

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

GRACE BOBBIE, :  
 : ID NO: 1106020333  
 Defendant-Below, :  
 Appellant, :  
 :  
 v. :  
 :  
 STATE OF DELAWARE, :  
 :  
 Plaintiff-Below, :  
 Appellee. :

Submitted: March 9, 2012  
Decided: May 17, 2012

*Upon Consideration of Appellant's  
Appeal from a Decision of the  
Court of Common Pleas*  
**AFFIRMED**

**OPINION AND ORDER**

Anthony J. Capone, Esq. Office of the Public Defender, Dover, Delaware for Appellant.

Melissa S. Hutchison, Esq. Department of Justice, Dover, Delaware for Appellee.

Young, J.

### **SUMMARY**

\_\_\_\_\_ In this appeal, Grace Bobbie challenges an evidentiary ruling made by the Trial Judge in the Court of Common Pleas permitting the State to impeach Teairra Stacey (Teairra) by questioning her regarding her placement in foster care. The probative value of testimony regarding the fact that Teairra was placed in foster care was not substantially outweighed by the danger of unfair prejudice. The Trial Judge did not commit an abuse of discretion. The decision below is **AFFIRMED**.

### **FACTS**

\_\_\_\_\_ On June 22, 2011, Grace Bobbie (Defendant) was arrested and charged with one count of Assault Third Degree, one count of Endangering the Welfare of a Child and one count of Criminal Mischief. The charges stemmed from an incident during which Defendant's daughter, Teairra Stacey, witnessed Defendant engage in an argument and physical altercation with Mary Schrader (Schrader). At the time, Defendant was residing with Schrader in Schrader's home. Teairra was spending the night with Defendant for the first time since Teairra had been placed in foster care.

At trial, Defendant challenged the admissibility of evidence regarding Teairra's foster care placement on two occasions. First, during Schrader's testimony, Defendant requested that a curative instruction be given to the Jury after Schrader made reference to Teairra's placement in foster care. The Trial Judge did so, instructing the Jury not to make much of that reference, not to speculate about it, and not to create any inferences regarding Defendant until the conclusion of evidence.

Second, in anticipation of Teairra's testimony, Defendant registered an objection to questions directed towards Teairra relating to her foster care placement.

*State v. Grace Bobbie*  
*ID No: 1106020333*  
*May 17, 2012*

Noting Defendant's objection, the Trial Judge ruled that the State could question Teairra regarding her foster care placement in order to probe bias. The Trial Judge instructed the State not to ask questions specific to the related Division of Family Services investigation.

Following that ruling, the State impeached Teairra, its own witness, in an effort to present evidence of her bias in favor of Defendant, her mother. In doing so, the State presented a line of questioning regarding Teairra's placement in foster care. The State asked Teairra a series of three questions: (1) if she wanted to see Defendant in trouble; (2) where Teairra had been living up until the morning of the alleged incident; and (3) whether Teairra would like to return home to live with Defendant. In response, Teairra testified that she did not want to see Defendant in trouble, that she had been living with her foster parents prior to the night before the incident and that she would like to return home to live with Defendant.

\_\_\_\_\_ Defendant was found guilty on each count with which she was charged. Subsequently, she filed the instant appeal challenging the Trial Judge's evidentiary ruling permitting the State to question Teairra regarding her foster care placement.

### **STANDARD OF REVIEW**

\_\_\_\_\_ "In reviewing appeals from the Court of Common Pleas, this Court sits as an intermediate appellate court, and its function mirrors that of the Supreme Court."<sup>1</sup>  
"This Court will review a decision by the Court of Common Pleas to admit or exclude

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<sup>1</sup> *Webb-Buckingham v. State*, 2009 WL 147020, at \*2 (Del. Super. Jan. 22, 2009).

evidence for abuse of discretion.”<sup>2</sup> “A court abuses its discretion when it ignores recognized rules of law or exceeds the bounds of reason, producing an unjust result.”<sup>3</sup> The appellant “must establish a ‘clear abuse of discretion’ to be entitled to a reversal.”<sup>4</sup>

### **DISCUSSION**

Recognizing the parameters of admissibility under Delaware Rule of Evidence 616, Defendant, nevertheless, challenges the admissibility of the evidence on the grounds that the probative value was substantially outweighed by the danger of unfair prejudice under Delaware Rule of Evidence 403.

