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STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Beaufort County
Brooks P. Goldsmith, Circuit Court Judge

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SC Court of Appeals

THE STATE,

Respondent,

v.

TRAVIS ABE POLITE,

Appellant.

Appellate Case No. 2015-000182

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF THE ISSUE ON APPEAL

Whether the trial court erred in denying defense counsel's motion for mistrial where Sergeant Gobel testified that he was "familiar" with the defendant's "street name or nickname" of "Travi" and the trial court's order striking the testimony was insufficient to cure the prejudice from the admission of improper character evidence?

RESPONDENT'S COUNTERSTATEMENT OF THE ISSUE ON APPEAL

Appellant's argument that the trial judge erred in denying defense counsel's motion for a mistrial following a reference to appellant's nickname is procedurally barred because the record clearly shows counsel did not make a motion for a mistrial, but simply objected to the reference; regardless, even if the argument is not procedurally barred, appellant cannot demonstrate sufficient prejudice to justify a mistrial, where the judge properly instructed the jury to disregard the reference, and any possible error was harmless beyond a reasonable doubt due to the overwhelming evidence of appellant's guilt.

STATEMENT OF THE CASE

A Beaufort County Grand Jury indicted appellant, Travis Abe Polite, for murder, armed robbery, and kidnapping. (R.pp.352-55). Appellant proceeded to a jury trial on January 20, 2015 and was represented by Gene Hood, Esquire, and Lauren Carroway, Esquire. (R.p.1). Sean Thornton, Esquire, and Hunter Swanson, Esquire, of the Fourteenth Circuit Solicitor's Office represented the State. (R.p.1).

On January 22, 2015, the jury found appellant guilty of murder and armed robbery, but found him not guilty of kidnapping. (R.p.349, lines 3-9). The Honorable Brooks P. Goldsmith sentenced appellant to concurrent terms of thirty-nine (39) years' imprisonment for murder and twenty (20) years' imprisonment for armed robbery, with credit for time served. (R.p.351, lines 18-23).

This appeal follows.

STATEMENT OF FACTS

On the afternoon of September 6, 2012, the victim, Quantize Greer, and a friend arrived at a mobile home park in Beaufort County to buy marijuana. (R.p.47, lines 3-5; p.47, line 17; p.47, line 21). Three men were waiting for them—appellant, Brandon Singleton, and Walter Tucker, known by his street name of "Oowee." (R.p.28, lines 1-3). Jessica Power was the victim's friend and testified she met Tucker for the first time at a gas station prior to the murder when Tucker introduced himself, told her he was from Atlanta, and that he was waiting on a shipment of marijuana.[1] (R.p.48, lines 19-24). Power subsequently met Tucker twice at his motel room to smoke marijuana. (R.p.60, lines 16-19; p.61, lines 21-23; p.63, lines 12-17). Power arranged the drug deal between the victim and Tucker and testified she went with the victim to the mobile home park to buy a half-pound of marijuana for $2,500. (R.p.47, lines 3-5; p.47, line 17; p.47, line 21; p.49, lines 11-13; p.49, lines 21-25; p.68, lines 10-15).

When the victim and Power arrived, the victim tried to negotiate a better price, but Tucker refused. (R.p.51, lines 1-4). The victim counted out the money and Power testified he gave it to her to carry in her purse. (R.p.51, lines 4-10). Power got out of the vehicle and, when she got inside the mobile home, Power stated Tucker closed and locked the door and pulled out a gun. (R.p.51, lines 17-22). Power testified she saw a man she did not recognize sitting in a chair in the living room, with a white t-shirt wrapped around his head. (R.p.52, lines 1-13). Tucker demanded Power give him the money and, when she hesitated, Tucker shoved her to the floor and appellant grabbed her arm. (R.p.52, lines 14-20; p.52, line 23-p.53, line 3). Tucker took Power's purse, but could not find the money so he threw the purse back at Power and told her to find the money, which she did and she gave it to Tucker. (R.p.53, lines 6-9). Power testified she

