

STATE OF SOUTH CAROLINA
In The Supreme Court

On Writ of Certiorari to the Court of Appeals
Appeal from Abbeville County
Court of General Sessions

The Honorable Donald B. Hocker, Circuit Court Judge

Opinion No. 2016-UP-436 (S.C. Ct. App. filed 12/23/15)
Appellate Case No. 2017-000230

THE STATE,

RESPONDENT,

v.

KEITH DENVER TATE,

PETITIONER.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

V. HENRY GUNTER, JR.
Assistant Attorney General
SC Bar No. 102259

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

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit

Post Office Box 516
Greenwood, SC 29648
(864) 942-8800

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS i

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE2

ARGUMENT3

 ISSUE I..... 3

 ISSUE II.....7

 ISSUE III.....17

CONCLUSION29

STATEMENT OF ISSUES ON APPEAL

- I. The Court of Appeals properly declined to apply State v. Beaty, Op. No. 27693 (S.C. Sup. Ct. filed Dec. 29, 2016) (Shearouse Adv. Sh. No. 1 at 13-21) in Petitioner's case because Beaty expressly states it applies only to cases tried after the opinion. Further, the trial judge's decision to follow the established procedure of allowing the prosecution to open its closing argument on the law and argue last on the facts did not violate Petitioner's constitutional rights to a fair trial and due process of law.

- II. The Court of Appeals properly found the trial judge did not err in denying the defense's motion for a mistrial where the victim's emotional state throughout the trial did not constitute the requisite manifest necessity to warrant the declaration of a mistrial.

- III. The Court of Appeals properly found the trial judge did not err in refusing to allow Defense Counsel to elicit testimony that Victim had photographs of her boyfriend's genitals on her phone where Petitioner was still able to effectively argue that the photographs provided a motive for Victim to fabricate the allegations, the evidence was inadmissible under the Rape Shield Law, and the evidence was inadmissible under Rule 401, SCRE, and Rule 403, SCRE, as the evidence was irrelevant and any potential probative value of the evidence was substantially outweighed by the evidence's potential for unfair prejudice.

STATEMENT OF THE CASE

Legal History

Petitioner was indicted at the February 2011 term of the Abbeville County Grand Jury for nine counts of second-degree criminal sexual conduct with a minor (2011-GS-01-45-2011-GS-47; 2011-GS-01-49-2011-GS-01-54). Petitioner proceeded to a trial by jury from May 27-29, 2014, in Abbeville, South Carolina. At the conclusion of trial, Petitioner was found guilty of one count of second-degree criminal sexual conduct with a minor (2011-GS-01-46) and acquitted of the remaining counts. He was sentenced by the Honorable Donald B. Hocker to imprisonment for a period of sixteen years.

On October 19, 2016, the South Carolina Court of Appeals affirmed Petitioner's conviction and sentence. State v. Tate, Op. No. 2016-UP-436 (S.C. Ct. App. filed October 19, 2016). Petitioner petitioned for rehearing on November 3, 2016. On December 14, 2016, the Court of Appeals denied the petition for rehearing and attached a substituted opinion that affirmed Petitioner's conviction and sentence. Petitioner filed a second petition for rehearing on December 29, 2016. Petitioner's second request for rehearing was denied on January 10, 2017. Petitioner timely submitted a Petition for Writ of Certiorari, and this Return follows.

Factual History

The State hereby incorporates by reference the Statement of Facts from the Final Brief of Respondent.

ARGUMENT

- I. **The Court of Appeals properly declined to apply State v. Beaty, Op No. 27693 (S.C. Sup. Ct. filed Dec. 29, 2016) (Shearouse Adv. Sh. No. 1 at 13-21) in Petitioner's case because Beaty expressly states it applies only to cases tried after the opinion. Further, the trial judge's decision to follow the established procedure of allowing the prosecution to open its closing argument on the law and argue last on the facts did not violate Petitioner's constitutional rights to a fair trial and due process of law.**

Relevant Facts

Prior to closing arguments, Defense Counsel informed the trial judge she had a motion about the order of closing. ROA. p. 194. Defense Counsel noted she also had a written motion in support of her argument. ROA. p. 284. In presenting her motion, Defense Counsel argued:

But the only thing I would add is that if this is - - if this is the way it's done in civil cases where you're not dealing with somebody's constitutional rights, and that's the way it's done, then that's the process that needs to be used in criminal cases where the State has the burden of proof beyond a reasonable doubt. The standard of proof is higher. There are constitutional rights implicated, and for all those reasons we think that this practice of allowing it the way it's been done needs to change.

ROA. p. 286. The trial judge denied the defense's motion. ROA. p. 286. Following closing arguments by both the State and the defense and the judge's instructions to the jury, Defense Counsel noted several things in the State's closing argument that she claimed she would have responded to had she been able to have the last argument. ROA. p. 340.

Discussion

Petitioner contends the Court of Appeals erred in failing to address the applicability of State v. Beaty, Op. No. 27693 (S.C. Sup. Ct. filed Dec. 29, 2016) (Shearouse Adv. Sh. No. 1 at 13-21), to Petitioner's case. Specifically, Petitioner asserts this Court should grant certiorari to review this issue because the decision of the Court of Appeals is in conflict with the Beaty decision. Petitioner identified several comments made by the State during closing argument he

wanted to respond to and avers that his inability to respond to the Solicitor's comments constitute a deprivation of his right to a fair trial and due process of law. Petitioner thus contends the order of closing arguments was not harmless, as it was found to be in Beaty. To the contrary, the Court of Appeals properly declined to apply Beaty because the Beaty opinion expressly states the rule applies only to cases tried "after this opinion becomes final." As of the date of the State's Return, the State's petition for rehearing is still pending in Beaty, thus Beaty is not even final. The trial judge's decision to follow the decades-long procedure of allowing the prosecution to open its closing argument on the law and argue last on the facts did not violate Petitioner's constitutional rights to a fair trial and due process of law.