Specifically, Defendant argues that presenting evidence of Teairra’s foster care to the Jury suggested that Defendant committed the crimes charged, and that Teairra’s removal from her custody reflected adversely upon Defendant’s character. Moreover, Defendant argues that the mention of foster care was cumulative, because the Jury was aware of bias resulting from Defendant’s and Teairra’s familial relationship.

Rule 403 “requires the trial court to balance the probative value and the prejudicial effect of proffered evidence to determine whether the probative value is substantially outweighed by the danger of unfair prejudice.”<sup>5</sup> Generally, relevant

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<sup>2</sup> *Palomino v. State*, 2011 WL 2552603, at \*2 (Del. Super. Apr. 4, 2011).

<sup>3</sup> *Id.*

<sup>4</sup> *Harper v. State*, 970 A.2d 199, 201 (Del. 2009) (quoting *Kiser v. State*, 769 A.2d 736, 739 (Del. 2001)).

<sup>5</sup> *Floudiotis v. State*, 726 A.2d 1196 (Del. 1999).

evidence is admissible unless the probative value is, in fact, substantially outweighed by the danger of unfair prejudice.<sup>6</sup>

Regarding bias specifically, “it is well settled that the bias of a witness is subject to exploration at trial, and is ‘always relevant as discrediting the witness and affecting the weight of his testimony.’”<sup>7</sup> “The logical extension of this principle requires that counsel be permitted to inquire into any acts, relationships or motives reasonably likely to create bias.”<sup>8</sup>

\_\_\_\_\_ When evaluating the admissibility of evidence, “the Trial Judge is in a unique position to evaluate and balance the probative and prejudicial aspects of the evidence.”<sup>9</sup> Regarding impeachment evidence, the Trial Judge should consider: (1) whether the testimony of the witness being impeached is crucial; (2) the relevance of the impeachment evidence to bias; (3) the danger of unfair prejudice; and (4) whether the evidence is cumulative.<sup>10</sup>

Here, the Trial Judge, accorded considerable discretion, did not commit an abuse of discretion. Teairra was one of only two eyewitnesses. The issue of her foster care arguably reflected a bias associated with her relationship to Defendant not

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<sup>6</sup> *Mason v. State*, 963 A.2d 124, 126 (Del. 2008).

<sup>7</sup> *Weber v. State*, 457 A.2d 674, 680 (Del. 1983) (quoting *Davis v. Alaska*, 415 U.S. 308 (1974)).

<sup>8</sup> *Id.*

<sup>9</sup> *Fullman v. State*, 32 A.2d 988 (Del. 2011) (quoting *Smith v. State*, 560 A.2d 1004 (Del. 1989)).

<sup>10</sup> *Weber*, 457 A.2d at 681.

*State v. Grace Bobbie*  
*ID No: 1106020333*  
*May 17, 2012*

otherwise apparent. The Jury had already been instructed, though in regard to the testimony of another witness, not to speculate in regard to the foster care placement. Moreover, at the Trial Judge's instruction, the questions asked of the witnesses were limited to the fact that Teairra was placed in foster care. The State was neither permitted to mention the Division of Family Services nor to inquire into the cause of Teairra's placement. Accordingly, the probative value of the evidence was not outweighed by the danger of unfair prejudice. The Trial Judge did not commit an abuse of discretion.

**CONCLUSION**

The decision below is **AFFIRMED**.

**SO ORDERED.**

\_\_\_\_\_  
/s/ Robert B. Young

J.

RBV/sal  
oc: Prothonotary  
cc: Opinion Distribution  
File

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