

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR 09-1207

SUSIE KLINES

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered APRIL 28, 2010

APPEAL FROM THE BRADLEY
COUNTY CIRCUIT COURT
[NO. CR2008-27-1B]

HONORABLE SAM POPE, JUDGE

AFFIRMED

JOHN B. ROBBINS, Judge

Appellant Susie Klines, her husband, and her two sons were charged with abuse of an impaired person pursuant to Ark. Code Ann. § 5-28-103 (Repl. 2006). The 49-year-old victim is appellant's step-daughter. After a jury trial, Mrs. Klines was convicted and sentenced to six years in prison.

Mrs. Klines now appeals from her conviction. On appeal, she argues that the trial court abused its discretion in making certain evidentiary rulings and in limiting her cross-examination of State's witnesses. Mrs. Klines contends that the trial errors had the cumulative effect of influencing the jury and that taken together they warrant reversal. Mrs. Klines does not challenge the sufficiency of the evidence to support her conviction. We affirm.¹

¹Pursuant to Arkansas Supreme Court Rule 4-2(a)(5), the appellant's abstract shall include material parts of the transcript containing information essential for the appellate court to understand the case and decide the issues on appeal. We find Ms. Klines's abstract to be

At the jury trial, the State produced evidence that the victim, Brenda, is moderately mentally retarded and functions at a second-grade level. Mrs. Klines and her co-defendants forced Brenda to sleep in a locked camper trailer at night that was not equipped with plumbing or electricity. She was given a bucket to use as a toilet. As punishment for taking food and not cleaning the house properly, Brenda was forced to stand for up to two hours on her tiptoes or on one leg. Evidence also showed that they hit the bottoms of Brenda's feet with a board. When Brenda was hospitalized after the abuse was discovered she had numerous fresh injuries, with her body covered in bruises and severe swelling of both ears.

Appellant's first assignment of error occurred during her cross-examination of Investigating Officer Shawn Hildreth. Her counsel was questioning Officer Hildreth about the police request for the suspects to come to the police station. Appellant's counsel asked whether the suspects were advised that they did not have to come to the station if they did not want to, and the trial court sustained the State's objection to the question. Mrs. Klines argues that the question should have been permitted because she was testing the credibility of the officer and this cross-examination was important to the defense. Appellant cites *Winfrey v. State*, 293 Ark. 342, 738 S.W.2d 391 (1987), where the supreme court held that

deficient because, while she has abstracted the objectionable portions of the trial in isolation, they are out of context and significantly more testimony should have been abstracted for a complete understanding of the case and the issues raised on appeal. However, we are allowed to go to the record to affirm, *Carroll v. State*, 2009 Ark. App. 610, and we have done so in this case.

it is constitutional error to deny a defendant the right to expose to the jury the facts from which jurors could appropriately draw inferences relating to the reliability of a witness.

We review matters concerning the scope of cross-examination under an abuse-of-discretion standard. *Holloway v. State*, 363 Ark. 254, 213 S.W.3d 663 (2005). The use of cross-examination is an important tool in bringing the facts before the jury and wide latitude should be afforded by the trial court. *Id.* That being said, a trial court must determine when the matter has been sufficiently developed and when the outer limits of cross-examination have been reached, and unless the trial court's discretion has been abused, we will not reverse. *Id.* Additionally, we will not reverse an evidentiary ruling absent a showing of prejudice. *McKeever v. State*, 367 Ark. 374, 240 S.W.3d 583 (2006).

We hold that the trial court committed no abuse of discretion in limiting appellant's cross-examination in this regard. As the trial court recognized, the issue of whether the suspects had been informed that they could refuse to report to the police station had no bearing on the jury's determination of appellant's guilt or innocence. Whether or not this information had been supplied by the police might arguably be a factor in deciding whether to suppress appellant's statements to the police, but Mrs. Klines never moved to suppress her statements and that is not an issue on appeal. The desired testimony did not go to the credibility of the witness and was not relevant, and therefore the trial court committed no error in sustaining the State's objection to the question.