In State v. Beaty, Beaty argued the trial judge erred in failing to require the State to open fully on the law and facts in its closing argument, and to limit the State's reply to matters raised in Beaty's "middle" closing argument. Beaty asserted without such a rule, his procedural due process rights were violated. This Court found that "in a criminal trial where the party with the right to middle argument requests, the party with the right to the first and last closing argument must open in full on the law and the facts, and in reply may respond in full to the other party's argument but may not raise new matter." The Court subsequently held that after reviewing the State's arguments, any error in the trial judge's denial of the motion was harmless in Beaty's case. This Court concluded by stating:

Further, we hold that in criminal cases tried **after this opinion becomes final**, if requested by the party with the right to second argument, the party with the right to open and close will be required to open in full on the law and the facts, and be limited in reply to addressing the other party's argument and not permitted to raise new matters.

(emphasis added).

Accordingly, since Beaty plainly confines its holding to cases tried after it, Petitioner's assertion that the decision of the Court of Appeals in this case conflicts with Beaty is simply incorrect. The trial in this case was years before the Beaty decision, and as of the date of this Return, the State's petition for rehearing in Beaty has not been denied, thus the Beaty decision has not yet become final. Since the Beaty opinion is applicable only to cases tried after the opinion becomes final, the Court of Appeals did not err in declining to apply it to Petitioner's case.

Moreover, even if Beaty and its analysis applied in Petitioner's case, the Court should similarly conclude that any error in the trial judge denying his motion to require the State to open in full was harmless. In order for the trial judge's decision to follow the then-established order of closing arguments to be prejudicial, it must have made a difference in the jury's verdict. See Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005) (holding that in order to demonstrate prejudice, there must be a "reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof."). Petitioner can make no such showing in this case. Petitioner points to five specific statements by the Solicitor as proof he suffered harm as a result of the Court's ruling. At trial, Petitioner proffered what response he would have made to those five statements if given the opportunity.

First, Petitioner takes issue with the Solicitor's statement to the jury that, "Defense Counsel wasn't there and can't tell you what happened." ROA p. 340. Petitioner states "The obvious response would be that the prosecutor was not there either." Pet. for Writ of Certiorari p. 9. Second, Petitioner takes issue with a personal story relayed by the Solicitor where he discussed forgetting details like what clothing he wore during a traumatic event. ROA. P. 340. Petitioner would have liked to argue that the case was not about clothing and that clothing paid

almost no role in the evidentiary presentation in the case. Third, Petitioner argues the Solicitor made an “absolute misrepresentation to the jury about the DNA evidence.” ROA. p. 340. Fourth, Petitioner contends the Solicitor made a misrepresentation when stating there was no dispute about Victim telling her boyfriend about the assaults a month and a half before, but Victim earlier testified she could not remember when she told her boyfriend about the assaults. ROA. p. 341. Fifth, Petitioner avers he was prejudiced when the Solicitor stated during his closing “how glad he was to be on this side and that his ethical obligations were different.” ROA. p. 341. Defense Counsel wanted the chance to tell the jury he defended a child sexual abuse case in the Eighth Circuit earlier this year and got an acquittal, and also defended a child sexual abuse case in another circuit.

These five statements do not present the kind of prejudice that would influence the jury’s verdict. All of the complained of comments either deal with factual discrepancies or a desire for petty sniping between Defense Counsel and the Solicitor. None of the comments garner sufficient prejudice to deny Petitioner any constitutional right. The allegations that the Solicitor mischaracterized or misstated evidence is further harmless because the trial judge, as is done in all criminal cases, repeatedly instructed the jury that they were the fact finders in the case. The jury also understood that arguments made by counsel were not evidence because the trial judge further instructed them that “You are to consider only the testimony which has been presented from the witness stand any exhibits which have been made a part of the record in this case and any stipulations of counsel.” ROA p. 330. Therefore any alleged error in this case, as it was in Beaty, is clearly harmless. This Court should deny certiorari.

II. The Court of Appeals properly found the trial judge did not err in denying the defense's motion for a mistrial where the victim's emotional state during the trial did not constitute the requisite manifest necessity to warrant the declaration of a mistrial.

Relevant Facts

During the defense's opening argument, Victim became visibly upset. Defense Counsel briefly paused and told the court, "Your honor, it looks like – it looks like [Victim] is upset and I don't want that to distract the jury." ROA. p. 9. The judge briefly spoke with both lawyers at the bench before Defense Counsel continued her opening arguments. ROA. pp. 9-10. Victim's emotional state came about shortly after Defense Counsel referred to her as a story teller akin to Stephen King or James Patterson. ROA. pp. 8-9. During the next recess, the judge noted for the record that Victim became upset during the Defense's opening statement. ROA. p. 28. The trial judge noted the court "has no problem with that, but if that's still a recurring problem then I think we ought to agree that she needs not to be in the courtroom because of the potential nature it has to be disruptive. So just as a cautionary matter." ROA. p. 28.

On direct examination, Victim became emotional while describing the first instance of sexual assault by Petitioner. ROA. p. 84. The Solicitor asked if Victim would like to take a break and she indicated that she would. ROA. p. 84. After the jury exited the courtroom, the Solicitor asked the court how it would like to handle Victim's testimony during the spells where she became emotional. ROA. pp. 84-85. The trial judge replied:

Well, evidently it's very difficult for her to testify. She's just going to have to - - she's going to have to do the best job she can and, you know, we'll just have to, you know, muddle our way through it. Possibly you could, without discussing her testimony, just maybe talk with her, and she's going to have to, you know, try to - - you know, try not to be emotional. Easy for me to say.

ROA. p. 85.

The judge instructed Victim, "I know this is difficult for you to testify. I understand that. But it's really important that you do the very best that you can and there is a lot to cover in questions that will be asked of you. So you just need to do the very best that you can so we can get through your testimony." ROA. p. 85. Victim was able to get through the remainder of her direct testimony without any more periods where she was visibly emotional.

