THIRD DIVISION
ELLINGTON, P. J.,
ANDREWS and RICKMAN, JJ.

October 4, 2017

NOT TO BE OFFICIALLY REPORTED

In the Court of Appeals of Georgia

A17A1879. WHITE v. THE STATE.

ELLINGTON, Presiding Judge.

A Newton County jury found Charles White guilty of three counts of rape, OCGA § 16-6-1 (a); one count of statutory rape, OCGA § 16-6-3 (a); ten counts of child molestation, OCGA § 16-6-4 (a); three counts of aggravated sodomy, OCGA § 16-6-2 (a) (2); three counts of incest, OCGA § 16-6-22 (a); and one count of enticing a child for indecent purposes, OCGA § 16-6-5 (a). White appeals from the order denying his motion for a new trial, contending that the court erred in allowing the State to present evidence of the sexual misconduct of one White's three victims in violation of the Rape Shield Statute, OCGA § 24-4-412. Finding no error, we affirm.

In a pretrial motion in limine, White moved the trial court pursuant to the Rape Shield Statute to exclude evidence that S. M., when she was twelve years old, had committed acts constituting sexual battery against her father's four- and five-year-old step-children. The trial court denied the motion, ruling that the statute did not exclude the evidence because it was relevant to a number of trial issues that had nothing to do with S. M.'s consent, including whether the child's conduct constituted evidence that she had been the victim of sexual abuse. The trial court denied White's motion for a new trial on the same grounds. In related claims of error,[1] White argues that the court's ruling constitutes reversible error. For the following reasons, we disagree.

[1] In his second claim of error, White asserts that "[t]he sole purpose of admitting S. M.'s prior sexual history was to show that she had been sexually abused" and that this evidentiary use of S. M.'s sexual history violates OCGA § 24-4-403. White does not follow this brief assertion with legal argument, citation to legal authority, or citation to the record. We therefore deem the claim of error abandoned on appeal. See Court of Appeals Rule 25 (c) (2); *Hester v State*, 304 Ga. App. 441, 444 (3) (696 SE2d 427) (2010) ("Rhetoric is not a substitute for cogent legal analysis, which is, at a minimum, a discussion of the appropriate law as applied to the relevant facts.") (citations and punctuation omitted).

Viewed in the light most favorable to the jury's verdict,[2] the record shows that, after S. M. had been accused of molesting the two younger girls,[3] she admitted the offenses to her father. Further, she told him that the defendant, "Uncle Charles," had been molesting her since she was five years old and that he had done similar things to her. In addition to the testimony from S. M. and her father, the State presented testimony from an expert witness who opined that children who act out sexually toward other children, as S. M. did in this case, may be exhibiting abnormally "sexualized" learned behaviors consistent with their having been the victims of sexual abuse.

As we have explained, the Rape Shield Statute reflects a strong legislative effort to protect the victims of certain sexual offenses by excluding "evidence which might reflect on the character of the witness without contributing materially to the issue of the guilt or innocence of the accused." *Parks v. State*, 147 Ga. App. 617 (249 SE2d 672) (1978) (physical precedent only).

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[2] *Jackson v. Virginia*, 443 U. S. 307, 319 (III) (B) (99 SCt 2781, 61 LE2d 560) (1979).

[3] S. M. testified that she had been adjudicated delinquent for these offenses and was serving a probated sentence.

> The [Rape Shield Statute[4]] excludes evidence of past sexual behavior of the alleged victim of a rape or other sex crime. It is intended to protect the complaining witness from intrusive inquiries into her history of sexual activity with persons other than the defendant, inquiries which could only be intended to support the inference that the victim consented to intercourse with the defendant. Exceptions to the law have been

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[4] OCGA § 24-4-412 provides, in relevant part, that

> (a) In any prosecution for [sexual offenses including those at issue], evidence relating to the past sexual behavior of the complaining witness shall not be admissible, either as direct evidence or on cross-examination of the complaining witness or other witnesses, except as provided in [the] Code section[.]
>
> (b) In any prosecution for [such offenses], evidence relating to the past sexual behavior of the complaining witness may be introduced if the court, following the procedure described in subsection (c) of this Code section, finds that the past sexual behavior directly involved the participation of the accused and finds that the evidence expected to be introduced supports an inference that the accused could have reasonably believed that the complaining witness consented to the conduct complained of in the prosecution.

Subsection (c) sets forth the circumstances under which the defense may seek to introduce evidence of the witness's consent. We note that, although the *Warner* case (cited in the text above) was decided under the former Rape Shield Statute, OCGA § 24-2-3, subsection (b) of that statute was maintained without change in OCGA § 24-4-412 (b).

> made, however, when evidence of the victim's sexual activity is relevant to an issue other than consent.

(Punctuation and footnotes omitted.) *Warner v. State*, 277 Ga. App. 421, 423-424 (2) (626 SE2d 620) (2006) (The victim's testimony that she had not had sexual intercourse in the five months prior to her rape was relevant "to exclude the possibility that someone other than [the defendant] had sexual contact with her and gave her herpes. It was not introduced to bolster the victim's character or show consent."). Georgia's Rape Shield Statute is a shield for the victim, not a sword for the accused. Thus, it "cannot be invoked by a defendant to prevent a victim from offering otherwise relevant evidence." (Punctuation and footnote omitted.) *Orengo v. State*, 339 Ga. App. 117, 129 (10) (793 SE2d 466) (2016) (The defendant could not invoke the rape shield statute to exclude evidence regarding the victim's recent sexual activity, because the victim's testimony about her sexual activity in the few days around the alleged rape was relevant to exclude the possibility that the sperm found in the swab of her vagina the day after the rape belonged to someone other than the defendant.).

In this case, as the trial court correctly held, the evidence concerning S. M.'s acts of sexual battery against other children was relevant and, therefore, admissible

because the jury could infer from that abnormal behavior that S. M. was likely the victim of sexual abuse, and most likely at White's hands. Under these circumstances, the trial court did not abuse its discretion in admitting the victim's testimony. See *Orengo v. State*, 339 Ga. App. at 129 (10).

Judgment affirmed. Andrews and Rickman, JJ., concur.