



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 10, 2021

Ms. Kathrine Haggard Hudgins, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia SC 29211-1589

Mr. Tommy Evans, Jr., Esquire
PO Box 11549
Columbia SC 29211

Re: The State v. Byron L. Rivers
Appellate Case No. 2019-001253

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,


CLERK

cc: Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Melody Jane Brown, Esquire
Scarlett Anne Wilson, Esquire
The Honorable Jennifer B. McCoy

**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.

Byron Labron Rivers, Appellant.

Appellate Case No. 2019-001253

Appeal From Charleston County
Jennifer B. McCoy, Circuit Court Judge

Unpublished Opinion No. 2021-UP-395
Submitted October 1, 2021 – Filed November 10, 2021

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, Senior Assistant
Deputy Attorney General Melody Jane Brown, and
Assistant Attorney General Tommy Evans, Jr., all of
Columbia; and Solicitor Scarlett Anne Wilson, of
Charleston, for Respondent.

PER CURIAM: Byron Labron Rivers appeals his convictions for murder, first-degree burglary, possession of a weapon during the commission of a violent crime, two counts of attempted murder, and three counts of armed robbery. On appeal, Rivers argues the trial court erred in finding he opened the door to a witness's testimony regarding the results of his codefendant's gunshot residue (GSR) test and this testimony violated the Confrontation Clause. Rivers's issue is not preserved for review because Rivers failed to contemporaneously raise the Confrontation Clause issue to the trial court. Rather, Rivers only argued the witness was "not an expert in the actual testing of GSR kits." Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 694 (2003) ("A party need not use the exact name of a legal doctrine in order to preserve it, but it must be clear that the argument has been presented on that ground."); *State v. Lynn*, 277 S.C. 222, 226, 284 S.E.2d 786, 789 (1981) ("Failure to contemporaneously object to the question now advanced as prejudicial cannot be later bootstrapped by a motion for a mistrial.").¹

AFFIRMED.²

KONDUROSO, HILL, and HEWITT, JJ., concur.

¹ Even if the issue were preserved, the trial court did not err in finding Rivers opened the door to the testimony because he asked the witness whether his codefendant was tested for GSR. *See State v. Page*, 378 S.C. 476, 483, 663 S.E.2d 357, 360 (Ct. App. 2008) ("Whether a person opens the door to the admission of otherwise inadmissible evidence during the course of a trial is addressed to the sound discretion of the trial [court]."); *State v. Douglas*, 369 S.C. 424, 429-30, 632 S.E.2d 845, 848 (2006) ("An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law."); *State v. Beam*, 336 S.C. 45, 52, 518 S.E.2d 297, 301 (Ct. App. 1999) ("[A defendant] cannot complain about the admission of evidence where he opened the door to the evidence."); *State v. Stroman*, 281 S.C. 508, 513, 316 S.E.2d 395, 399 (1984) ("Where one party introduces evidence as to a particular fact or transaction, the other party is entitled to introduce evidence in explanation or rebuttal thereof, even though [the] latter evidence would be incompetent or irrelevant had it been offered initially." (alteration in original) (quoting *State v. Albert*, 277 S.E.2d 439, 441 (N.C. 1981))).

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