During the lengthy cross-examination by Defense Counsel, Victim indicated that she did not want to keep talking about the incident. ROA. p. 155. When asked by Defense Counsel whether she could keep going, Victim requested a break. ROA. p. 155. After Victim stepped down from the witness stand, the trial judge told the solicitors, "I realize she's emotional. I understand that. But I don't want this - - and this is - - I'm not commenting on - - but it's being disruptive. Okay? So I want both of you all to go out there and talk to her." ROA. p. 155. After a brief recess, prior to the jury returning to the courtroom, the trial judge stated:

I don't want any perception of anyone to think that I'm not being unsympathetic. But I've got to maintain decorum in this courtroom. And regardless of the nature of the allegations and the emotions involved and everything, I've still got to maintain decorum, and I just can't tolerate the witness storming out of the courtroom in the manner in which she did. I think the vast majority, if not all of the jurors, were back in the courtroom, or most of them at least were back in there when that took place. But I just - - and I hope both Solicitors have talked with her. And I know this has not been an easy experience for this witness to be testifying. But nonetheless, she's got to be aware that we can't allow that sort of conduct.

ROA. p. 156.

Defense Counsel moved for a mistrial, asserting that it was warranted "because of the pretty extreme display of emotion that was going on while [Victim] was sobbing as the jury left the jury box and while the door back there behind the jury box was still open she started yelling out for her mother . . ." ROA. p. 157. The trial judge denied the defense's motion, ruling:

In light of the fact that we've had a lot of emotion displayed by this witness throughout her testimony, a lot of crying, I think she's gone through a good many Kleenexes. We have had to take a break or two. I think in light of that then I don't see where that necessarily would create the type and amount of prejudice, if any. But certainly not the amount and type of prejudice that would justify a pretty severe remedy of declaring a mistrial. So I'm going to deny it.

ROA. p. 158. The trial judge later noted "[T]his is just inherent in a case like this that there is going to be a lot of emotion." ROA. p. 159. The trial judge further stated, "We may have some other witnesses get very emotional, too, when it's all said and done in this case. I don't know that. But taking everything into consideration I don't think the justification is there to grant a mistrial." ROA. p. 159. Defense counsel did not request a curative instruction at any point in the proceeding.

During her closing argument, Defense Counsel highlighted Victim's emotional state in order to further her assertion that Victim was a "storyteller," stating:

They're calling him a child molester. So yes, he gets to have an advocate who gets up and says that's a story. That is not true. And if it really isn't true, is it worse to be called a storyteller than it is to be called a child molester? The first time you see [Victim's] emotional reaction is when I was giving you my opening statement and telling you how I was going to be talking about these different versions of her story. And when she knew that was going to happen she got upset. And you can interpret that, I guess one of two ways. She was crying because what happened to her was so horrible and she doesn't like having to go through it again or she's crying because somebody is pointing out the problems with the things she's saying and the reason that you shouldn't believe it, and that - - and that is difficult for her. And there may be other ways to interpret it. I don't know.

ROA. p. 308.

During the State's closing argument, the Solicitor noted the heinous nature of sexual abuse crimes involving the parent of a child and stated, "And I can't imagine the emotional trauma of coming in here and having to talk about it four years later." ROA. p. 320. The Solicitor

then told the jury that one of the greatest tasks before them as jurors in these case was to judge credibility. ROA. pp. 320-321. The Solicitor stated:

And the one thing you got is you get to judge the demeanor of the people in the courtroom. Their manner, their body language, how they testified to you. You saw the raw emotion of that young lady. You saw her to say to Ms. Nelson (Defense Counsel), I don't want to think about it. You're making me go back and back through and I don't want to think about it. I don't want to relive it. Don't you understand that. That's what this child said to this lady. Now, I understand as a grown attorney, having done this over and over again, maybe it's not a big deal. To that child, it was a very, very big deal.

ROA. p. 321. The Solicitor later noted "You look at what those witnesses said and you decide if you're convinced this man did penetrate that child. Was that a emotion you watched real. Because if she's made all this up and she's put on that kind of act, she deserves an Academy Award, because that was compelling." ROA. p. 324.

Discussion

Petitioner asserts the trial judge erred in refusing to declare a mistrial due to Victim's shows of emotion during trial. Specifically, Petitioner contends the show of emotion by Victim disrupted the trial and improperly influenced the jury to decide the case on emotion. The State submits this argument is without merit, as the trial judge properly denied the motion for a mistrial where there was no showing of manifest necessity to warrant the declaration of a mistrial.

"The decision to grant or deny a mistrial is within the sound discretion of the trial court. The trial court's decision will not be overturned on appeal absent an abuse of discretion amounting to an error of law." State v. Wilson, 389 S.C. 579, 585, 698 S.E.2d 862, 865 (Ct. App. 2010) (citation and quotation marks omitted). Our courts favor the exercise of wide discretion of the trial judge in determining the merits of such motion in each individual case.

State v. Howard, 296 S.C. 481, 483, 374 S.E.2d 284, 285 (1988). The granting of a motion for mistrial is an extreme measure that should be taken only when the incident is so grievous the prejudicial effect can be removed in no other way. State v. Beckham, 334 S.C. 302, 310, 513 S.E.2d 606, 610 (1999). “A mistrial should only be granted when ‘absolutely necessary,’ and a defendant must show both error and resulting prejudice in order to be entitled to a mistrial.” State v. Stanley, 365 S.C. 24, 34, 615 S.E.2d 455, 460 (Ct. App. 2005). “The less than lucid test is therefore declared to be whether the mistrial was dictated by manifest necessity or the ends of public justice.” State v. Prince, 279 S.C. 30, 33, 301 S.E.2d 471, 472 (1983).

South Carolina Courts have repeatedly found displays of emotion to be insufficient grounds for a mistrial. In State v. Anderson, 322 S.C. 89, 470 S.E.2d 103 (1996), the South Carolina Supreme Court was faced with the question of whether a mistrial was warranted where the victim’s sister had an emotional outburst while on the witness stand. Specifically, when asked to identify the defendant in the case, she addressed the defendant, stating, “Why, Shawn? Why did you do it? ... He didn't have to take her life.” Id. at 90. The judge immediately sent the jury away from the courtroom and called a short recess. Id. at 90-91. The Court found the trial judge did not abuse his discretion in declining to declare a mistrial. The Court stated, “Given that the trial judge was in the best position to assess the degree to which the jury may have been prejudiced by the outburst, he did not abuse his discretion in denying Anderson's mistrial motion.” Id. at 93. The Court emphasized the fact that the judge dismissed the jury and called a recess as soon as the outburst occurred in order to give the witness time to calm down. Id. The Court also opined the jury likely understood the witness’s outburst as an expression of grief over the death of her sister. Id. Finally, the Anderson Court noted that a

curative instruction was unnecessary in the case and would have actually called the jury's attention to the issue and increased the risk of unfair prejudice to the defendant. Id. at 94.

