u> , 238 U.S. 264 (1915).....	8–9
<u>Pena-Rodriguez v. Colorado</u> , 580 U.S. 206 (2017).....	6
<u>Rental Unif. Serv. of Greenville, S.C., Inc. v. K & M Tool & Die, Inc.</u> , 292 S.C. 571, 357 S.E.2d 722 (Ct. App. 1987).....	7
<u>Shumpert v. State</u> , 378 S.C. 62, 661 S.E.2d 369 (2008).....	6, 9
<u>State v. Aldret</u> , 333 S.C. 307, 509 S.E.2d 811 (1999).....	6
<u>State v. Franklin</u> , 341 S.C. 555, 534 S.E.2d 716 (Ct. App. 2000).....	7
<u>State v. Hunter</u> , 320 S.C. 85, 463 S.E.2d 314 (1995).....	6
<u>State v. Kociolek</u> , 118 A.2d 812 (N.J. 1955).....	5
<u>State v. Lynn</u> , 277 S.C. 222, 284 S.E.2d 786 (1981).....	7
<u>State v. Murdaugh</u> , 448 S.C. 1, 931 S.E.2d 294 (2026).....	5
<u>State v. Rice</u> , 375 S.C. 302, 652 S.E.2d 409 (Ct. App. 2007).....	9
<u>State v. Rowell</u> , 444 S.C. 109, 906 S.E.2d 554 (2024).....	9
<u>Tanner v. United States</u> , 483 U.S. 107 (1987).....	5

Rules

Rule 606(b), SCORE.....	5
-------------------------	---

STATEMENT OF THE ISSUE ON APPEAL

A juror is incompetent to testify about the jury's deliberations except to establish outside influence, extraneous information, racial bias, or premature deliberations. In this case, a juror expressed regret that he allowed himself to be persuaded to vote to convict, but did not claim any of the above improprieties occurred. Did the trial court, after accepting a proffer of the juror's testimony through counsel and another witness, correctly limit the juror's testimony to matters admissible under Rule 606(b), SCRE?

STATEMENT OF THE CASE

A Chester County grand jury indicted Appellant Joseph Landry for two counts of criminal sexual conduct with a minor in the third degree. Landry proceeded to jury trial on February 24–28, 2025, before the Honorable Robert E. Hood, Circuit Court Judge. Landry was convicted as charged and sentenced to concurrent terms of eight years' incarceration.

On the day after the verdict was rendered, the trial court convened a hearing to address a juror matter raised by defense counsel. Counsel informed the court that an attorney with whom he shared office space spoke to one of the jurors, and the juror expressed regret about his guilty verdict. Tr.p.759–63. The juror was “in tears, appeared distraught” because he was “persuaded or pressured in changing his verdict from not guilty to guilty.” Tr.p.761–62. The juror subsequently contacted the clerk of court's office and spoke with an employee there. The court accepted testimony from the clerk of court, who explained the employee relayed to her the substance of the juror's concern:

The message said, “[Juror] said he felt that he gave the wrong verdict and was pressured to say ‘guilty’ because all the other jurors [were] ready to go. . . . He said it was on his heart to let you know.”

Tr.p.764.

Defense counsel requested to take testimony from the juror. The solicitor argued Rule 606(b) barred juror testimony about the deliberations, except for allegations of outside influence, extraneous information, or fundamental unfairness such as racial bias. Tr.p.769. The solicitor noted the juror and defendant were both

Caucasian, and that there was no indication that racial bias played any part in the deliberations. Tr.p.773. Defense counsel agreed the court should “probably stick within the limitations of the law,” but asked the court to “proffer the testimony” Tr.p.776. The trial court researched the law and agreed to take testimony from the juror limited to allegations of outside influence or extraneous information. He declined to accept testimony about the juror’s “thoughts, feelings, and all that kind of stuff,” because it was barred by Rule 606(b). Tr.p.778. The juror testified under oath and denied there was any outside influence or extraneous information brought into the jury room. Tr.p.789–91. In this direct appeal, Landry argues the court erred by limiting the testimony in this manner.

