

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

**Mar 08 2024**

S.C. SUPREME COURT

\_\_\_\_\_  
Certiorari to Hampton County

Honorable Eugene C. Griffith, Circuit Court Judge  
\_\_\_\_\_

SIDNEY ANTOINE HOLMES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001946  
\_\_\_\_\_

PETITION FOR WRIT OF CERTIORARI  
\_\_\_\_\_

WANDA H. CARTER  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR PETITIONER

**INDEX**

INDEX ..... i

ISSUE PRESENTED ..... 1

STATEMENT ..... 2

ARGUMENT

Trial counsel erred in failing to object to the solicitor’s closing  
comments that vouched for the credibility of the only eyewitness in  
the case in response to her testimony regarding the shooting as this  
constituted impermissible bolstering, which prejudiced the defense  
because there was no additional corroborative or forensic evidence  
available in the case ..... 3

CONCLUSION ..... 5

**ISSUE PRESENTED**

Trial counsel erred in failing to object to the solicitor's closing comments that vouched for the credibility of the only eyewitness in the case in response to her testimony regarding the shooting as this constituted impermissible bolstering, which prejudiced the defense because there was no additional corroborative or forensic evidence available in the case.

## STATEMENT

Petitioner Sidney Holmes was found guilty of murder, unlawful carrying of a pistol, discharge of a firearm at or into a dwelling or structure, and possession of a weapon during the commission of a violent crime per jury trial held during the March, 2017 term of the Hampton County General Sessions Court before Judge Perry M. Buckner, III. App. 1-294. Petitioner was sentenced to imprisonment for a term of fifty-one years. Assistant Solicitors Randolph Murdaugh and R. Alexander Murdaugh prosecuted the case, and Attorney Robert Hughes represented petitioner at trial.

Petitioner appealed, but his case was dismissed by the South Carolina Court of Appeals. See State v. Holmes, Unpublished Opinion No. 2018-UP-384 (Ct. App. filed October 17, 2018).

On December 12, 2018, petitioner filed a PCR application December 12, 2018, with the Hampton County Office of the Clerk of Court. App. 296-305. The respondent filed a Return dated March 13, 2019. App. 306-312.

A PCR hearing was held on August 13, 2021, at the Hampton County Courthouse before Judge Eugene C. Griffith, Junior. App. 313-344. Petitioner was present at the hearing and represented by James K. Falk, Esquire, and Assistant Attorney General Samantha J. Weidauer appeared on behalf of the state. On December 7, 2023, Judge Griffith filed an Order of Dismissal in the case therein denying petitioner's allegations of ineffective assistance of trial counsel. App. 345-357.

Petitioner appealed Judge Griffith's Order of Dismissal. This petition follows.

## ARGUMENT

Trial counsel erred in failing to object to the solicitor's closing comments that vouched for the credibility of the only eyewitness in the case in response to her testimony regarding the shooting as this constituted impermissible bolstering, which prejudiced the defense because there was no additional corroborative or forensic evidence available in the case.

Petitioner was convicted of the murder of Steve Cochran, who was a maintenance employee at Hampton Gardens Apartment in Hampton, South Carolina. At trial, Zandra Bryant testified that on August 1, 2015, she witnessed Cochran expel a group of rowdy men from the apartment complex. Bryant stated that later on that same date, a male whom she recognized as petitioner, also known as Banger, appeared on the premises near the apartment office, and started shooting at Cochran, who died at the scene. Note that Bryant had four children who lived with her at the complex and that two of her children were with her as she talked to other tenants minutes prior to the shooting. She moved her children to safety when the gunshots were fired.

App. 54, l. 6 – p. 60, l. 7; App. 65, l. 1 – p. 66, l. 1. Note, however, that Bryant lied when questioned initially and declared she knew nothing about the shooting. App. 60, lines 13-22. The autopsy results revealed that Cochran received four gunshot wounds from the shooting. App. 104, lines 21-22.

During the PCR hearing held in the case, trial counsel admitted that the solicitor vouched for the credibility of Bryant as a witness during closing arguments, but that it was his trial strategy not to object to the same in order to avoid highlighting this assessment to the jury. App. 324, l. 15 – p. 326, l. 6.

The solicitor made the following closing remarks about Bryant's character to the jury:

Then, a lady who I have got all the admiration in the world for, that woman is scared to death her entire life. She's got four children that live out there. She is scared of these people, but she had the guts to walk into this courtroom and she had the guts to tell you the truth...that petitioner walks up and shot Steve Cochran because he was "teed" off with him for running him off earlier. App. 243, lines 13-21.

Improper vouching is not permitted in South Carolina. Vouching is improper because it constitutes an assurance by the prosecuting attorney of the credibility of a witness through personal knowledge or other information outside of said witness' testimony in support of that testimony. State v. Kelly, 343 S.C. 350 540 S.E.2d 851 (2001). State v. Shuler, 344 S.C. 604, 545 S.C.2d 805 (2001). In Kelly, the solicitor bolstered the credibility of a jail-house informant by asking him about their prior conversations regarding truth-telling. In State v. Busse, 439 S.C. 104 886 S.E.2d 208 (2023), the Court addressed the matter as follows:

Zealous advocacy crosses the line and becomes improper vouching, however, when the prosecutor indicates to the jury—even implicitly—that her argument as to the credibility of a witness is based on anything other than the evidence admitted...the legal concept of vouching prohibits a prosecutor from giving the jury any indication that she knows something about the credibility of a witness that the jury does not know, or that is based on an event or proceeding outside the presence of the jury.

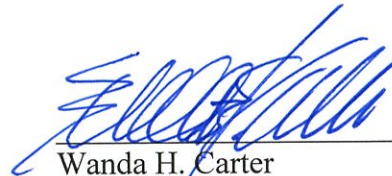
In Matthews v. State, 350 S.C. 272, 565 S.E.2d 766 (2022), the Court held that trial counsel erred in failing to object to the solicitor's improper bolstering that referenced the fact that he only placed state's witnesses on the stand whose testimony passed the corroboration test in cases. See State v. Collier, 421 S.C. 426, 807 S.E.2d 206, 620 (2017), where the Court held that the solicitor's comment that a witness had no motivation to lie constituted inappropriate bolstering.

Trial counsel erred in failing to object to the solicitor's remarks that bolstered the testimony of the only eyewitness inasmuch as this was impermissible vouching; and because the

prejudice was overwhelming where the case hinged primarily on the eyewitness identification testimony, sans any other corroborative evidence (forensic or otherwise) available to establish proof of guilt in the case. Trial counsel's omission in this regard was deficient legal representation at trial in violation of the Sixth Amendment (See Hill v. Lockhart, 466 U. S. 668 (1984)), such that but for the error, a reasonable probability exists that the outcome of the trial would have been different.

### **CONCLUSION**

Based on the foregoing argument, counsel for petitioner would request that this Court grant the petition and allow full briefing on the above-raised issue.



---

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of March, 2024.