In reaching its decision that a mistrial was not warranted in the case, the Anderson Court cited the opinion of the South Carolina Supreme Court in State v. Wagstaff, 202 S.C. 443, 25 S.E.2d 484 (1943). In Wagstaff, the mother of a rape victim was testifying at the trial of the alleged rapist. At the conclusion of her testimony, the mother rushed toward the defendant screaming, "I could tear your eyes out." After noting the general rule that a court should grant a mistrial only when there is "manifest necessity" to do so, the Court stated:

We believe the jury could readily understand that the witness in question might have a hostile attitude toward the accused, because of the natural effect of the circumstances on her emotions, although there was nothing whatever in her testimony tending to show his guilt, and hence her attitude was based solely upon the testimony of others. . . . When all the circumstances of the instant case are considered we believe it is clear that even if a motion for a mistrial had been made the trial Judge would not have been justified in granting it, in the proper exercise of his discretion. There was certainly no manifest or absolute necessity for such action.

Id. at 453-54.

In State v. Hughes, 336 S.C. 585, 521 S.E.2d 500 (1999), the victim's mother and aunt loudly stormed out of the courtroom during the cross examination of the defense medical expert. Id. at 596. The South Carolina Supreme Court found that the trial judge did not abuse his discretion in denying the defense's motion for a mistrial. Id. at 597. The Court referenced Anderson, noting that as in Anderson, the jury was already aware of the mother's feelings about the death of her son and likely understood her outburst as an expression of this grief. Id.

In State v. Jones, 325 S.C. 310, 479 S.E.2d 517 (Ct. App. 1996), this Court dealt with a situation where there was audible crying by spectators during the victim's testimony. The

defense moved for a mistrial. Id. at 316. The trial judge stated he did not believe any displays of emotion thus far could have tainted the jurors. Id. However, as a precaution he cleared the courtroom of everyone except the press and the victim's father for the remainder of her testimony. Id. In order to explain to the jury why the courtroom was suddenly emptier, the trial judge informed the jury that the courtroom had been cleared due to the display of emotion by observers. The judge cautioned the jurors that they were not to draw any inferences from this fact and that they were to render their verdict based on the testimony and evidence presented at trial. Id. This Court found that the trial judge did not abuse his discretion in denying the defense motion for a mistrial. Id. at 318. While Jones demonstrates the deference given to trial judges by appellate courts, it is distinguishable from the current case in that the trial judge elected to clear the courtroom and provide a curative instruction. However, a curative instruction was necessary in the case because the jury undoubtedly had significant questions about why they were returning to a nearly empty courtroom. In the current case, there were no major changes, like the emptying of a courtroom that would necessitate an instruction to the jury.

All of the aforementioned cases demonstrate the view of South Carolina appellate courts that a mistrial is an extreme measure that should only be used in the most grievous situations. The show of emotion by Victim in the current case was not of the extreme nature that would warrant the declaration of a mistrial. Victim's occasional bouts of crying and single instance where she called out for her mother are no more severe than the situations dealt with by the courts in Anderson, Wagstaff, Hughes, and Jones. Furthermore, there was no accompanying testimony like in Anderson and Wagstaff, where the parties who had an emotional outburst directly addressed towards the defendant.

The trial judge also limited any potential prejudicial effect of Victim's emotion. As in Anderson, the trial judge called a recess during both the direct examination and cross-examination of Victim when she began to get emotional in response to questioning. These brief recesses gave the witness time to calm down and limited the amount of crying seen by the jury. Therefore, the three occasions where Minor began crying were simply not enough to justify the declaration of a mistrial. Minor's occasional crying and calling for her mother did not prejudice the defense to the point where there was manifest necessity to terminate the proceeding.¹

Petitioner repeatedly notes a curative instruction was not given in the case; however no curative instruction was ever requested by the defense. Furthermore, as in Anderson, a curative instruction was not necessary and arguably would have prejudiced the defense by calling the jury's attention to the issue.

Courts in other states have also found emotional behavior akin to that shown by Victim in this case to be insufficient grounds for a mistrial. While Anderson, Wagstaff, Hughes, and Jones demonstrate great deference by South Carolina appellate courts to the trial judge's finding that a mistrial was unnecessary and an attitude that mistrials are reserved for only the most extreme and prejudicial situations, they do not deal directly with a situation where the victim had an

¹ Petitioner's assertion that the Solicitor instructed the jury to decide the case on emotion is simply not correct. Petitioner argued that the jury heard from a "wound up" Solicitor in closing that Victim's raw emotion was proof that she was telling the truth. Petitioner also attempts to argue that the Solicitor instructed the jury to use the emotion of a witness to form the basis for its verdict. Pet. for Writ of Certiorari p. 23. The Solicitor was simply reminding the jury that one of its core functions was to judge the credibility of witnesses. This is consistent with the trial judge's later instruction to the jury, "Necessarily, you must determine the credibility of witnesses who have testified in this case . . . You may also consider the appearance and manner of a witness while on the witness stand." ROA. p. 334. This instruction is fully consistent with the model good character jury instruction contained in the most recent version of the South Carolina Judicial Department's general sessions bench book. See 2015 Suggested General Sessions Jury Instructions, <http://www.sccourts.org/juryCharges/GSInstructions.2015.pdf>. Also, the Solicitor's mention during closing of Victim's "raw emotion" at trial was in response to Petitioner's closing, where Defense Counsel directly commented on Victim's emotion at trial and told the jury that her emotion could have been a reaction "to somebody is pointing out the problems with the things she's saying and the reasons that you shouldn't believe it." ROA. p. 308.

“emotional outburst” while on the witness stand. However, there is overwhelming out-of-state authority where courts have adjudged behavior similar to or more extreme than that shown by Victim to not warrant a mistrial.

