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SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Orangeburg County

Roger M. Young, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

BOWEN GRAY TURNER,

APPELLANT.

APPELLATE CASE NO. 2022-001018

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MOTION FOR ORAL ARGUMENT

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Counsel for Bowen Gray Turner respectfully requests oral argument in the above-captioned appeal. In support of this request, counsel shows:

1. Undersigned counsel received notice from this Court yesterday, on September 3, 2024 that this appeal involving appellant being ordered to register as a sex offender during his probation revocation proceeding was being submitted without oral argument.

2. The appeal by the Victim's Advocate, State v. Bowen Gray Turner. In re: Victim C.B., Appellate Case No. 2022-000472, pertaining to Bowen Turner's guilty plea proceeding is scheduled before this Court for oral argument on Tuesday, September 10, 2024, at 10:00 a.m. in Courtroom 1.

3. The present sex offender registry appeal involves five substantive legal issues:

1.

Did the probation revocation judge err by denying appellant's motion for a continuance to allow Dr. Jeffrey McKee to conduct a psychosexual evaluation of appellant before the judge determined whether appellant should be required to register as a sex offender, particularly when Dr. McKee had already been retained, a funding order had been signed, and Dr. McKee was able to begin the evaluation the following week?

2.

Did the probation revocation judge abuse his discretion by refusing to exercise his discretion at all when he ordered appellant to register as a sex offender maintaining he had no "leeway" in the matter?

3.

Did the probation revocation judge abuse his discretion by ordering appellant to register as a sex offender where the state failed to show good cause existed for placing appellant on the registry, specifically, where there was no evidence appellant was at risk of reoffending?

4.

Did the probation revocation judge abuse his discretion by ordering appellant to register as a sex offender where the judge was without the statutory authority to do as the probation revocation judge?

5.

Did the sentencing judge err by ruling any violation of the sex offender conditions of probation would automatically result in appellant having to register as a sex offender since the state should have been forced to show at the sentencing hearing that the violation of the sex offender conditions constituted good cause for appellant to register?

## **Procedural History**

4. Appellant, Bowen Turner, then fifteen or sixteen years old, allegedly assaulted a minor female on June 2, 2019, after she attended a house party in Orangeburg County. R. 13, ll. 4-21; R. 32, ll. 20-23. The state and appellant reached a plea agreement, and a guilty plea proceeding was held on April 7, 2022, before the Honorable R. Markley Dennis, Jr. R. 1. C. Bradley Hutto represented appellant. Assistant Solicitor David W. Miller represented the state. R. 1.

5. Appellant waived grand jury presentment on the charge of assault and battery in the first degree pursuant to the recommended sentence agreement. R. 68. At the conclusion of the hearing, Judge Dennis sentenced appellant to an indeterminate period not to exceed six years pursuant to the Youthful Offender Act (YOA). That sentence was suspended upon the service of five years' probation with various conditions attached. Judge Dennis also ordered that "the sex offender conditions of probation shall apply for all five years," and if appellant violated any of the sex offender conditions of probation, he would be required to register as a sex offender. R. 33, l. 24 – 35, l. 4. The judge clarified, at defense counsel Hutto's request, that a minor violation, such as a speeding ticket, would not result in appellant having to register as a sex offender. R. 37, l. 25 – 39, l. 9.

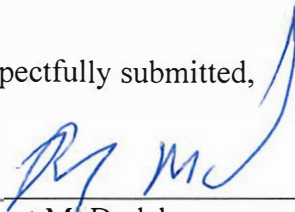
6. On May 9, 2022, appellant was charged with violating the conditions of his probation after he was arrested for public disorderly conduct, the underlying facts of which did not involve a sexual component. R. 59. A revocation hearing was held on July 13, 2022, before the Honorable Roger M. Young. R. 42. Jason B. Turnblad represented appellant. Agent Gregory Whittaker appeared on behalf of the Department of Probation, Parole, and Pardon Services (the Department). R. 42.

7. Defense counsel Turnblad asked the judge to “take into consideration Mr. Turner’s young age, his lack of a prior record before pleading to these charges. He had no record before this plea.” R. 46, ll. 16-19. Turnblad said while appellant was prepared for the judge to activate the YOA sentence, he requested the judge hold the sex offender registry legal issue in abeyance to allow for Dr. Jeffrey McKee “to conduct a psychosexual evaluation of Mr. Turner before we have that determination of whether he would have to register as a sex offender.” R. 45, l. 18 – 46, l. 9. The judge refused this continuance request as to the sex offender registry legal issue, and, at the conclusion of the hearing, revoked appellant’s probation, activated his YOA sentence, and ordered appellant register as a sex offender, maintaining he had no “leeway” in the matter. R. 55, l. 18 – 56, l. 8.

8. Undersigned submits that this is a highly unusual case, involving the various substantive legal issues above. Undersigned counsel thinks and respectfully submits that an oral argument would assist in this Court’s resolution of appellant’s appeal.

WHEREFORE, undersigned counsel would respectfully request that this Court schedule and hold an oral argument in this case before issuing an opinion on the merits of appellant’s appeal.

Respectfully submitted,



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Robert M. Dudek  
Chief Appellate Defender

This 4th day of September, 2024.

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**SC Court of Appeals**

STATE OF SOUTH CAROLINA

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Appeal from Orangeburg County

Honorable Roger M. Young, Circuit Court Judge  
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THE STATE,

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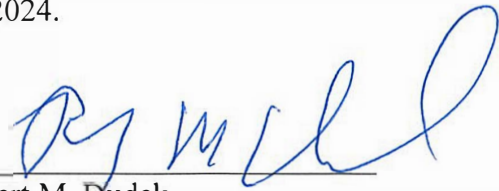
BOWEN GRAY TURNER,

APPELLANT.

APPELLATE CASE NO. 2022-001018  
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CERTIFICATE OF SERVICE  
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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies that a true copy of the Motion for Oral Argument in the above-referenced case has been served upon Matthew Buchanan, Esquire, at his primary e-mail address listed in the Attorney Information System (AIS), this 4th day of September, 2024.



\_\_\_\_\_  
Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

**From:** [Warren, Kaylynn](#)  
**To:** [SC - BUCHANAN MATTHEW](#)  
**Cc:** [SC - NICHOLS DAWN](#); [Dudek, Robert](#); [Caudy, Lara](#)  
**Subject:** 2022-001018 The State v. Bowen Gray Turner  
**Date:** Wednesday, September 4, 2024 1:50:00 PM  
**Attachments:** [2022-001018 The State v. Bowen Gray Turner Motion for Oral Argument.pdf](#)

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Good Afternoon,

Attached for service in the above-referenced case is the Motion for Oral Argument which will be filed today, September 4, 2024, with the Court of Appeals via email filing.

Respectfully,

Kaylynn

**Kaylynn Warren**

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

(803) 734-1330