[1] The investigation revealed that Tucker was a member of the Black Mafia Family, a street gang based out of Atlanta that deals heavily in drugs. (R.p.226, lines 12-14; p.227, lines 7-9).

saw appellant look out of the mobile home's window before he and Tucker had "words," and appellant demanded a gun from Tucker, then appellant ran outside and Power heard the first gunshot.[2] (R.p.53, lines 11-18; p.83, lines 9-12). Tucker jumped up and followed appellant outside, and Power heard more gunshots. (R.p.54, lines 2-6). Power testified she ran to a room in the back of the mobile home to hide, but when she realized she could not jump out of the window, she ran out of the back door after seeing a fourth man do the same. (R.p.54, lines 9-11; p.55, lines 1-11). Power testified she did not know about the plan to rob the victim, she did not know her friend would be murdered, and she was not in a relationship with Tucker. (R.p.55, line 22-p.56, line 2; p.57, lines 1-5; p.106, lines 18-21).

Two witnesses testified they heard a series of gunshots on that afternoon in September 2012. One man working across the street from the mobile home park stated he heard three shots fired—he heard one, there was a pause, and then he heard two more. (R.p.35, lines 16-18; p.37, lines 12-14). The man also testified he saw a dark-colored getaway car race out of the mobile home park after the shooting. (R.p.36, lines 17-23). A woman visiting her sister testified she called 911 after hearing three shots, looked out of the window, and saw a man running toward a wooded area. (R.p.39, lines 13-19; p.40, line 1; p.40, lines 17-20). The woman testified the man had something white wrapped around his head and a gun in his hand as he ran away. (R.p.40, line 24-p.41, line 3; p.41, lines 8-10).

Antonio Brewer owned the mobile home where the deadly confrontation took place. (R.p.117, line 22; p.117, line 25-p.118, line 2). Brandon Singleton called Brewer because he needed someplace to "pull a lick," or commit a robbery. (R.p.119, lines 1-4; p.122, lines 19-21). At first, Brewer told Singleton he did not want get involved and bring that type of violence into

[2] The autopsy later revealed the victim had been shot once in the chest. (R.p.253, line 24-p.254, line 16).

the home where he and his family lived. (R.p.119, lines 7-18). Brewer testified "before [he] knew it," Singleton arrived in a dark-colored vehicle with appellant and Walter Tucker inside. (R.p.119, lines 19-21; p.151, lines 6-12). Singleton and Tucker "kind of swarm[ed]" Brewer, trying to convince him to let them use his mobile home by telling Brewer "it's going to be easy, let's do this" and that they would "look out for" him. (R.p.120, lines 4-9). Brewer testified he saw Tucker's gun and, because he did not want to "go against" a man with a gun who could hurt or kill him, Brewer "just rolled with it." (R.p.120, lines 10-14). Tucker told Brewer to go wait in a back bedroom if he did not want to be a part of the robbery or if he was scared. (R.p.120, lines 14-16; p.125, lines 10-16). When Brewer walked inside his mobile home, he saw appellant sitting in a chair in the living room with a white t-shirt wrapped around his head. (R.p.122, lines 9-15). Brewer testified he went to a back room and "stayed there." (R.p.125, lines 16-17). While in the back room, Brewer heard a thump, and he looked out of the window and saw the victim's car—moments later, Brewer testified he saw appellant walk up to the car, point his gun at the victim, and fire a shot.[3] (R.p.125, line 23-p.126, line 4; p.153, line 22-p.154, line 6). Brewer stated he realized the situation had gotten "out of hand," so he ran out of the back door. (R.p.126, lines 4-7). As he was running, Brewer saw Jessica Power leave the mobile home out of the same door and he also saw appellant running across the yard with the white t-shirt still on his head. (R.p.129, lines 16-22). Brewer also testified he heard more shots being fired.[4]

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[3] Brewer also told investigators, prior to seeing appellant shoot the victim, he heard someone in the living room ask Jessica Power if the victim had a gun in the car. (R.p.164, lines 3-12). Power later told investigators the victim had a gun in the center console of his car, and a gun found at the scene had the victim's DNA on it. (R.p.78, lines 18-20; p.200, line 21-p.201, line 7).