In Young v. State, 422 S.E.2d 227, 228 (Ga. Ct. App. 1992), Young contended that the trial court erred in denying his motion for a mistrial after the victim began crying uncontrollably on three separate occasions during her testimony, necessitating breaks in the proceedings. The trial judge denied the mistrial motion, noting that although the victim had become emotional at times, these episodes in their entirety were not of such a consequence that it would deprive appellant of his right to a fair trial. Id. Young also complained that the trial judge did not give a curative instruction. Id. at 228-29. The Georgia Court of Appeals noted the appellant had not requested a curative instruction at trial. Id. at 29. “It is only where the accused would be denied a fair trial in the absence of corrective instructions that such must be given even in the absence of a request or a mistrial declared.” Id.

In Paige v. State, 627 S.E.2d 370, 373-374 (Ga. Ct. App. 2006). Paige asserted he received ineffective assistance of counsel where his counsel failed to move for a mistrial or request a curative instruction after the victim cried on the witness stand, requiring a recess to be taken. The victim started crying very hard when asked to identify the clothing she was wearing at the time of her attack. Id. The Georgia Court of Appeals determined the trial judge would not have abused his discretion in refusing to declare a mistrial, noting there was no evidence that she became hysterical or made any prejudicial comments. Id. Furthermore, trial counsel acknowledged that she was more composed after the recess. Id.

In Miller v. Com., 925 S.W. 2d 449, 453 (Ky. 1996) (overruled on other grounds by Garrett v. Com., 48 S.W. 3d 6 (Ky. 2001)), the victim broke into tears while on the witness stand

and was unable to continue testifying. A recess was granted during which time the victim left the courtroom in order to compose herself. Id. However, the victim's cries of "I don't want to. I don't want to," could still be heard in the courtroom. Id. The victim eventually returned to the stand where she testified without further difficulty. Id. The Kentucky Supreme Court found that the trial judge did not abuse his discretion in denying the motion for a mistrial, noting the trial judge was in the best position to ensure a fair trial and determine whether remedial measures were necessary. Id.

In State v. Newman, 283 So.2d 756, 758 (La. 1973), Newman contended the trial judge erred in refusing to grant a mistrial when a thirteen-year-old witness who identified him in a burglary case began hysterically crying while testifying at trial. The trial judge noted that the crying was not unexpected by the jurors in light of the age of the witness and the circumstances, and that in all probability it would happen again should the case be retried. Id. The Louisiana Supreme Court found the trial judge's denial of the mistrial motion to be proper. Id.

All of the above cases reinforce the trial judge's conclusion that Victim's shows of emotion at trial were not grounds to warrant a mistrial. The Miller case is nearly identical to the case at hand, as the victim's cries of "I don't want to" are very similar to Victim calling for her mother as the jury exited the courtroom. As the Miller Court noted, the trial judge is in the best position to ensure a fair trial and determine whether any remedial measure are necessary. The trial judge had the best view of the situation and limited any potential prejudice from Victim's crying by calling a recess during her spells of crying while on the witness stand. The conduct of a criminal trial is left largely to the sound discretion of the trial judge. State v. Barton, 325 S.C. 522, 529, 481 S.E.2d 439, 443 (Ct. App. 1997) (citing State v. Sinclair, 275 S.C. 608, 614, 274 S.E.2d 411, 414 (1981)). The trial judge, thus, did not abuse his discretion in refusing to declare

a mistrial, as the periods of emotion demonstrated by Victim were not of the extreme nature necessary to constitute manifest necessity for a mistrial. This Court should deny certiorari.

III. The Court of Appeals properly found the trial judge did not err in refusing to allow Defense Counsel to elicit testimony that Victim had photographs of her boyfriend's genitals on her phone where Petitioner was still able to effectively argue that the photographs provided a motive for Victim to fabricate the allegations, the evidence was inadmissible under the Rape Shield Law, and the evidence was inadmissible under Rule 401, SCRE, and Rule 403, SCRE, as the evidence was irrelevant and any potential probative value of the evidence was substantially outweighed by the evidence's potential for unfair prejudice.

Relevant Facts

Prior to trial, the Solicitor noted that in his Rule 5 disclosures, he accidentally released three photographs that were taken off a cell phone showing the genitals of a minor boy. ROA. p. 3. The Solicitor noted he should not have released them, as they would be improper to disclose, display, or disseminate in any form. ROA. p. 3. Defense Counsel agreed the photographs should not have been disclosed to her. ROA. p. 86. Defense Counsel then stated, "It would not be my intention to try to introduce that photograph unless - - unless for some reason it - - the fact that they existed on this young lady's phone is disputed." ROA. p. 3. Defense Counsel continued, "And then, you know, if there was some way to describe them to the jury short of them seeing the actual images. But I - - you know it wouldn't be my desire to introduce them." ROA. p. 3. The trial judge then stated:

Well, if I understand what you're saying, you don't want to concede 100 percent at this stage that that you would not consider some sort of relevant evidence. And we'll just see how it goes. Quite frankly, I don't see where it would be relevant. But I'm not making any rulings on that . . . And if some reason the Defense feels like they want to have those introduced then we'll deal with that as an evidentiary matter.

ROA. p. 4.

During Mother's testimony, Defense Counsel began to ask whether Mother had discovered photographs of T.C. on Victim's phone. ROA. pp. 34-35. The Solicitor immediately objected and the judge sent the jury out of the courtroom so that the trial court could take up the matter of law. ROA. p. 35. The Solicitor argued:

I'm assuming, and I may have pulled the trigger too quick, the pictures the Defense is getting ready to ask about are the pictures that I advised the court about earlier which would have no relevance to the accusations of this crime, unless they're trying to put it in through some type of third party guilt, which clearly they haven't met the statutory requirements of that, or they're trying to go into some other alleged sexual activity by the child, which would be certainly objected under the Rape Shield law. And I can't imagine what other sense of relevance it may have.

ROA. p. 35.

