

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Oct 21 2026
SC Court of Appeals

Appeal from Lancaster County

Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL CHARLES JOHNSON,

APPELLANT

APPELLATE CASE NO. 2026-000271

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY
Senior Appellate Defender

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Division of Appellate Defense
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STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion by excluding evidence that the officer who arrested Appellant believed, after further investigation, that there was insufficient evidence to continue to prosecute Appellant for kidnapping, pursuant to Rule 403, SCRE, where the evidence was relevant to and probative of Appellant's guilt or innocence, and was not unfairly prejudicial to the state, and where exclusion of the evidence violated Appellant's constitutional rights to present a complete defense and confront the witnesses against him?

STATEMENT OF THE CASE

A Lancaster County grand jury indicted Appellant on April 14, 2024, for assault and battery of a high and aggravated nature (ABHAN), and on February 13, 2025, for kidnapping. R. 229-232. His case was called to trial on February 3, 2026, before the Honorable Brian Gibbons, and a jury. R. 1. Assistant Solicitors Melissa McGinnis and Lance Reynolds represented the state. William Frick and Jerry White represented Appellant. R. 1.

On February 4, 2026, the jury found Appellant guilty as indicted. R. 218, ll. 10-23. He was sentenced to eighteen years imprisonment for both ABHAN and kidnapping to be served concurrently. R. 225, l. 22 – 226, l. 3.

This appeal follows.

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” State v. Collins, 409 S.C. 524, 529-530, 763 S.E.2d 22, 25 (2014) (quoting State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006)) (internal quotation marks omitted). “This Court is bound by the trial court’s factual findings unless they are clearly erroneous.” Id. at 530, 763 S.E.2d at 25 (quoting Baccus, 367 S.C. at 48, 625 S.E.2d at 220) (internal quotation marks omitted). “The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice.” Id. (quoting State v. Wise, 359 S.C. 14, 21, 596 S.E.2d 475, 478 (2004)) (internal quotation marks omitted). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” Id. (quoting Wise, 359 S.C. at 21, 596 S.E.2d at 478) (internal quotation marks omitted).

ARGUMENT

The trial court abused its discretion by excluding evidence that the officer who arrested Appellant believed, after further investigation, that there was insufficient evidence to continue to prosecute Appellant for kidnapping, pursuant to Rule 403, SCRE, where the evidence was relevant to and probative of Appellant's guilt or innocence, and was not unfairly prejudicial to the state, and where exclusion of the evidence violated Appellant's constitutional rights to present a complete defense and confront the witnesses against him.

Relevant Facts

Autumn Robinson and Appellant dated "on and off" for about two years. In September 2023, the two "were more not together than [they] were together." R. 68, l. 14 – 69, l. 20. On September 25, 2023, Autumn was in Marshville, NC with a friend. Her mother, who lived in Waxhaw, NC, was "babysitting" her dog for the day. Autumn lived in the Buford area of Lancaster County, SC with her father. Around 10:00 or 10:30 pm that night, Autumn returned to her mother's house to pick up her dog. She left her car running and the driver's door open while she quickly went into the house to get her dog. Her dog ran out of the house before Autumn and jumped into the car through the open driver's door. R. 70, l. 2 – 71, l. 7.

When Autumn reached her car, she saw Appellant sitting in the driver's seat. Apparently, he had gotten into her car while she was inside her mother's house. Autumn claimed Appellant demanded she get into the car with him and threatened to kill her and her dog if she refused. Because Autumn was concerned Appellant would harm her dog, she got into the front passenger seat. Autumn claimed that almost immediately after she got into the car, Appellant punched her in the jaw. Appellant then drove to Lancaster "taking back roads." Autumn claimed Appellant stopped the car "every half mile" or so and punched or strangled her.

She lost consciousness several times. Whenever Autumn tried to get out of the car, Appellant pulled her hair to prevent her from leaving. She claimed Appellant also spit on her and “bashed” her head into the passenger side window. Autumn claimed Appellant was “very, very angry” and appeared to be suffering a manic episode. He was “screaming crazy stuff.” R. 71, l. 8 – 80, l. 15.