Mrs. Klines next asserts that the trial court erred during a subsequent exchange with Officer Hildreth on cross-examination. The following colloquy occurred:

DEFENSE COUNSEL: [Y]our original testimony was that she was made to stand on one leg for an hour, but that's not really what you meant. You meant that she was ordered to stand in the corner for an hour.

OFFICER HILDRETH: No sir. If I said stand in the corner, somebody might have stated she was made to stand in the corner. But also they stated that she was made to stand on one leg.

DEFENSE COUNSEL: But you also said that you tried and you couldn't do it for over thirteen minutes.

OFFICER HILDRETH: No, sir, I sure couldn't. I said before my leg started cramping. I don't know if I'm in better shape. I don't know if I'm in better health. Better health and physical condition are two different things, sir. We're talking about physical conditioning, right?

DEFENSE COUNSEL: What other conditioning are we talking about? . . . Now, we're going to split hairs in front of the jury. Is that what you're going to do?

....

TRIAL COURT: Mr. Howard, stop arguing with the witness.
DEFENSE COUNSEL: I'm trying to judge his credibility.
TRIAL COURT: You're doing more than that. Ask a question.

Mrs. Klines submits that the comments of the trial court in restricting his cross-examination most likely impressed upon the jury that her counsel was doing something inappropriate, when her counsel was merely trying to vigorously represent appellant. However, we hold that no abuse of discretion occurred here. The trial court properly directed appellant's counsel to stop arguing with the witness, and after that admonition appellant's counsel

continued to extensively question Officer Hildreth about his attempt to stand on one leg. The trial court committed no error and Mrs. Klines suffered no prejudice.

Mrs. Klines next directs us to her counsel's cross-examination of DHS worker Denise Smith. Ms. Smith was asked whether she intended to call the police before they went to investigate appellant's house, and Ms. Smith started to testify about what another DHS employee had told her, which drew a hearsay objection from counsel of a co-defendant. Appellant's counsel also asserted that the witness's answer was unresponsive to the question, but the trial court overruled the objections to the testimony. Mrs. Klines merely mentions the objection and ruling in her brief, but makes no argument that the ruling was error nor cites any authority to show that error occurred. We will not consider issues that are not supported by citation to authority or convincing argument. *Small v. State*, 371 Ark. 244, 264 S.W.3d 512 (2007). Moreover, even if error did occur there was no prejudice because despite the trial court's ruling Ms. Smith never went on to testify as to what her co-worker had told her.

Mrs. Klines next challenges the trial court's actions during her counsel's cross-examination of Dr. David Foscue, who treated the victim's injuries. Dr. Foscue testified that he thought the victim had not been forthright in some of the things she had told him, noting that she admitted to him that she was afraid to go home. Appellant objected that this was speculation, and the objection was overruled. Later, after Dr. Foscue stated he was thankful not to have found any hematomas, appellant's counsel said, "Would you just answer my

question and quit adding this commentary about you were grateful . . . and she was blessed and all of that?” The State objected, and the trial court advised appellant’s counsel to stop arguing with the witness. Mrs. Klines now argues that the statements by the trial court could have impressed upon the jury that her counsel’s questions were not important and could have convinced the jury that she was guilty.

Mrs. Klines has failed to demonstrate that any error occurred during her cross-examination of Dr. Foscue. Although Dr. Foscue stated that the victim had not been forthright with him, he did not specifically identify any misleading representations that she had made to him. And he further testified that the victim had told him she was afraid to go home because she “didn’t want to get a whopping.” Thus, any speculation on the doctor’s part had no influence on the outcome of the trial. Furthermore, appellant fails to show how any of the comments made by the trial court were likely to convince the jury of her guilt.

Finally, Mrs. Klines argues that the multiple errors of the trial court had a cumulative effect of influencing the jury, and that all of them taken together warrant reversal of her conviction. However, this argument is not preserved for review. For a cumulative-error argument to be upheld on appeal, the appellant must show that there were objections to each alleged error and that a cumulative-error objection was made to the trial court and a ruling obtained. *Brown v. State*, 368 Ark. 344, 246 S.W.3d 414 (2007). Because Mrs. Klines made no cumulative-error objection at trial, we need not address this argument.

Affirmed.

Cite as 2010 Ark. App. 361

KINARD and MARSHALL, JJ., agree.