STANDARD OF REVIEW

A trial court's ruling on an allegation of juror misconduct is reviewed for an abuse of discretion. Blake by Adams v. Spartanburg Gen. Hosp., 307 S.C. 14, 17, 413 S.E.2d 816, 817 (1992). The form of a proffer is within the discretion of the trial court. See Fid. Sav. & Loan Ass'n v. Aetna Life & Cas. Co., 647 F.2d 933, 937 (9th Cir. 1981) (discussing Rule 103, FRE).

ARGUMENT

The trial court correctly refused to allow a juror to testify about the jury's deliberations when there was no evidence of outside influence, extraneous evidence, premature deliberations, or racial bias.

The trial court correctly refused to allow unlimited juror testimony about what transpired during deliberations because this type of evidence is inadmissible under the plain terms of Rule 606(b), SCRE. The rule provides:

Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may a juror's affidavit or evidence of any statement by the juror concerning a matter about which the juror would be precluded from testifying be received for these purposes.

The rule is a codification of the common law "no impeachment" rule, under which, for policy reasons, jurors are incompetent to testify about their deliberations. See Tanner v. United States, 483 U.S. 107 (1987) (holding jurors were incompetent to testify about drug use during deliberations). The common law recognized two exceptions for "outside influence" and "extraneous prejudicial information," matters which are not rightfully part of the deliberations and may be inquired into. See State v. Murdaugh, 448 S.C. 1, 26, 931 S.E.2d 294, 307 (2026). But even then, a juror may not testify about his "mental processes" in reaching a verdict; he may only testify about the objective facts constituting the outside influence. See State v. Kociolek, 118 A.2d 812, 815–16 (N.J. 1955) (distinguishing between "overt acts" of

misconduct and jurors' "mental processes"); Blake by Adams v. Spartanburg Gen. Hosp., 307 S.C. 14, 19, 413 S.E.2d 816, 818 (1992) ("We also find no evidence that the trial judge allowed juror testimony to impeach the verdict. The trial judge specifically limited questions to the facts surrounding the bailiff's contact and each juror's perception of those facts.").

Both the South Carolina Supreme Court and United States Supreme Court have carved out an additional exception when there is "compelling evidence" that "racial animus was a significant motivating factor" in a juror's vote to convict, resulting in "fundamental unfairness." Pena-Rodriguez v. Colorado, 580 U.S. 206, 209 (2017); State v. Hunter, 320 S.C. 85, 463 S.E.2d 314 (1995). The South Carolina Supreme Court has further held that premature deliberations may present fundamental unfairness. State v. Aldret, 333 S.C. 307, 509 S.E.2d 811 (1999). None of those circumstances are present in this case. The trial court correctly refused to allow the juror to testify without restriction about the deliberations.

Landry argues that "by restricting the questioning of the juror, we do not know whether the juror's concerns were merely buyer's remorse or amounted to a denial of fundamental fairness." IBOA at 7. But we do know, because the trial court accepted a proffer of the clerk of court about the substance of the communication her employee had with the recalcitrant juror. The juror's concerns were a classic case of "buyer's remorse from a guilty verdict." Shumpert v. State, 378 S.C. 62, 68, 661 S.E.2d 369, 372 (2008). The clerk employee explained the juror "said he felt that he gave the wrong verdict and was pressured to saying 'guilty'

because the other jurors were ready to go.” Tr.p.764. Landry’s argument that we “don’t know” what the juror’s testimony would have been ignores the evidence adduced below that reveals precisely what the testimony would have been. His argument that the juror’s testimony might have revealed some unspecified fundamental unfairness is pure speculation.

If there was an impropriety rising to the level of fundamental unfairness, it was incumbent on defense counsel to make it known to the court. The proper course would have been for counsel to speak with the juror and, if an impropriety was revealed, relay the substance of it to the trial court. If counsel had made a prima facie case of “fundamental unfairness” then the trial court likely would have been more willing to question the juror about the specifics of the impropriety while still abiding by the plain terms of Rule 606(b). This would also have allowed this Court to assess whether any impropriety occurred, and whether Landry was prejudiced. Rental Unif. Serv. of Greenville, S.C., Inc. v. K & M Tool & Die, Inc., 292 S.C. 571, 574, 357 S.E.2d 722, 724 (Ct. App. 1987) (“Error in the exclusion of evidence will not be considered by an appellate court unless the record shows what such evidence would have been.”).