Defense Counsel argued, "I think those photographs coming in on that phone at the time that they did go to a motive for why [Victim] would be saying these things about [Petitioner], because she got in trouble for the pictures being on her phone." ROA. p. 36. The Solicitor countered that the pictures were completely irrelevant and would certainly be more prejudicial than probative under Rule 403, SCRE. The trial judge asked counsel whether the photographs were received in conjunction with a text message or were the pictures simply in the phone's photo album. ROA. p. 36. The Solicitor clarified for the judge that the pictures were not received in conjunction with a text and were simply found on the phone. ROA. p. 37. There were no phone records tying the picture to one particular person. ROA. p. 37. The Solicitor disclosed that, from his own investigation, he discerned the pictures came from T.C. ROA. p. 37. The trial judge asked Defense Counsel:

Why do they have to know it's his private parts? I realize this is - - this is a case involving sexual allegations. I understand that. And that she has made allegations against the Defendant of sexual in nature. I understand that. But why does the jury

has to know that there are sexual pictures on her phone giving her the motive to fabricate these allegations?

ROA. p. 38. The Solicitor offered, "To give you a good example, Your Honor, let's say she was actually caught engaging in intercourse with [T.C.] and that was the basis for some discipline, the Rape Shield still applies. You can't get into you had sex with [T.C.] and that's why you got in trouble, isn't it." The Solicitor continued, "They couldn't do that. So why can they go into the fact that there was this picture on the phone?" ROA. p. 39. Defense Counsel maintained that the content of the pictures was relevant because it goes to motive and why the Victim could fabricate the allegations. ROA. p. 39.

The trial judge ruled:

I don't really see much of a difference in them seeing pictures or being told that there are pictures of his male private parts. I mean, they can - - if it's male private parts they can envision in their mind what the pictures show. I just don't - - I think you can certainly ask if there were pictures on the phone concerning [T.C.] that the mom disapproved of, but if he did, but I don't think we need to tell the jury that they are actually [T.C.'s] private areas. I don't think the jury needs to know that. I don't see where there's any relevance. You can still argue motive, because she got into trouble allegedly over these pictures on the cell phone. . . .But the jury is not going to know that there were pictures of his private area.

ROA. p. 40. The trial judge later continued, "I think motive can be established without the jury knowing that the pictures were of male genitalia. So the question is - - I guess the objection by the State is sustained." ROA. p. 42.

Following a proffer of Mother's testimony by the defense, the judge clarified the scope of what Defense Counsel could ask regarding the pictures, stating, "So the ruling is that nothing can be mentioned to the jury out of what the actual pictures show. Certainly the use of the word inappropriate, if that's the word of choice to describe the pictures. I'll allow that. But they will not be told actually what the pictures show." ROA. p. 44. Defense Counsel subsequently asked

Mother “And did there come a time when you saw at least one inappropriate photograph of [T.C.] on [Victim’s] phone?” ROA. p. 45. Mother responded that she had seen the photograph and talked to T.C.’s parents about it, who also agreed the picture was inappropriate. ROA. p. 45. Mother later testified that Petitioner was the one who made her aware of the inappropriate photographs. ROA. pp. 46-47.

During Defense Counsel’s cross-examination of Victim, Victim was asked whether her phone had three inappropriate pictures of T.C. on it and Victim responded that it did. ROA. p. 162. The pictures were subsequently discovered by Petitioner and Mother. ROA. pp. 162-163. Defense Counsel asked Petitioner whether she got in trouble for the photographs, and Victim replied in the affirmative. ROA. p. 163. Defense Counsel then asked Victim whether her phone had been taken away when Petitioner and Mother found the pictures, and Victim replied that it had been. ROA. p. 163. Defense Counsel also asked Victim whether it was ten days after Petitioner’s discovery of the pictures when she disclosed Petitioner’s abuse to Holland and Lindler. ROA. p. 163. Victim did not recall the specific number of days but agreed that the disclosure occurred a short time after the phone incident. ROA. p. 163.

One of the witnesses called by the defense was Bart Cave. ROA. p. 246. Cave works in the computer crime center at SLED. ROA. p. 247. Cave was involved in Petitioner’s case because SLED received phones that needed to be examined. ROA. p. 248. Defense Counsel asked Cave whether any of the phones contained inappropriate photographs. Cave discovered three inappropriate pictures on one of the phones. ROA. p. 248. Defense Counsel also asked Cave what the dates were of the photographs on the phone. ROA. p. 249. Cave explained that there is a date and time associated with the pictures of when they were on the device. ROA. p.

249. Cave testified photographic files showed dates of August 14, 2010, and August 15, 2010. ROA. p. 249.

During closing argument, in trying to convince the jury Victim fabricated the allegations against Petitioner, Defense Counsel cited Victim's relationship with T.C. as the motivation for Victim to lie. ROA. p. 312. Defense Counsel attempted to paint a picture where Victim somehow perceived Petitioner as an obstacle to her relationship with T.C. ROA. pp. 312-313. Defense Counsel argued:

And then the culmination of all that is when those inappropriate pictures turn up on the phone on August 14th and 15th. Mr. Cave told you about. [Victim] - - one of the things she was able to admit to was those pictures on her phone. Her mother admitted to seeing those. Her phone gets taken away. It gets talked about with [T.C.'s] parents. And then, just, what, a week and a half later. The pictures are there the 14th and 15th, so they've got to be found some time after that while they're at Blue Hole. And then on August 23rd all of this starts coming out. And then Keith is gone. The person who was awake most of the time, who stayed with the kids when [Mother] went to the hospital. . . . But he - - he's out of the picture and the boyfriend problem won't be a problem anymore. And then [Victim] at some point starts using contraceptives, and then in November there's an exam that shows some sort of penetration. So that's the only thing I know of to point to explain to you why this would have started coming up.

ROA. p. 313. When discussing the State's medical evidence during her closing, Defense Counsel also emphasized the fact that Victim was using contraceptives. ROA. p. 309.

