

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Letitia H. Verdin, Circuit Court Judge

Appellate Case No.: 2018-000825

The State, Respondent,

v.

Matthew Jamie Bryant, Appellant.

REPLY OF APPELLANT

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JUN 27 2019

SC Court of Appeals

J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Daniel E. Hunt, 2821
Law Office of Daniel E. Hunt
502 North A. Street
Easley, SC 29640
(864) 859-7127

Counsel for Appellant

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Counsel for Appellant

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| State v. Patterson, 324 S.C. 5, 482 S.E.2d 760 (1997). | 2 |

STATEMENT OF THE ISSUES

1. Are the issues raised by the Appellant adequately preserved for appellate review?

ARGUMENT

I. THE COURT ERRED IN DENYING THE DEFENDANT'S MOTION FOR DIRECTED VERDICT.

Issue Preservation

The state's argument on error preservation cites cases involving a failure to object timely to the *introduction* of evidence. Those cases are inapplicable to motion for a directed verdict based on the *lack* of the introduction of evidence. The *lack* of evidence is properly and timely made by way of a motion for a directed verdict, which defense counsel did. (R. pp. 304; 307; 313; 348). The issue as to the lack of evidence to support the indictment as charged is therefore preserved.

II. THE COURT ERRED IN CHARGING SECOND-DEGREE CRIMINAL SEXUAL CONDUCT.

Issue Preservation

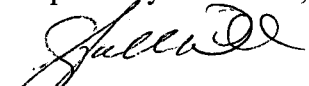
The state argues that the Appellant failed to adequately object to the inclusion of a charge on second and third degree sexual conduct. Specifically, the state claims that the defense made a "vague objection to the inclusion of the lesser-included charges." The state cites two cases for support. Neither are on point with the present case. Rogers dealt with the lack of any objection whatsoever and Patterson dealt with a general objection with no basis stated: "*No grounds were stated* for the objection and the trial judge overruled it." The defense objection in this case stated a basis for the objection and the judge comments make it clear that he understood the objection sufficiently to inform defense counsel that he was ruling on it and that the objection was preserved. Immediately after making the first objection the judge interrupted and stated that he

was denying counsel's objection. (R. p. 348-349). The defense renewed his objection before the charge, and the court again noted the objection and denied it. (R. p. 357, l. 2-7). The defense objection was then noted for the record again after the charge with the judge specifically stating that it was preserved for the record. (R. p. 397, l. 25-398, l. 3). Counsel's objections were sufficient to put the court on notice that a charge on criminal sexual conduct in the second degree was not appropriate in the case. The court's responses indicated to defense counsel that it understood the objection. The defense objections were therefore sufficiently preserved for appellate review.

CONCLUSION

Based on the foregoing the Appellant's conviction and sentence should be reversed, set aside and verdict of acquittal entered.

Respectfully submitted,


J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Daniel E. Hunt, 2821
Law Office of Daniel E. Hunt
502 North A. Street
Easley, SC 29640
(864) 859-7127

Counsel for Appellant

June 25, 2019.

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The State, Respondent,

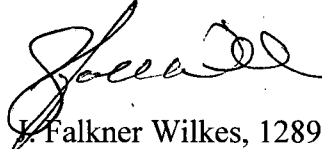
v.

Matthew Jamie Bryant, Appellant.

CERTIFICATE

I certify that the Brief and Reply of Appellant complies with Rule 211(b), SCACR.

Respectfully submitted,



J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Appellant

December 10, 2018.

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