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Argument

I. THE COMMENTS BY DEFENSE COUNSEL AT THE BEGINNING
OF THE TRIAL SHOULD NOT BAR ADMISSION OF OTHERWISE
ADMISSIBLE EVIDENCE AS THE TRIAL PROGRESSED AND THE
FACTS WERE DEVELOPED. 1

STATEMENT OF THE ISSUES

1. Did the comments by defense counsel at the beginning of the trial should not bar admission of otherwise admissible evidence as the trial progressed and the facts were developed?

2. Would it be fundamentally unfair to interpret counsel's remarks as a global concession as to admissibility under all circumstances and theories in light of the solicitor's closing arguments implying that the Appellant had no reason to avoid being alone with the prosecutrix and that his testimony was therefore "preposterous"?

ARGUMENT IN REPLY

While counsel may have indicated that some statements might be inadmissible for some purposes early on in the trial, his repeated attempts to offer evidence later in the trial as to the prior false allegations by the prosecutrix were permissible. The state's argument rests on comments made by defense counsel early in the trial. T. 73-78. The state's argument overlooks the fact that the defense attorney's continued attempts to introduce evidence of the prior false allegations made by the prosecutrix became a running battle throughout the trial. Subsequent to any statements made by counsel or position taken at the beginning of the trial, circumstances changed throughout the trial, and from witness to witness. The defense attempted to introduce the evidence under multiple theories of admissibility.

The defense attempted to address the issue with the prosecutrix. T. 229. Again with the Appellant's brother. T. 297. And under a different theory of admissibility entirely, with the Appellant. T. 303. In addition to addressing the fact that the prosecutrix had made the false allegations as being relevant to her credibility for the present allegations, the defense also offered evidence of the prior false allegations, not for the truth of the matter asserted, but rather for the affect on the Appellant's state of mind to explain his testimony about taking extreme care in attempting to avoid ever being alone with the prosecutrix. T. 303-307. Contrary to the State's argument, the defense did attempt to proffer testimony, but was cut off by the trial court. T. 307, l. 6-18. Every effort to use important and relevant evidence was thwarted by the State.

The Appellant never conceded the issue in a way that precluded him from attempting to offer such evidence as the trial progressed. Plus, even if he had conceded that he couldn't ask the prosecutrix about the false allegations, that would not limit questioning other witnesses or

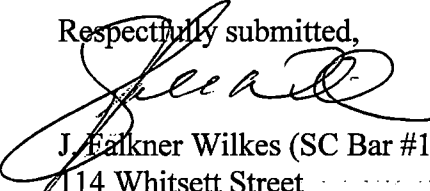
offering it under different theories of admissibility such as to show the Appellant's state of mind based on his knowledge of the prior false allegations.

In State v. Mitchell, 330 S.C. 189 (1998), relied on by the State, the court stated a limitation and counsel did not object or ever attempt to offer the evidence. In the present case, counsel's comments were at the beginning of trial and narrow in scope. They were not intended as a global concession. This is clear as the defense subsequently attempted repeatedly to address the falsity of the accusations. Counsel's comments can not therefore be considered a trial wide blanket concession that barred all subsequent attempts to offer otherwise admissible evidence under every theory. To hold otherwise would be fundamentally unfair in light of the solicitor's argument in closing to the jury, stating that the testimony of the Appellant that he always avoided being alone with the prosecutrix was "crazy" and "preposterous". T. 351; 362.

CONCLUSION

Based on the foregoing the conviction and sentence of the Appellant should be reversed and set aside.

Respectfully submitted,



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March 7, 2018.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Perry H. Gravely, Circuit Court Judge

Appellate Court Case No.: 2017-001867

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SC Court of Appeals

The State, Respondent,

v.

Joseph Campbell Williams, II, Appellant.

CERTIFICATE OF SERVICE

I certify that on April 14, 2018, I served the Appellant's Initial Reply Brief on the Respondent by placing a copy of same in the United States Mail, first class postage prepaid, addressed to counsel of record and others as indicated below:

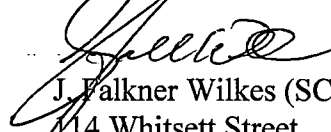
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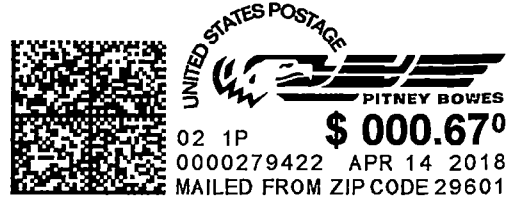
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