Discussion

Petitioner contends the trial judge erred in refusing to allow him to elicit testimony that the photographs on Victim's phone showed T.C.'s genitals. Petitioner argues the trial judge's ruling is violative of his constitutional rights to present a defense and to confront his accuser. Petitioner asserts the content was necessary for the jury to understand Victim's purported motive to fabricate the allegations against Petitioner. This argument lacks merit. The trial judge's limitation of questioning regarding the photographs to whether there were inappropriate pictures

of T.C. on Victim's phone allowed the defense ample opportunity to argue Victim's punishment for the photographs motivated her to fabricate the allegations against Petitioner. Furthermore, allowing Defense Counsel the opportunity to elicit testimony about the specific content would have violated the Rape Shield Law. Finally, the evidence was inadmissible under Rule 401, SCRE, and Rule 403, SCRE, as the evidence was irrelevant and any probative value of the evidence was substantially outweighed by the evidence's potential for undue prejudice.

First, the trial judge did not err in refusing to allow Petitioner to elicit testimony that the photographs on Victim's phone showed T.C.'s genitals because the defense was still able to effectively argue Victim's punishment stemming from the photographs was the motive for her to fabricate the allegations against Petitioner. The trial judge's limitation on Petitioner's questioning did not implicate his constitutional rights to present a defense and to confront his accuser whatsoever.

The Confrontation Clause guarantees that "in all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him." U.S. Const. amend. VI. This right to confront and cross-examine witnesses "is essential to a fair trial in that it promotes reliability in criminal trials, and insures that convictions will not result from testimony of individuals who cannot be challenged at trial." State v. Martin, 292 S.C. 437, 439, 357 S.E.2d 21, 22 (1987). The Confrontation Clause "guarantees only an opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." United States v. Owens, 484 U.S. 554, 559 (1988) (citations and internal quotation marks omitted).

Petitioner was able to fully and vigorously cross-examine all witnesses presented by the State. Petitioner's rights of confrontation and right to present a defense were not implicated

whatsoever, and the judge's limitation of questioning regarding the photographs on Victim's phone still enabled the defense to argue motive. Defense Counsel was able to ask both Mother and Victim about "inappropriate photographs of T.C." found on Victim's phone. Defense Counsel also asked whether T.C.'s parents were contacted, whether punishment was doled out, and what the time and date of the pictures were. The inappropriate pictures found on Victim's phone were one of the major pieces of evidence relied upon by Defense Counsel in her closing argument. The trial judge's ruling that Petitioner not be allowed to question witnesses as to what specifically these "inappropriate pictures" contained did not impugn Petitioner's defense whatsoever. Petitioner could, and did, argue fully that the inappropriate pictures provided Victim a motive to fabricate the allegations against Petitioner. Thus, Petitioner's right to confrontation and right to present a defense were not violated. Furthermore, any alleged error in the trial judge's ruling regarding the content of the photographs was harmless, as Petitioner suffered no prejudice. Petitioner was still able to fully argue that Victim had a motive to fabricate these allegations by asking Victim, Mother, and Cave about the inappropriate pictures found on Victim's phone. Defense Counsel was able to vigorously argue throughout closing argument that Victim was a "storyteller" who had a very strong motive to fabricate the allegations.

Second, allowing Petitioner to elicit testimony concerning the content of the inappropriate photographs would have been violative of the Rape Shield Statute. S.C. Code Ann. § 16-3-659.1(1) provides, "Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is not admissible in prosecutions under Sections 16-3-615 and 16-3-652 to 16-3-656." Allowing Defense Counsel to elicit testimony that Victim had photographs of T.C.'s penis on her phone would enable her to reference specific instances of Victim's sexual conduct. While Petitioner

contends the photographs were not “sexual conduct” because they did not depict Victim engaged in sexual acts, this contention is simply incompatible with the purpose and intent of the Rape Shield Statute. The presence of nude photographs of Victim’s boyfriend on her phone is certainly a “specific instance of sexual conduct” within the meaning of the statute.² Furthermore, Defense Counsel’s statements during closing arguments emphasizing the fact Victim was using contraceptives belies Petitioner’s argument that he did not intend to admit the photographs for any improper purpose, as it evinces a clear intent to attempt to point to other specific incidents of Victim’s sexual conduct that could explain the transection in her hymen that was discovered during her medical examination.

Third, the evidence was inadmissible under Rule 401, SCRE, and Rule 403, SCRE, as the evidence was irrelevant and any probative value of the evidence was substantially outweighed by the evidence’s potential for undue prejudice. All relevant evidence is admissible, and only relevant evidence should be admitted at trial. State v. Douglas, 369 S.C. 424, 430, 632 S.E.2d 845, 848 (2006); see Rule 402, SCRE (“All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of the State of South Carolina, statutes, these rules, or by other rules promulgated by the Supreme Court of South Carolina. Evidence which is not relevant is not admissible.”). “Evidence is relevant if it tends to establish or make more or less probable some matter in issue upon which it directly or indirectly bears.” State v. Alexander, 303 S.C. 377, 380, 401 S.E.2d 146, 148 (1991); see Rule 401, SCRE (““Relevant evidence’ means evidence having any tendency to make the existence of any fact

² It appears that the nude photographs of T.C. were taken with the cell phone’s camera and were not received in conjunction with a text or picture message. See ROA pp. 36-37. This makes the situation even more an “instance of sexual conduct,” as the obvious inference is that Victim took the naked photographs of T.C.

that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”).

However, even if relevant, evidence must be excluded from trial if its probative value is **substantially outweighed** by the danger of unfair prejudice. State v. Wiles, 383 S.C. 151, 158, 679 S.E.2d 172, 176 (2009); see Rule 403, SCRE (“Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”). The determination of the probative value of evidence relative to its potential prejudicial effect must be based on the entire record and the result generally hinges on the facts of each particular case. State v. Gillian, 373 S.C. 601, 609, 646 S.E.2d 872, 876 (2007). Probative value is the measure of the importance of a piece of evidence’s tendency to prove or disprove some fact or issue relevant to the outcome of a case. State v. Collins, 398 S.C. 197, 202, 727 S.E.2d 751, 754 (Ct. App. 2012), *rev’d on other grounds*, 409 S.C. 524, 763 S.E.2d 22 (2014). Unfair prejudice means an undue tendency to suggest a decision on an improper basis. State v. Dickerson, 341 S.C. 391, 400, 535 S.E.2d 119, 123 (2000).

