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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

November 9, 2021

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: State v. Isaiah Gadson, Jr. – Appellate Case No. 2018-001041

Dear Ms. Kitchings:

The above-referenced criminal appeal is set for oral argument on November 10, 2021, at 10:40 a.m. in Courtroom I during the upcoming term of Court.

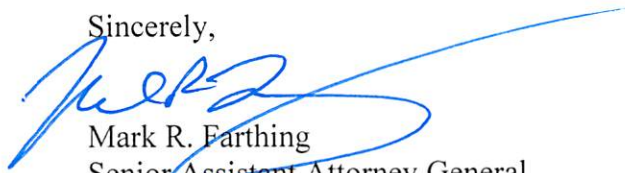
Pursuant to Rule 208(b)(7) of the South Carolina Appellate Court Rules, the State seeks to provide the Court with supplemental citations prior to oral argument based on the belief the citations will be relevant and helpful to the Court in addressing the issues involved in this matter.

Specifically, the State believes the following citations may be relevant to the issue of whether Gadson's evidentiary issue was properly preserved for appellate review: See State v. Smith, 337 S.C. 27, 32, 522 S.E.2d 598, 600 (1999) (instructing in a murder appeal in which Smith was seeking to challenge purportedly inadmissible other act evidence: "Generally, a motion in limine seeks a pretrial evidentiary ruling to prevent the disclosure of potentially prejudicial matter to the jury. A pretrial ruling on the admissibility of evidence is preliminary and is subject to change based on developments at trial. A ruling in limine is not final; unless an objection is made at the time the evidence is offered and a final ruling procured, the issue is not preserved for review." (citations omitted)); State v. Schumpert, 312 S.C. 502, 507, 435 S.E.2d 859, 862 (1993) ("Although counsel raised this issue at the in limine hearing to determine the admissibility of corroborating evidence, he did not object when Strait actually testified. A ruling in limine is not a final ruling on the admissibility of evidence. Unless an objection is made at the time the evidence is offered and a final ruling made, the issue is not preserved for review." (citations omitted)), overruled on other grounds by State v. Stukes, 416 S.C. 493, 787 S.E.2d 480 (2016); State v. Stokes, 339 S.C. 154, 163, 528 S.E.2d 430, 434 (Ct. App. 2000) ("Merely raising an argument in limine does not preserve the issue for appellate review."); see also State v. Head, 330 S.C. 79, 87, 498 S.E.2d 389, 393 (Ct. App. 1997) (instructing an appellate court "cannot

address unpreserved errors”); Rule 220(c), SCACR (“The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.”).

Likewise, the State believes the following citation may be relevant to the issue of the harmlessness of any error resulting from the admission of the evidence currently being challenged on appeal: See Smalls v. State, 422 S.C. 174, 191, 810 S.E.2d 836, 845 (2018) (characterizing “DNA evidence demonstrating guilt” as “something conclusive” that can constitute overwhelming evidence of guilt).

Sincerely,



Mark R. Farthing
Senior Assistant Attorney General
S.C. Bar No. 76901

MRF/

cc: Taylor D. Gilliam, Esquire (via email to tgilliam@sccid.sc.gov)

Leigh Ann Stone

From: Leigh Ann Stone
Sent: Tuesday, November 9, 2021 10:53 AM
To: 'tgilliam@sccid.sc.gov'; 'rdudek@sccid.sc.gov'
Cc: Mark Farthing; William Blicht; Warren, Kaylynn; 'lmatthews@sccid.sc.gov'
Subject: The State v. Isaiah Gadson Jr. (2018-001041)
Attachments: Gadson.Supplemental Citation Letter (02813096xD2C78).PDF

Good Morning Ms. Gilliam and Mr. Dudek,

Attached please find a copy of a supplemental citation letter in The State v. Isaiah Gadson Jr. (2018-001041). This letter will be submitted to the South Carolina Court of Appeals today via the AIS One Drive System.

If you will, please reply to this email to confirm receipt.

Thank you,

LEIGH ANN STONE, Legal Assistant
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