[4] Brewer testified Brandon Singleton sent him a text message after the incident, telling him not to "snitch." (R.p.145, lines 6-8). However, at the time Brewer received the message, he was meeting with an investigator and Brewer testified he immediately showed the cell phone to the investigator and gave it to him because Brewer did not "want anything to do with those guys

(R.p.132, lines 9-10).

Brewer had seen appellant "around town" and was able to identify appellant in a photo lineup as the man who shot the victim. (R.p.132, line 14-p.133, line 11). Moreover, while Brewer admitted he did not initially implicate appellant in the murder because he was scared and did not want to be labeled a snitch,[5] Brewer testified he was "100 percent sure" appellant was the man he saw pull the trigger and shoot the victim. (R.p.133, line 25-p.134, line 5; p.135, lines 1-9; p.135, lines 12-22). On cross-examination, Brewer specifically stated, "The shot happened as I was looking out the window. That's how come I identified [appellant]. I saw him with my own eyes." (R.p.164, lines 21-23).

Appellant was arrested about a month after the murder. (R.p.204, lines 2-5). Investigators interviewed appellant twice—and he gave two vastly different stories. (R.p.15, lines 11-15; p.236, lines 19-23). Both statements were admitted as evidence at trial and played for the jury. (R.p.238, lines 17-18; p.244, line 4; p.244, line 17; p.246, line 1). During his first statement, appellant denied any involvement and told investigators he did not know anything about the incident. (R.p.15, lines 16-21; p.235, lines 4-9). However, after his arrest, appellant requested that investigators visit him in the Beaufort County Detention Center because he wanted to give a second statement. (R.p.236, lines 8-16; p.242, lines 3-4; p.247, lines 4-8). In his second statement, appellant confessed that he was at the mobile home at the time of the murder, he knew about the plan to rob the victim, and he participated in the robbery because he was scared of Walter Tucker, whom appellant claimed shot the victim. (R.p.15, line 22-p.16,

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anymore." (R.p.145, lines 11-19).

[5] Brewer identified Walter Tucker and Brandon Singleton as participants shortly after the incident, and implicated appellant in the crime during an interview with investigators on October 10, 2012. (R.p.134, lines 10-11; p.135, lines 23-24; p.155, lines 13-22; p.160, lines 19-20; p.161, lines 12-14).

line 7; p.16, lines 12-17). Appellant told investigators he wanted protection for his family. (R.p.18, lines 5-7). Moreover, appellant admitted that he helped with Tucker's drug business, keeping track of the sales as the "babysitter" of the marijuana. (R.p.265, lines 4-6).

ARGUMENT

Appellant's argument that the trial judge erred in denying defense counsel's motion for a mistrial following a reference to appellant's nickname is procedurally barred because the record clearly shows counsel did not make a motion for a mistrial, but simply objected to the reference; regardless, even if the argument is not procedurally barred, appellant cannot demonstrate sufficient prejudice to justify a mistrial, where the judge properly instructed the jury to disregard the reference, and any possible error was harmless beyond a reasonable doubt due to the overwhelming evidence of appellant's guilt.