The content of the photographs on Victim’s phone was not relevant whatsoever. The content of the photographs had no bearing on the proceeding, and did not make the existence of any fact that was of consequence to the determination of the action more probable or less probable than it would be without the evidence. The only stated purpose the defense offered for the pictures was that they were relevant to the alleged motive of Victim to fabricate the allegations. The specific content of the pictures was not relevant whatsoever to Victim’s alleged

motive. The existence of the photographs themselves and Victim's punishment for possessing them are the only relevant evidence that goes towards motive.

The current case is immediately distinguishable from State v. Finley, 300 S.C. 196, 387 S.E.2d 88 (1989), which is relied upon greatly by Petitioner to further his argument the evidence was relevant. In Finley, the defendant sought to introduce evidence of specific instances of the victim's sexual conduct. Id. at 200. Finley's defense was that he observed the victim having sexual intercourse with her neighbor and that the charges were fabricated to silence him about the victim's sexual conduct with the neighbor and to extort money from him. Id. The trial judge denied Finley's motion, ruling that the evidence violated the Rape Shield Statute. The South Carolina Supreme Court found:

We hold that exclusion of the proffered evidence constitutes prejudicial error. Appellant's defense was that he did not commit the assault, that the charges were fabricated to silence him about the complainant's sexual conduct with her neighbor, and to extort money from him. The unique facts of this controversy, coupled with the appellant's right to confront and cross examine witnesses against him and to present a full defense to the charges makes relevant evidence which tends to establish motive, bias, and prejudice on the part of the prosecuting witness. Since the proffered evidence is essential to a full and fair determination of appellant's guilt and was offered for purposes other than to attack the complainant's character by revelation of her sexual activity with a third party, we conclude that such evidence does not come within the purview of the Rape Shield Statute.

Id. Notably, the Finley Court reaffirmed the holding that the State's interest in protecting criminal sexual conduct victims is stronger than the right of a defendant to attack such a victim's character in a manner that has limited or no relevance to the question of guilt. Finley is immediately distinguishable from Petitioner's case because Victim was cross-examined about her purported motive to fabricate the allegations against Petitioner, while Finley was completely barred from asking any questions that could aid his motive defense. Petitioner was able to ask

Victim whether she had inappropriate pictures of T.C. on her phone that she was punished for. Petitioner pushed that alleged motive as proof that Victim was a “storyteller.” The content of the photographs themselves was not needed whatsoever in order for Petitioner to argue his theory of the case that Victim fabricated rape allegations because she was caught with inappropriate pictures on her phone. The trial judge’s ruling struck a careful balance between protecting Petitioner’s rights to present a defense and confront his accuser while still protecting Victim’s character from assault on matters that have limited or no relevance to the question of guilt.

Similarly, Petitioner’s comparisons of the current case to State v. Grovenstein, 340 S.C. 210, 530 S.E.2d 406 (Ct. App. 2000) are inapposite. As noted by Petitioner, the Grovenstein Court held that evidence of a child victim’s prior sexual experience is relevant to demonstrate that the defendant is not necessarily the source of the victim’s ability to testify about alleged sexual conduct. Id. at 219. However, whether Victim was familiar with the sexual conduct that was alleged here was not an issue in the proceeding. In State v. Williams, 409 S.C. 455, 761 S.E.2d 770 (2014), Williams argued the trial court erred in excluding evidence of prior sexual abuse of a victim by the victim’s stepbrother. The Court found the situation distinguishable from that in Grovenstein, ruling the evidence Williams sought to admit did not provide an alternate explanation as to how the victims were familiar with the sexual conduct they alleged Williams to have committed because the allegations against Williams were not similar to the alleged abuse by the victims’ stepbrother. Id. at 466. The Court emphasized that Williams was accused of digitally penetrating the victims, while the victim’s stepbrother allegedly forced the victim to perform oral sex. Id. The Court noted that the fact that the victim was previously forced to perform oral sex would not show a source of the victim’s ability to testify about the defendant’s acts of digital penetration. Id. As in Williams, the contents of the photographs were not similar

whatsoever to the abuse committed by Petitioner. The fact that Petitioner had nude photographs of her boyfriend did not show a source of the victim's ability to testify about instances of sexual abuse. Furthermore, the issue of whether the evidence was relevant to demonstrate an alternate explanation as to how Victim was familiar with various aspects of sex is not preserved for appellate review. Defense Counsel's stated reason for why the content of the photographs should be admissible all revolved around Victim's motive and credibility. ROA. pp. 36-39, 41. Defense Counsel never argued to the trial judge that the content of the photographs was relevant to establish the child had an alternate source of sexual knowledge. "In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial [court]. Issues not raised and ruled upon in the trial court will not be considered on appeal." State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003).

Whatever probative value, if any, the evidence had was substantially outweighed by the risk of unfair prejudice and misleading the jury. The admission of the content of the photographs would have had an undue tendency to suggest a decision on an improper basis. The jury would have placed improper emphasis on the content of the photographs. The jury would not have seen the content of the photographs as proof of motive; instead, the jury would have viewed the photographs and believed T.C. was the likely source of the transection in Victim's hymen. As such, the highly prejudicial nature of the photographs leads to the conclusion that the probative value was substantially outweighed by the risk of unfair prejudice and misleading the jury. For all these reasons, this Court should deny certiorari.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

ALAN WILSON
Attorney General

V. HENRY GUNTER, JR.
Assistant Attorney General

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit



V. HENRY GUNTER, JR.
S.C. Bar No. 102259

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

ATTORNEYS FOR RESPONDENT

March 23, 2017

STATE OF SOUTH CAROLINA
In The Supreme Court

On Writ Of Certiorari To The Court Of Appeals
Appeal From Abbeville County
The Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No: 2017-000230

THE STATE,

Respondent,

v.

KEITH DENVER TATE,

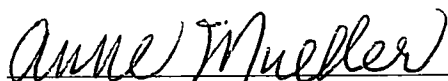
Petitioner.

PROOF OF SERVICE

I, Anne Mueller, certify that I have served the Return to the Petition for Writ of Certiorari on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record Susan B. Hackett, Esquire, S.C. Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589.

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

This 23rd day of March, 2017.



Anne A. Mueller
Legal Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727