Eventually, Autumn’s car was about to run out of gas. Appellant drove to Jack’s, a gas station and convenience store in Lancaster that was open twenty-four hours. Appellant parked at a gas pump and walked into the store to purchase gas since he only had cash. Before he left, Autumn claimed Appellant said if she tried to run, he would kill her. As soon as Appellant reached the front door of the store, Autumn grabbed her dog and ran to the first occupied car she saw. When she reached the front passenger window of this truck, she recognized the driver as Trace Jenkins. Jenkins knew both Appellant and Autumn from “mutual friends.” Jenkins knew Appellant and Autumn dated “on and off.” Autumn looked at Jenkins and said, “he’s trying to kill me.” She quickly jumped into the truck and Jenkins drove off. Autumn could not recall whether she or Jenkins called 911, but one of them did. Jenkins drove to the car wash at Buford Express where they waited for police and paramedics to arrive. R. 80, l. 16 – 83, l. 10.

Deputy Justin Tribble with the Lancaster County Sheriff’s Office met Autumn at the car wash. R. 135, 12 – 137, l. 22. Tribble’s body worn camera captured his interactions with Autumn. See State’s Exhibit No. 7 (Video – Body Camera Footage). Autumn admitted that she lied to Deputy Tribble and told Tribble that Appellant had gotten into her car at her father’s house in Lancaster County because she was concerned Tribble would not be able to help her if he knew the original encounter started in North Carolina. R. 71, l. 16 – 72, l. 6; R. 83, l. 11 – 84, l. 6.

The paramedic who evaluated Autumn at the Buford Express Car Wash testified that Autumn had bruising and abrasions around her neck and several hematomas on her head. The paramedic maintained that her injuries were consistent with her account of what occurred. R. 120, l. 6 – 125, l. 5. The paramedic gave Autumn an ice pack. However, she refused to be transported by ambulance to the hospital for treatment. R. 132, ll. 6-10.

During Deputy Tribble's direct testimony, the assistant solicitor asked him: "And, ultimately, you signed arrest warrants on Mr. Johnson [Appellant] for assault and battery of a high and aggravated, and the kidnapping charges that were before the Court on today, is that correct?" Tribble responded, "Yes." R. 142, ll. 2-6.

Subsequently, during cross-examination, defense counsel sought to question Tribble about remarks he wrote in his supplemental report in which he stated he was not going to pursue the kidnapping charge because he believed the allegations were "unfounded." The assistant solicitor objected and the court excused the jury from the courtroom. The solicitor argued that testimony from Tribble that he did not believe there was sufficient evidence to support the kidnapping charge would be "very prejudicial" to the state. She asserted that Tribble does not have a law degree nor any legal training. When the solicitor's office examined the case file, they determined there was sufficient evidence to support the elements of kidnapping. She concluded that it would be "incredibly prejudicial to question the officer who brought the case and have him tell this jury, at one point, I didn't feel like there [was] enough for kidnapping." R. 164, l. 11 – 166, l. 24.

Defense counsel argued that it was "highly probative" that the officer who arrested Appellant no longer thought the evidence supported a kidnapping charge after he concluded his investigation. He asserted the evidence was "necessary to [his] defense" and he was merely

cross-examining Tribble in response to the solicitor's question during direct examination about whether Tribble obtained warrants for ABHAN and kidnapping in which Tribble answered yes. R. 165, l. 22 – 167, l. 10.

The trial court ruled that defense counsel could ask Tribble about whether he charged Appellant with kidnapping, but could not go any further than that. R. 167, l. 11 – 168, l. 7. When cross-examination resumed, counsel asked Tribble whether he pursued a charge of kidnapping against Appellant. Tribble answered, "No, sir." R. 169, ll. 19-23.

