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January 12, 2021

VIA E-FILING

Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
ctappfilings@sccourts.org

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Jan 12 2021

SC Court of Appeals

RE: The State v. General T. Little
Appellate Case No. 2018-000561
Our File No. 998-1759

Dear Ms. Kitchings:

In the spirit of Rule 208(b)(7), SCACR, I am writing on behalf of Appellant General T. Little to respectfully provide supplemental citations pertaining to a question from the panel during oral arguments this morning.

Specifically, during arguments, Chief Judge Lockemy expressed concerns that the illegal search issue may not be preserved for appellate review. Because the State did not contest preservation in its brief and this issue arose for the first time during oral arguments, Appellant respectfully wishes to provide the following supplemental citations to the record and case law on preservation for the benefit of the Court.

Regarding preservation, Dr. Little supplements pages 8 through 31 of the Final Brief of Appellant, as well as pages 1 through 5 of the Amended Final Reply Brief, with the following citations: *l'On, LLC v. Town of Mount Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (observing that issue preservation rules are “meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments”); *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282 (2012) (noting preservation “is not a ‘gotcha’ game” but is to ensure appellate courts “do not reach issues which were not ruled upon by the [circuit] court”); *State v. Hendricks*, 408 S.C. 525, 531, 759 S.E.2d 434, 437 (Ct. App. 2014) (holding the evidentiary “objection preserved the issue because it is clear from the record that both the State and the [circuit] court immediately understood” the basis for the objection); *State v. Bowers*, 428 S.C. 21, 29, 832 S.E.2d 623, 627 (Ct. App. 2019) (“The failure to raise specific grounds for an objection will not prevent the appellate court from addressing an issue when the record indicates that the trial court and the State understood the basis for the objection.”), *cert. granted* (S.C. Sup. Ct. May 22, 2020); *Fettler v. Gentner*, 396 S.C. 461, 469, 722 S.E.2d 26, 31 (Ct. App. 2012) (stating our appellate courts do “not require parties to engage in futile actions . . . to preserve issues for appellate review”); *State v. Ross*, 272 S.C. 56, 60–61, 249 S.E.2d 159, 162



(1978) (“Once the court rules on an objection to a line of questioning, it is not necessary that counsel repeat his objection after each question.”); State v. Bryant, 316 S.C. 216, 220, 447 S.E.2d 852, 855 (1994) (finding an issue preserved when “it would have been futile to move to strike testimony which the [circuit] court already ruled was proper”); Dunn v. Charleston Coca-Cola Bottling Co., 311 S.C. 43, 45-46, 426 S.E.2d 756, 758 (1993) (ruling the circuit court “had a fair opportunity to rule upon the issue and did so,” and “[i]t was not incumbent upon defense counsel to harass the judge by parading the issue before him again”); State v. Pace, 316 S.C. 71, 74, 447 S.E.2d 186, 187 (1994) (per curiam) (excusing the failure to make a contemporaneous objection when the circuit court’s comments are such that any objection would be futile).

As for support in the record, Dr. Little supplements the same portions of his briefs mentioned above with the following citations: (R. p. 800) (showing the State trying to admit State’s Exhibits 37 through 47 into evidence, which consisted of photographs officers “took from processing the search warrant on the vehicle and of the items that [officers] searched inside the vehicle” and defense counsel saying “[s]ubject to previous objections”); (R. p. 807) (depicting the State trying to admit Dr. Little’s shoes, which appeared in Exhibits 53 through 58, and defense counsel asking the Court to “[p]lease note our previous objection”); (R. p. 809) (demonstrating the circuit court stating “that same objection carries forward but I continue to rule as I have in the past,” but “the previously maintained position [is] maintained”); (R. p. 810) (requesting clarification on the circuit court’s ruling and stating, “Your Honor, just to clarify State’s 136, the shoes, are into evidence pursuant to a standing objection,” to which the circuit court replied, “Yes.”); (R. p. 993) (noting “[s]ubject to our previous objection” in response to the State attempting to offer State’s Exhibits 115 through 119 into the record, which related to Dr. Little’s shoes); (R. p. 1238) (stating, at the close of trial, the defense wished to note “for the record a renewal of all objections including suppression in this trial,” to which the circuit court responded, “As far as I’m concerned you are fully protected on all the matters you’ve raised.”).

Of course, should the Panel have any questions or require additional information, please do not hesitate to contact me. We appreciate the opportunity to address this new matter and, again, thank the Court for its time and careful attention to this case.

With warmest regards, I remain

Respectfully yours,

Vordman Carlisle Traywick, III

VCT:rc
Enclosures



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cc: Robert M. Dudek, Esquire
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
Michael Ross, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jan 12 2021

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of General Sessions

Thomas L. Hughston, Jr., Circuit Court Judge

Appellate Case No. 2018-000561
Lower Court Case No. 2016-GS-10-02883

The StateRespondent,

v.

General T. Little.....Appellant.

PROOF OF SERVICE

The undersigned certifies that, on January 12, 2021, the undersigned's Rule 208(b)(7), SCACR, Letter on behalf of Appellant General T. Little was served on the below counsel via their email addresses in AIS pursuant to In re Operation of the Appellate Courts During the Coronavirus Emergency, App. No. 2020-000447, Am. Order No. 2020-05-29-01, ¶ (g)(3) (S.C. Sup. Ct. filed May 29, 2020).

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S.C. COMMISSION ON INDIGENT DEFENSE
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Respectfully submitted,

/s/Vordman Carlisle Traywick, III
Vordman Carlisle Traywick, III
SC Bar No. 102123
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Columbia, South Carolina
January 12, 2021

Lisle Traywick

From: Lisle Traywick
Sent: Tuesday, January 12, 2021 3:08 PM
To: Alan Wilson; Melody Brown; Don Zelenka; 'Mike Ross'
Cc: rdudek@sccid.sc.gov; Robin Owens; 'The State v_ General T_ Little _998_1759_ Appeal'
Subject: State v. General T. Little (No. 2018-000561) Appellant's Rule 208(b)(7) Letter [IMAN-CLIENTS.FID236411]
Attachments: State v. General T. Little (No. 2018-000561) Appellant's Rule 208(b)(7) Letter(37267700.1).pdf; State v. General T. Little (No. 2018-000561) Proof of Service for Appellant's Rule 208(b)(7) Letter(37267713.1).pdf

All,

Pursuant to [In re Operation of the Appellate Courts During the Coronavirus Emergency](#), App. No. 2020-000447, Am. Order No. 2020-05-29-02, ¶ (g)(3) (S.C. Sup. Ct. filed May 29, 2020), attached for service upon you via email is Appellant's Letter Providing Supplemental Citations Under Rule 208(b)(7), SCACR, as well as a Proof of Service, being filed in the Court of Appeals this afternoon.

Should you have any questions or concerns, please don't hesitate to contact us. Thanks and have a great afternoon.

Best,

Lisle



VORDMAN CARLISLE TRAYWICK, III ASSOCIATE

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