Relevant Facts:

As referenced above in the Statement of Facts, the evidence and testimony presented to the jury showed appellant was guilty of murder. Multiple witnesses testified they saw appellant at the scene of the crime or saw him with a gun, and Antonio Brewer actually saw appellant shoot the victim at least once. Moreover, appellant confessed to investigators that he knew about the plan to rob the victim and actively participated in it.[6]

Sergeant John Gobel was the lead investigator in the case. During Gobel's testimony, the State asked him about the photo lineup he used when Brewer identified appellant as the shooter. (R.p.206, lines 17-22). The State asked Gobel to describe the lineup:

> A: There's six different photographs. Five of the photographs are just random people who have the same type of hair, the same facial build, similarities to the defendant, but are not the defendant. And then one photograph is that of the defendant, Travis Polite.
>
> Q: And when you were doing this, and let's not talk in generalities, when you did this lineup, did you infer to Mr. Brewer that he should pick out a particular person or not?
>
> A: No, sir. When—during this interview, Mr. Brewer identified the defendant that he saw as the shooter in this case and he called him by the name, Travi. He didn't use the name Travis Polite; he

[6] While the State maintained appellant pulled the trigger and committed the murder, the State also argued appellant could be found guilty under the theory of accomplice liability because there was sufficient evidence to show he actively participated in the crime, including appellant's own statements to investigators. (R.p.287, line 6-p.288, line 13). The trial judge agreed and charged the jury on accomplice liability. (R.p.322, line 17-p.324, line 11).

> used Travi. We are familiar with that street name or nickname, as—we commonly know folks by their street names.

(R.p.206, line 23-p.207, line 14). Defense counsel objected and a bench conference was held off the record. (R.p.207, lines 15-19). The trial judge sustained counsel's objection, ordered Gobel's last statement stricken from the record, and instructed the jury to disregard the statement. (R.p.207, lines 20-23). Gobel continued to testify regarding Brewer's identification of appellant as the shooter, as well as appellant's subsequent statements to law enforcement. (R.pp.208-17). Following Gobel's testimony, the State called multiple additional witnesses prior to the end of its case, while the defense rested without calling any witnesses. (R.pp.2-4; p.255, line 25-p.256, line 1; p.268, lines 4-5).

Prior to closing arguments, defense counsel put on the record his reason for objecting to the reference to appellant's nickname, or street name. (R.p.257, line 21-p.258, line 6). Counsel asserted the trial judge's curative instruction was insufficient because the investigator's familiarity with appellant was already in the minds of the jurors and could be used "as some type of evidence." (R.p.258, line 6-p.259, line 10). However, counsel acknowledged that the judge sustained his objection at the time and "went further" with his instruction to disregard the statement. (R.p.259, lines 11-16). Moreover, during the jury charge, the judge reminded the jurors, "You are to consider only the competent evidence before you. And if there was any testimony ordered stricken from the record during the trial, you must disregard that testimony." (R.p.313, lines 10-13).

Following jury instructions, defense counsel made his first motion for a mistrial—but **only** in reference to a statement made by the solicitor during his closing argument.[7] (R.p.326,

[7] During the State's closing argument, defense counsel objected to an image the solicitor used with a reference to one of appellant's statements to investigators. (R.p.283, lines 10-23). The

line 25-p.327, line 6). Specifically, defense counsel argued the statement was a prejudicial error such that "no instruction [was] going to pull that horse back into the barn." (R.p.328, lines 2-7). The solicitor maintained a mistrial was not "a manifest necessity" because defense counsel could not demonstrate sufficient prejudice where the solicitor had used evidence previously admitted at trial to make a point during his closing argument. (R.p.328, line 19-p.329, line 15). The trial judge ultimately denied defense counsel's motion for a mistrial stating, "I didn't see anything that appeared to be inaccurate, I don't see the prejudice to you." (R.p.330, lines 10-18).

Following the guilty verdict on the charges of murder and armed robbery, defense counsel renewed his motion for a mistrial made in reference to the closing argument, which the trial judge again denied. (R.p.350, lines 11-22).

Discussion:

Appellant's Argument is Procedurally Barred

To begin, respondent submits appellant's argument that the trial judge erred in denying appellant's motion for a mistrial following a reference to appellant's nickname during Sergeant John Gobel's testimony is procedurally barred. Our courts have been clear in holding if a trial judge sustains a timely objection to testimony and gives the jury a curative instruction to disregard the testimony, any error in admitting the evidence is deemed to be cured. *State v. George*, 323 S.C. 496, 510, 476 S.E.2d 903, 911-12 (1996) (citations omitted). Our courts have also been clear that an issue is not preserved for appellate review if the objecting party accepts the judge's ruling sustaining his objection and does not contemporaneously make an additional objection to the sufficiency of the curative charge or move for a mistrial. *George*, 323 S.C. at 510, 476 S.E.2d at 912.

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trial judge sustained defense counsel's objection and the solicitor continued with his closing argument. (R.p.283, line 24-p.284, line 6).

Here, defense counsel timely objected to Sergeant Gobel's reference to appellant's nickname, the trial judge sustained that objection, and immediately told the jury to disregard the statement. (R.pp.206-07). Counsel did not make an additional objection to the sufficiency of the curative charge and, despite appellant's contention, the record clearly shows counsel did not move for a mistrial at that time. (R.p.207). Moreover, counsel later acknowledged his acceptance of the judge's ruling sustaining his objection. (R.p.259). The record plainly shows the only motion for a mistrial made at trial was in reference to the State's closing argument and **not** following the reference to appellant's nickname during Gobel's testimony. (R.pp.326-30); *see also George*, 323 S.C. at 510, 476 S.E.2d at 912 (holding an issue is not preserved for appellant review if an objecting party fails to contemporaneously object to the sufficiency of the curative charge or move for a mistrial). Accordingly, appellant's current argument is not preserved for review by this Court.

Appellant's Argument Fails on the Merits

Regardless, even if the Court were to find appellant's argument is not procedurally barred, respondent submits the argument fails on the merits because the reference to appellant's nickname was not improper character evidence and did not create sufficient prejudice to warrant a mistrial.

Generally, evidence of a defendant's character is not admissible to prove the defendant has a criminal character or a propensity to commit the crime for which he was charged. Rule 404, SCRE; *State v. Brown*, 344 S.C. 70, 73, 543 S.E.2d 552, 554 (2001); *State v. Nelson*, 331 S.C. 1, 6, 501 S.E.2d 716, 719 (1998). Moreover, the State cannot attack the character of the defendant unless the defendant first places his character in issue. Rule 404(a), SCRE. However, it is well settled that evidence of other crimes or bad acts may be admissible to prove the crime

charged if the evidence tends to establish: (1) motive; (2) identity; (3) the existence of a common scheme or plan; (4) the absence of mistake or accident; or, (5) intent. Rule 404(b), SCRE; *State v. Stokes*, 279 S.C. 191, 193, 304 S.E. 814, 814-15 (1983); *State v. Lyle*, 125 S.C. 406, 406, 118 S.E. 803, 807 (1923).

The decision whether to grant or deny a mistrial is within the discretion of the trial judge and will not be reversed absent an abuse of discretion amounting to an error of law. *State v. Herring*, 387 S.C. 201, 216, 692 S.E.2d 490, 498 (2009); *State v. Harris*, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000). Our courts favor the exercise of wide discretion of the trial judge in determining the merits of such a motion in each individual case. *State v. Howard*, 296 S.C. 481, 483, 374 S.E.2d 284, 285 (1988). "It is only in cases of abuse of discretion which result in prejudice that [the appellate court] will intervene and grant a new trial." *Id.*

A mistrial should not be granted except in cases of manifest necessity and granted only with the greatest caution and for very plain and obvious reasons. *State v. Wasson*, 299 S.C. 508, 510, 386 S.E.2d 255, 256 (1989); *see also State v. Council*, 335 S.C. 1, 13, 515 S.E.2d 508, 514 (1999) (noting a trial judge should exhaust other methods to cure possible prejudice before ordering a mistrial). The grant of a motion for a mistrial is an extreme measure which should be taken only where an incident is so grievous that the prejudicial effect can be removed no other way. *State v. Beckham*, 334 S.C. 302, 310, 513 S.E.2d 606, 610 (1999); *see also State v. Patterson*, 337 S.C. 215, 226-27, 522 S.E.2d 845, 851 (Ct. App. 1999) (stating the factors to be considering in ordering a mistrial include the character of the testimony, the circumstances under which it was offered, the nature of the case, and the other testimony presented). Because a mistrial should only be granted when absolutely necessary, a defendant must show both error and resulting prejudice in order to be entitled to a mistrial. *Council*, 335 S.C. at 12, 515 S.E.2d at

514 (citations omitted). The materiality and prejudicial character of the error must be determined from its relationship to the entire case and a review of the record. *State v. Mitchell*, 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985).

Here, Sergeant Gobel was testifying about the photo lineup that Antonio Brewer used to identify appellant as the shooter, and Gobel stated he was familiar with appellant's nickname of "Travi." (R.pp.206-07). It was a single reference by one witness, unsolicited by the State, and no other witnesses were asked to testify regarding their knowledge of appellant's nickname. Therefore, respondent submits the reference was not an attempt by the State to introduce improper character evidence. *See* Rule 404 (evidence of other crimes is not admissible to prove the defendant has a criminal character). The nickname does not suggest criminal behavior, but is a clear derivative of the name "Travis."[8] Out of an abundance of caution, the trial judge sustained defense counsel's objection to the reference and instructed the jury to disregard Gobel's statement, and the judge further reminded the jurors of that duty to disregard the testimony in his charge following closing arguments. (R.p.207; p.313).

Respondent further submits it is questionable whether the jury understood the connection between a spontaneous statement by an investigator about his familiarity with appellant's nickname and a possible criminal record. Such a vague reference to potential prior bad acts did not create sufficient prejudice to justify a mistrial where the State did not attempt to introduce

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[8] Other jurisdictions have also found the use of a defendant's nickname is not improper character evidence, and therefore not prejudicial, if being used to fully identify the defendant. *See United States v. Brown*, 5 F.Supp.3d 786, 790 (E.D. Va. 2014) (holding the use of the defendant's nickname of "Doom" did not improperly imply the defendant had a violent character, when used to identify him as the man who received and sent text messages and not as evidence of prior bad acts); *Harrison v. State*, 32 N.E.3d 240, 257 (Ind. Ct. App. 2015) (finding the use of a nickname may be relevant to the issue of identity, and the use of the defendant's name of "Bam Bam" did not wrongfully imply criminality); *cf. United States v. Williams*, 739 F.2d 297, 299 (7th Cir. 1984) (finding the use of the defendant's nickname of "Fast Eddy" is impermissible when used only to demonstrate the defendant has some sort of reputation for "unsavory activity").

additional evidence of appellant's criminal history. *See Council*, 335 S.C. at 11-13, 515 S.E.2d at 513-14 (holding a witness's isolated testimony regarding fingerprint comparison was not so prejudicial to warrant a mistrial because it was questionable whether the jury connected the testimony with the defendant's past criminal activity); *George*, 323 S.C. at 510-11, 476 S.E.2d at 911-12 (stating defendant's possible involvement in past drug deals was merely suggested and no testimony was presented concerning such behavior); *see also State v. Thompson*, 352 S.C. 552, 561-62, 575 S.E.2d 77, 82-83 (Ct. App. 2003) (finding a deputy's single reference to past warrants did not constitute sufficient prejudice to justify a mistrial because there was no indication the warrants related to past charges, and the jury could have inferred they related to the case it was currently considering). The record demonstrates the State did not attempt to solicit knowledge of appellant's nickname or potential past crimes from other witnesses who testified at trial and the trial judge's instruction to the jury to disregard the reference to the nickname cured any possible prejudice. *See George*, 323 S.C. at 510, 476 S.E.2d at 911 (holding if a trial judge sustains a timely objection to testimony and immediately gives the jury a curative instruction, any error or prejudice in admitting the evidence is deemed to be cured).