Discussion

The trial court abused its discretion by excluding evidence that Deputy Tribble, who arrested Appellant, believed, after further investigation, that there was insufficient evidence to continue to prosecute Appellant for kidnapping and concluded the allegation was unfounded, pursuant to Rule 403, SCRE. This evidence was relevant to and probative of Appellant's guilt or innocence, and was not unfairly prejudicial to the state. Moreover, the exclusion of this evidence violated Appellant's constitutional rights to present a complete defense and confront the witnesses against him.

"All relevant evidence is admissible, except as otherwise provided by . . . these rules, or by other rules promulgated by the Supreme Court of South Carolina. Evidence which is not relevant is not admissible." Rule 402, SCRE. "Evidence is relevant if it has 'any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.'" State v. Perry, 430 S.C. 24, 29, 842 S.E.2d 654, 656 (2020) (quoting Rule 401, SCRE).

Rule 403, SCRE, provides that even if evidence is relevant, it "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the

issues, or misleading the jury” State v. McGee, 408 S.C. 278, 288, 758 S.E.2d 730, 736 (Ct. App. 2014) (quoting Rule 403, SCORE). Unfair prejudice pursuant to Rule 403 “is the tendency of the evidence to suggest a decision based on something other than the legitimate probative force of the evidence.” State v. Phillips, 430 S.C. 319, 328, 844 S.E.2d 651, 656 (2020) (citing State v. Gray, 408 S.C. 601, 616, 759 S.E.2d 160, 168 (Ct. App. 2014))

The starting point for analyzing evidence under Rule 403 is determining the probative value of the evidence offered. “Probative means tending to prove or disprove.” State v. Gray, 408 S.C. 601, 609, 759 S.E.2d 160, 165 (Ct. App. 2014) (quoting Black’s Law Dictionary 1323 (9th ed.2009) (internal quotation marks omitted). “Probative value is the measure of the importance of that tendency to the outcome of a case. It is the weight that a piece of relevant evidence will carry in helping the trier of fact decide the issues.” Id. at 610, 759 S.E.2d at 165. The probative value of evidence is directly related to how important that evidence is in assisting the jury in rendering a verdict. Id. Thus, when analyzing the probative value of evidence, the court must consider the importance of the evidence as it relates to the issues presented in the case. State v. Lee, 399 S.C. 521, 528, 732 S.E.2d 225, 228 (Ct. App. 2012).

After determining the probative value of the evidence, the court must next evaluate the danger of unfair prejudice presented by the evidence. State v. Wilson, 345 S.C. 1, 7, 545 S.E.2d 827, 830 (2001). “Unfair prejudice does not mean the damage to a defendant’s case that results from the legitimate probative force of the evidence; rather it refers to evidence which tends to suggest a decision on an improper basis.” State v. Gilchrist, 329 S.C. 621, 630, 496 S.E.2d 424, 429 (Ct. App. 1998) (quoting United States v. Bonds, 12 F.3d 540, 567 (6th Cir. 1993)) (internal quotation marks omitted). “Rule 403 only requires suppression of evidence that results in unfair prejudice – prejudice that damages an opponent for reasons other than its probative value, for

instance, an appeal to emotion.” United States v. Mohr, 318 F.3d 613, 619-620 (4th Cir. 2003); See also State v. Orozco, 392 S.C. 212, 218, 708 S.E.2d 227, 230 (Ct. App. 2011); State v. Cheeseboro, 346 S.C. 526, 547, 552 S.E.2d 300, 311 (2001).

Evidence that Deputy Tribble, who arrested Appellant, did not believe there was sufficient evidence to continue to prosecute Appellant for kidnapping was highly relevant and probative as to Appellant’s guilt or innocence. The evidence tended to prove that Appellant was not guilty of kidnapping and that the state could not meet its burden of proof. The fact that the original arresting officer, after further investigation, did not believe the evidence supported a kidnapping charge was extremely important. The evidence was also not confusing or misleading to the jury. It merely informed the jury of the linear progression of the investigation. Moreover, the evidence was not unfairly prejudicial to the state. It did not suggest a decision on an improper basis. Accordingly, the trial court abused its discretion by excluding evidence that Tribble did not believe the evidence supported the elements of kidnapping.

