

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions  
Edward M. Miller, Circuit Court Judge

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Appellate Case No. 2014-001336

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State of South Carolina, ..... Respondent,  
v.  
Elijah Fernandez Wilson, ..... Appellant.

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APPELLANT'S REPLY

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## **STATEMENT OF THE ISSUES**

- 1) Is Appellant's Issue I sufficiently preserved for the record?

## ARGUMENT

### I. THE APPELLANT'S JURY CHARGE ISSUE IS SUFFICIENTLY PRESERVED FOR REVIEW.

The defense specifically requested the court charge the jury that spontaneous acts do not meet the premeditated requirement of assault and battery by mob. (R. p. 651-652; Motion for Charging Instructions). The defense argued that the charge proposed by the court was confusing and requested a charge that intent and purpose cannot be formed spontaneously. The State objected to the defense's request. (R. p. 651-652). The issue was discussed fully and the judge clearly ruled that he would not give the charge as it was requested by the defense. After the charge was given the trial judge inquired as to any exception or objection to the charge. (R. p. 713, l. 10). The Appellant raised an issue as to whether the court omitted the request for responsibility. (R. p. 713, l. 13-15). The court responded: "I believe it was all contained in the charge I gave. I didn't give the specific one you put up. But it's contained in the charge. I don't think I misstated or omitted anything in the law as you submitted. So your objection is noted for the record." (R. p. 713, l. 16-20). The court's response related directly to the defense's request to charge and therefore, was adequate to preserve the issue of appeal.

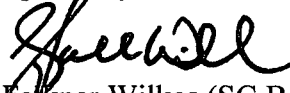
Here the issue was sufficiently raised and ruled on by the trial judge. "Error preservation rules do not require a party to use the exact name of a legal doctrine in order to preserve an issue for appellate review." State v. Brannon, 388 S.C. 498, 502, 697 S.E.2d 593, 595 (2010). *See also* State v. Nelson, 331 S.C. 1, 6 n. 6, 501 S.E.2d 716, 718 n. 6 (1998) (stating "the ultimate goal behind preservation of error rules is to insure that an issue raised on appeal has first been

addressed to and ruled on by the trial court"). The issue is sufficiently preserved for this Court's review.

### CONCLUSION

Based on the foregoing the conviction of the Appellant should be reversed.

Respectfully submitted,



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September 28, 2015.

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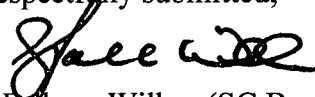
CERTIFICATE

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I certify that on September 28, 2015, I served the Brief of Appellant, Appellant's Reply, and Certificates by placing a copy of same in the United States Mail, first class postage prepaid, addressed to counsel for the Respondent, and others as indicated below:

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