Additionally, respondent submits the reference to appellant's nickname was not unduly prejudicial considering the overwhelming evidence of appellant's guilt presented at trial. *See Council*, 335 S.C. at 12, 515 S.E.2d at 514 (holding a defendant must show both error and resulting prejudice to be entitled to a mistrial). It is unlikely the reference contributed to the jury's guilty verdict when an examination of the record shows the State also admitted and the jury considered: (1) testimony from multiple witnesses who saw appellant at the scene of the shooting, including one who saw him running from the scene with a gun in his hand; (2) testimony from the owner of the mobile home who actually saw appellant pull the trigger and

picked appellant out of a photo lineup; (3) an inculpatory statement from appellant in which he admitted to participating in the armed robbery and gave details of the crime; and, (4) the testimony of multiple investigators who interviewed appellant. *See Mitchell*, 286 S.C. at 573, 336 S.E.2d at 151 (stating the prejudicial character of an error must be determined from its relationship to the entire case).

Accordingly, the vague reference to appellant's past interactions with law enforcement through an investigator's unsolicited use of appellant's nickname was not so prejudicial to justify a mistrial because it could not have contributed to the verdict. *See Beckham*, 334 S.C. at 310, 513 S.E.2d at 610 (holding a mistrial is an extreme measure which should only be used when prejudice is so grievous it can be removed no other way); *Wasson*, 299 S.C. at 510, 386 S.E.2d at 256 (a mistrial should be granted only in cases of manifest necessity). Further, the trial judge's curative instruction immediately following the reference to appellant's nickname and the judge's subsequent reminder during the jury charge to disregard the testimony were the appropriate actions to take in lieu of the severe measure of a mistrial. *See Council*, 335 S.C. at 13, 515 S.E.2d at 514 (noting a trial judge should exhaust other methods to cure possible prejudice before ordering a mistrial). Therefore, respondent submits the trial judge did not abuse his broad scope of discretion and appellant's argument is without merit.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgments, convictions, and sentences of the trial court should be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

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TRAVIS ABE POLITE,

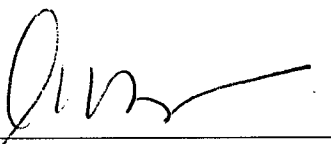
Appellant.

Appellate Case No. 2015-000182

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, Order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 20th day of April, 2016.



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STATE OF SOUTH CAROLINA
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THE STATE,

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TRAVIS ABE POLITE,

Appellant.

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CERTIFICATE OF SERVICE

I, Sherrie Butterbaugh, counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance on Appellant by depositing three (3) copies of the same via U.S. mail, first class, postage prepaid to his attorney of record, Laura R. Baer, Esq., SCCID/Division of Appellate Defense, 1330 Lady St., Ste. #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 20th day of April, 2016.

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ATTORNEY GENERAL

RECEIVED
APR 20 2016
SC Court of Appeals

April 20, 2016

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

Re: The State v. Travis Abe Polite
Appeal from Beaufort County
Appellate Case No. 2015-000182

Dear Ms. Kitchings:

Enclosed for filing in your office is the original and nine (9) copies of the Final Brief of Respondent in the above-referenced case, together with Certificate of Compliance and Certificate of Service.

Thank you for your assistance in this matter.

Sincerely,

Sherrie Butterbaugh,
Assistant Attorney General

SB:dmd
Enclosures
cc: Laura R. Baer, Esq. (w/three copies of encls.)
The Honorable Isaac McDuffie Stone, Solicitor, 14th Judicial Circuit (w/copy of encls.)
Trisha Allen, Victim Services (w/copy of encls.)