Furthermore, the trial court’s exclusion of this evidence violated Appellant’s constitutional rights to present a complete defense and cross-examine the witnesses against him. “The United States Constitution guarantees a criminal defendant the right ‘to present a complete defense.’” State v. Burgess, 391 S.C. 15, 21, 703 S.E.2d 512, 515 (Ct. App. 2010) (quoting Crane v. Kentucky, 476 U.S. 683, 690 (1986)). “This right is also guaranteed by our State constitution: ‘Any person charged with an offense shall enjoy the right ... to be fully heard in his defense....’” Burgess, 391 S.C. at 21-22, 703 S.E.2d 512, 515-516 (quoting S.C. Const. art. I, § 14 (2009)); See S.C. Code Ann. § 17-2-60 (2003) (“Every person accused shall, at his trial, be allowed ... to produce witnesses and proofs in his favor....”); State v. Lyles, 379 S.C. 328, 341, 665 S.E.2d 201, 208 (Ct. App. 2008).

“The Sixth Amendment rights to notice, confrontation, and compulsory process guarantee that a criminal charge may be answered through the calling and interrogation of favorable witnesses, the cross-examination of adverse witnesses, and the orderly introduction of evidence.” State v. Graham, 314 S.C. 383, 385, 444 S.E.2d 525, 527 (1994) (quoting State v. Schmidt, 288 S.C. 301, 303, 342 S.E.2d 401, 402 (1986)) (internal quotation marks omitted). “Specifically included in a defendant’s Sixth Amendment right to confront the witness is the right to meaningful cross-examination of adverse witnesses.” Id. (citing State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991)). Cross-examination has been called “the greatest legal engine ever invented for the discovery of truth.” California v. Green, 399 U.S. 149, 158 (1970) (internal citation and quotation marks omitted).

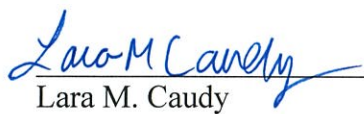
The trial court’s exclusion of evidence that Deputy Tribble, who arrested Appellant for kidnapping, no longer believed the evidence supported a kidnapping charge after his investigation, violated Appellant’s constitutional rights to present a complete defense and cross-examine the witnesses against him. Appellant was unable to properly cross-examine Tribble about his investigation and his conclusion that the kidnapping allegations were unfounded.

Respectfully, this Court should hold the trial court abused its discretion, reverse Appellant’s convictions, and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his convictions and remand for a new trial.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of October, 2026.

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IN THE COURT OF APPEALS

Appeal from Lancaster County
Honorable Brian M. Gibbons, Circuit Court Judge

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RESPONDENT,

V.

MICHAEL CHARLES JOHNSON,

APPELLANT

APPELLATE CASE NO. 2026-000271

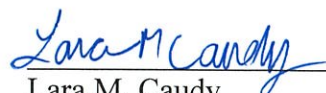
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Michael Charles Johnson states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense and was appointed to represent Appellant.
2. She has reviewed the record of Appellant's trial, which was held on February 3-4, 2026, before the Honorable Brian M. Gibbons, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Michael Charles Johnson.

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

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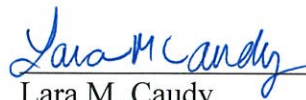
APPELLATE CASE NO. 2026-000271

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Complete Transcript Dated February 3-4, 2026;
- (2) State's Exhibit No. 7 (Video – Body Camera Footage);
- (3) Indictments;
- (4) Sentence Sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.



Lara M. Caudy
Senior Appellate Defender

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ATTORNEY FOR APPELLANT

This 21st day of October, 2026.

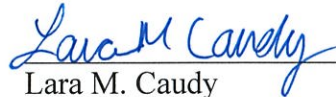
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CERTIFICATE OF COUNSEL

SC Court of Appeals

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

_____

Lara M. Caudy
Senior Appellate Defender

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APPELLATE CASE NO. 2026-000271

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Mark R. Farthing, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on Michael Charles Johnson, #336543, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 21st day of October, 2026.



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT