

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Sep 01 2022
SC Court of Appeals

Appeal from Spartanburg County

Honorable Lee S. Alford, Circuit Court Judge

Opinion No. 2022-UP-340

THE STATE,

RESPONDENT,

V.

AMY N. TAYLOR,

PETITIONER

APPELLATE CASE NO. 2019-001117

PETITION FOR REHEARING

On August 17, 2022, this Court affirmed the trial court's ruling that Petitioner did not qualify for early parole eligibility as a victim of domestic violence pursuant to S.C. Code Ann. § 16-25-90. State v. Taylor, Op. No. 2022-UP-340 (S.C. Ct. App. filed August 17, 2022). Pursuant to Rule 221(a), SCACR, Petitioner respectfully requests this Court rehear the matter considering the significant points overlooked and/or misapprehended by this Court as discussed below.

This Court stated Petitioner's argument on appeal was that the circuit court abused its discretion by denying her parole eligibility because she proved by a preponderance of the

evidence that she suffered a history of abuse at the hands of a household member. Respectfully, while Petitioner avers that she did prove by a preponderance of the evidence that she suffered a history of abuse at the hands of a household member, her argument on appeal was that the circuit court abused its discretion by redefining who qualified as a household member under the domestic violence statute. The ruling by the circuit court was based on an error of law and was not supported by the evidence.

S.C. Code Ann. § 16-25-90 provides, in relevant part, that an inmate who was convicted of an offense against a household member is eligible for parole after serving one-fourth of their prison term when the inmate, at the time they pled guilty, presented credible evidence of a history of criminal domestic violence suffered at the hands of the household member. S.C. Code. Ann. § 16-25-10 defines “Household member” as “a male and female who are cohabiting or formerly have cohabited.” To cohabit simply means to live or exist together. For the purposes of the domestic violence statute, it means a male and female living together. There is nothing in the domestic violence statute that requires a male and female who are living together to be living together as a romantic couple, openly as a couple, or to be in a sexual relationship.

Petitioner and the decedent first cohabited in 2012. R. 105, ll. 14-17. The relevant period that the circuit court should have considered was, at a minimum, from 2012 when they first began cohabitating until decedent’s death in March 2017. However, in its ruling the circuit court only considered a seven-month period because that was “the time that they were living **openly together in an actual situation, or like man and wife or two people who were living together as man and wife...**” The circuit court then ruled that a seven-month period was not a long-term relationship as intended by the statute. R. 250, l. 1-R. 251, l. 4.

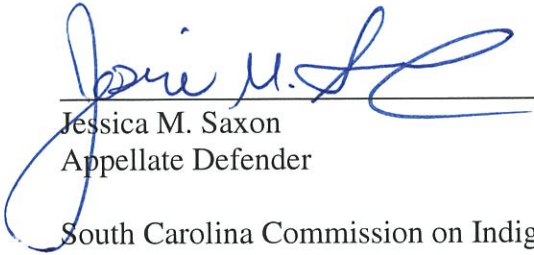
The circuit court abused its discretion by changing the definition of a household member from a male and female cohabiting to a male and female living together as man and wife in a public relationship. Operating under its new definition of a household member, the circuit court restricted its review of a tumultuous multi-year relationship to a seven-month period. The circuit court then specifically ruled that seven-months was not “long-term” as required by the statute. The ruling was based on a misapplication of the domestic violence law. An error of law occurred that cannot be remedied without a new hearing.

Additionally, the ruling was also not supported by the evidence. The record reflects the couple was in a romantic relationship that began in 2010 and continued until decedent’s death in 2017. The combined testimony of the witnesses during the hearing showed that Petitioner suffered abuse for longer than the seven-month period that the circuit court focused on. While the physical violence escalated during the months preceding decedent’s death, the abuse had occurred for years. Petitioner testified that the decedent struck her for the first time many years into their relationship. The decedent also supplied Petitioner with drugs, threatened to kick her and her children out leaving them homeless, threatened to beat her up, threatened to harm her and her children if she ever left, threatened to shoot her and others, and always kept close tabs on her whereabouts.

To qualify for parole eligibility under S.C. Code Ann. § 16-25-10, Petitioner had to show a history of domestic abuse. The circuit court precluded Petitioner from making that showing through only considering a seven-month period of Petitioner and decedent’s multi-year relationship. At oral argument, members of this Court questioned whether the use of the word “everything” at the end of the circuit court’s ruling indicated it considered the time and events outside of the seven-month period. Respectfully, a fair reading of the court’s fifteen-page ruling

evinces that the court only considered the seven-month period and one episode of physical abuse that transpired in those seven-months when it ruled on Petitioner’s motion for parole eligibility. R. 247-262. When the circuit court stated it considered “everything” it meant everything within the seven-month period it had improperly established.

The ruling in Petitioner’s case was predicated on a manifest error of law that was not harmless. Respectfully, Petitioner request this Court rehear matter and find that the circuit court abused its discretion by committing an error of law and by issuing a ruling not supported by the evidence which requires the case to be remanded back to the circuit court for a new hearing pursuant to S.C. Code Ann. § 16-25-90.



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ATTORNEY FOR PETITIONER

This 1st day of September, 2022

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable Lee S. Alford, Circuit Court Judge

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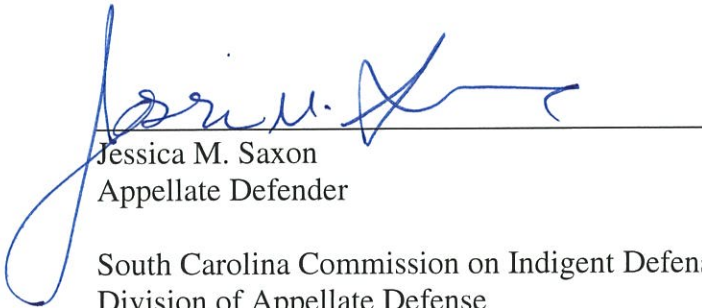
AMY N. TAYLOR,

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APPELLATE CASE NO. 2019-001117

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Tommy Evans, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Amy N Taylor, #380688, at Leath Correctional Institution, 2809 Airport Road, Greenwood, SC 29649, this 1st day of September 2022.


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ATTORNEY FOR PETITIONER

From: [Warren, Kaylynn](#)
To: tommyevansjr@scag.gov
Cc: DDALESSIO@SCAG.GOV; [Saxon, Jessica](#)
Subject: 2019-001117 The State v. Amy N. Taylor
Date: Thursday, September 1, 2022 4:16:00 PM
Attachments: [2019-001117 The State v. Amy N. Taylor Petition for Rehearing and COS.pdf](#)

Good Afternoon,

Please find attached for service in the above-referenced case the Petition for Rehearing and Certificate of Service which will be filed today, September 1, 2022, with the Court of Appeals via OneDrive.

Respectfully,
Kaylynn

Kaylynn Warren

Administrative Assistant
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