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AUG 23 2021

SC Court of Appeals

Renee N. Elvis
Horry County Clerk of Court
P.O. Box 677
1301 2nd Avenue
Conway, SC 29526

August 19, 2021

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

RE: The State v. David Harold Campbell
Lower Court Case No. 2017GS2600942, 2016GS2600536
Appellate Case No. 2017-001229

Dear Clerk,

Please find enclosed the Remittitur in the above referenced case and a clocked copy of the Order requesting that it be returned to the Clerk of the SC Court of Appeals.

If there is anything else that you may need please let us know.

Sincerely,

Renee N. Elvis
Horry County Clerk of Court

/cb

The South Carolina Court of Appeals

The State, Respondent,

v.

David Harold Campbell, Appellant.

Appellate Case No. 2017-001229

The Honorable Thomas A. Russo
Horry County

Trial Court Case No. 2017GS2600942, 2016GS2600536

HORRY COUNTY
2021 AUG 19 A 8:20
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

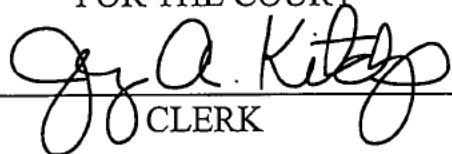
ORDER

This Court's Remittitur was sent to the Clerk of Horry County on August 17, 2021. It is now necessary for this Court to recall the remittitur. The Clerk of Horry County is, therefore, directed to return the remittitur to the Clerk of the South Carolina Court of Appeals within ten (10) days from the date of this order.

IT IS SO ORDERED.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

Tara Dawn Shurling, Esquire

David A. Spencer, Esquire

The Honorable Renee Elvis

FILED
Aug 18 2021



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
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COLUMBIA, SOUTH CAROLINA 29201
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August 17, 2021

The Honorable Renee Elvis
PO Box 677
Conway SC 29528-0677

REMITTITUR

Re: The State v. David Harold Campbell
Lower Court Case No. 2017GS2600942, 2016GS2600536
Appellate Case No. 2017-001229

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
Tara Dawn Shurling, Esquire
David A. Spencer, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent;

v.

David Harold Campbell, Appellant.

Appellate Case No. 2017-001229

Appeal From Horry County
Thomas A. Russo, Circuit Court Judge

Unpublished Opinion No. 2021-UP-074
Submitted January 1, 2021 – Filed March 10, 2021

AFFIRMED

Tara Dawn Shurling, of Law Office Of Tara Dawn
Shurling, PA, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Attorney General David A. Spencer, both of
Columbia, for Respondent.

PER CURIAM: David Harold Campbell appeals his convictions and sentences for trafficking in cocaine, third offense, and failure to stop for a blue light. The trial court sentenced Campbell to thirty years' imprisonment for trafficking cocaine and a concurrent sentence of five years' imprisonment for failure to stop for a blue

light. On appeal, Campbell asserts the trial court erred in (1) admitting irrelevant evidence and (2) denying his motion for a mistrial. We affirm pursuant to Rule 220(b); SCACR, and the following authorities:

1. First, we find the trial court did not abuse its discretion in admitting Detective Jeremy Neely's testimony that he and another officer were investigating a narcotics complaint in the area prior to initiating a traffic stop.¹ See *State v. Gaster*, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002) ("The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion."); Rule 402, SCRE (explaining that relevant evidence is generally admissible, whereas irrelevant evidence is generally inadmissible); Rule 403, SCRE (instructing 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"). Detective Neely's testimony was relevant to present a full presentation of the offense because it explained why plainclothes police officers were in the area and provided context for the initial traffic stop. See *State v. Preslar*, 364 S.C. 466, 474, 613 S.E.2d 381, 385 (Ct. App. 2005) ("When evidence is admissible to provide this 'full presentation' of the offense, there is 'no reason to fragmentize the event under inquiry by suppressing parts of the res gestae.'" (quoting *State v. Sweat*, 362 S.C. 117, 133, 606 S.E.2d 508, 517 (Ct. App. 2004))). Moreover, Detective Neely's testimony did not pose a risk of unfair prejudice because it did not reference Campbell and did not suggest a decision on an improper basis. See *State v. Wiles*, 383 S.C. 151, 158, 679 S.E.2d 172, 176 (2009) ("Unfair prejudice means an undue tendency to suggest decision on an improper basis.").

2. Second, we find the trial court did not abuse its discretion in denying Campbell's motion for a mistrial. See *State v. Stanley*, 365 S.C. 24, 33, 615 S.E.2d

¹ To the extent Campbell argues Detective Neely's testimony violated Rule 404, SCRE, as improper character evidence, we find Campbell's arguments on appeal are not preserved for appellate review. See *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal."); *State v. Haselden*, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003) (holding an appellant's issue is unpreserved when he argued one ground to the trial court and another on appeal). At trial, Campbell only argued Detective Neely's testimony was irrelevant and prejudicial; Campbell did not reference Rule 404 during his objection.

455, 460 (Ct. App. 2005) ("The decision to grant or deny a mistrial is within the sound discretion of the trial [court]."); *State v. Simmons*, 352 S.C. 342, 354, 573 S.E.2d 856, 862 (Ct. App. 2002) ("The power of a court to declare a mistrial ought to be used with the greatest caution under urgent circumstances, and for very plain and obvious causes' stated into the record by the trial [court]." (quoting *State v. Kirby*, 269 S.C. 25, 28, 236 S.E.2d 33, 34 (1977))); *Stanley*, 365 S.C. at 34, 615 S.E.2d at 460 ("The granting of a motion for a mistrial is an extreme measure which should be taken only where an incident is so grievous that prejudicial effect can be removed in no other way.").

AFFIRMED.²

LOCKEMY, C.J., and KONDUROS and MCDONALD, JJ., concur.

² We decide this case without oral argument pursuant to Rule 215, SCACR.

RETURN SERVICE
REQUESTED



Renee N. Elvis
Clerk of Court of Horry County
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Conway, South Carolina 29528-0677

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