Rule 103, SCRE, does not require that a proffer be made by witness testimony, much less juror testimony. Instead, a proffer is sufficient if “the substance of the evidence and the specific evidentiary basis supporting admission were made known to the court by offer.” See also State v. Lynn, 277 S.C. 222, 225, 284 S.E.2d 786, 788 (1981) (“It has been stated that when an offer of proof is

necessary, it is error for the trial court to refuse counsel an opportunity to state what he proposes to prove by the evidence offered.”(emphasis added)); Legrande v. Legrande, 178 S.C. 230, 182 S.E. 432, 436 (1935) (“These exceptions must be overruled for the reason that the record fails to disclose sufficiently the testimony appellant expected from these witnesses. Counsel for appellant did not ask that the jury be excused, the witnesses examined, so that the exact testimony desired to be introduced might appear in the record. Neither did counsel state to the court what he proposed to prove by these witnesses. One of these two methods should have been pursued.” (emphasis added)). The form of the proffer is within the discretion of the trial court. See Fid. Sav. & Loan Ass’n v. Aetna Life & Cas. Co., 647 F.2d 933, 937 (9th Cir. 1981) (discussing Rule 103, FRE).

The trial court properly allowed counsel to proffer the substance of the juror’s proposed testimony through counsel’s own statements and through the clerk of court. The trial court also allowed the juror himself to testify, but properly restricted his testimony to matters admissible under the rule. To allow the juror to “proffer” unlimited sworn testimony about the course of the deliberations would defeat the purpose of the rule. As explained by the United States Supreme Court:

[L]et it once be established that verdicts solemnly made and publicly returned into court can be attacked and set aside on the testimony of those who took part in their publication and all verdicts could be, and many would be, followed by an inquiry in the hope of discovering something which might invalidate the finding. Jurors would be harassed and beset by the defeated party in an effort to secure from them evidence of facts which might establish misconduct sufficient to set aside a verdict. If evidence thus secured could be thus used, the result would be to make what was intended to be a private

deliberation, the constant subject of public investigation; to the destruction of all frankness and freedom of discussion and conference.

McDonald v. Pless, 238 U.S. 264, 267–68 (1915).

Jury service can be stressful. But compromise, persuasion, and even pressure inhere in our jury system. See State v. Franklin, 341 S.C. 555, 562, 534 S.E.2d 716, 720 (Ct. App. 2000) (“The nature of the jury process can be intimidating to those who dislike confrontation and debate. It is all the more difficult in a criminal case, where jurors are most likely to feel the weight of their decision.”). The juror’s regret, while understandable, does not meet the “high bar that precedent sets for the seriousness of allegations that juror testimony must raise before it may be admitted.” Shumpert, 378 S.C. at 68, 661 S.E.2d at 372.

The proffered testimony in this case is quintessential juror self-impeachment not relating to outside influences, extraneous information, premature deliberations or racial prejudice. The trial court, not presented with any evidence of actual misconduct, correctly refused to allow the juror to give incompetent testimony about the jury’s decision-making process. Because there is no evidence of any impropriety, Landry has not shown prejudice.¹ See State v. Rice, 375 S.C. 302, 316, 652 S.E.2d 409, 416 (Ct. App. 2007) (“An error is not reversible unless it is material and prejudicial to the substantial rights of the appellant.”). This Court should affirm.

¹ Should this Court find error, the proper remedy is not reversal, but remand to ascertain whether Landry was prejudiced. See State v. Rowell, 444 S.C. 109, 117, 906 S.E.2d 554, 558 (2024).

CONCLUSION

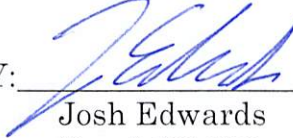
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Deputy Attorney General

RANDY E. NEWMAN
Solicitor, Sixth Judicial Circuit

BY: 

Josh Edwards
Bar # 101188

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

October 8, 2026

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY

Court of General Sessions
The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2025-000446

THE STATE,

Respondent,

v.

JOSEPH GARY LANDRY,

Appellant.

PROOF OF SERVICE

I, Bianca Cammarata, certify that I have served the within Initial Brief of Respondent on David Alexander, 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 8th day of October, 2026.



Bianca Cammarata
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

RECEIVED

Oct 08 2026

SC Court of Appeals