

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Dec 23 2024

S.C. SUPREME COURT

—————  
Certiorari to Allendale County

Honorable Roger M. Young, Circuit Court Judge  
—————

BOBBY JONES, SR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000633  
—————

JOHNSON PETITION FOR WRIT OF CERTIORARI  
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ATTORNEY FOR PETITIONER

**INDEX**

INDEX..... i

ISSUE PRESENTED.....1

STATEMENT.....2

ARGUMENT

**Trial counsel was ineffective for failing to call character  
witnesses.....3**

CONCLUSION.....6

PETITION TO BE RELIEVED AS COUNSEL .....7

**ISSUE PRESENTED**

Was trial counsel ineffective for failing to call character witnesses?

## STATEMENT

Petitioner was charged with second-degree criminal sexual conduct with a minor and on July 9, 2018, was tried in Allendale County before the Honorable Brooks Goldsmith and a jury. App. 1. Rebekah Luttrell and Leigh Staggs represented the State. App. 2. Glenn Walters and Michael Culler represented petitioner. App. 2. The jury convicted petitioner. App. 579. Petitioner's conviction was affirmed on appeal. App. 692.

Petitioner filed a timely PCR application and on November 27, 2023, a hearing was held before the Honorable Roger Young. App. 622. Chelsey Marto represented petitioner and Danielle Dixon represented the State. App. 622. Judge Young denied petitioner's application. App. 691. This petition follows.

## ARGUMENT

### Trial counsel was ineffective for failing to call character witnesses.

Petitioner wanted his defense to be about his good character. At the time petitioner's case was tried, in July 2018, it was still possible to get a jury charge that good character alone can create reasonable doubt. See Pantovich v. State, 427 S.C. 555, 832 S.E.2d 596 (Aug. 7, 2019). Trial counsel called no character witnesses in the defense case. App. 4. They only recalled the Complainant and petitioner. App. 4. Petitioner did not receive a good character charge. App. 569-77.

The PCR court found no deficiency and no prejudice even though petitioner presented three character witnesses at the PCR hearing. App. 698-99. The PCR court mistakenly credited counsel with the decision not to call character witnesses because petitioner's "character could not get around the facts of the case." App. 698. The court then found the character witnesses presented at the PCR hearing were cumulative to the testimony elicited from petitioner and the State's witnesses at trial. App. 698-700.

These two findings contradict each other. If evidence of petitioner's good character would make no difference, then it makes no sense to call such evidence cumulative when their own trial strategy showed them eliciting good character evidence. As shown at the PCR hearing, the failure to call character witnesses in the defense case was simply a matter of being unprepared.

The PCR court made no adverse credibility findings concerning petitioner's character witnesses at the PCR hearing. Petitioner's niece, Pamela Smith, explained it was her "understanding none of our family was asked to testify." App. 655. She had known petitioner her whole life. App. 655. She would have been a credible witness because she worked in law

enforcement for over fifteen years. App. 656. She testified that she had no concern about petitioner being alone with children. App. 655-56.

The complainant's mother testified for petitioner at the PCR hearing. App. 658-61. She was still married to petitioner. App. 658-61. She said if something happened, her daughter would have told her about it. App. 658-61. She explained petitioner's decades of service to the Allendale community. App. 658-61. She said, "And I truly believe my husband. I believe he would never do nothing like that, ever." App. 660.

Craig Smith married into petitioner's family and had known him for years. App. 685-86. Smith was "born and raised in Allendale County." App. 685. He served as a police officer for twenty-five years. App. 685. Smith testified about petitioner's good works as a football and basketball coach. App. 686. If Smith needed advice, he would go to petitioner. App. 686.

At the PCR hearing, petitioner testified that his attorneys did "nothing." App. 626. He had twenty character witnesses on his list, but his attorneys failed to call any of them. App. 627-28. Petitioner described all of the good deeds he performed in his life in Allendale. App. 640-41. He built a community center, he fed people, set up an afterschool program, helped at-risk children with their education, gave away keyboards so children could learn music, and worked with both DSS and DJJ to help the children of Allendale. App. 640-41. Had the jury known all about his character, petitioner testified he would not have been convicted. App. 641.

In Pantovich, the defendant received a new trial because appellate counsel failed to raise the good character jury charge issue on appeal. Pantovich at 563-64, 832 S.E.2d at 600-01. "It is well settled that a criminal defendant may introduce evidence of his good character." State v. Lee-Grigg, 387 S.C. 310, 317, 692 S.E.2d 895, 898 (2010). In both Pantovich and Lee-Grigg, the failure to give a good character charge was not harmless and resulted in reversals.

The prejudice suffered by petitioner is worse than either Pantovich or Lee-Grigg. Not only did petitioner not get a good character charge, but his attorneys failed to call good character witnesses in their own case. Had the jury heard the witnesses at PCR—including two witnesses who worked in law enforcement—the result would have been different. The complainant partially recanted her allegations, claiming that she did not recall the abuse. Good character would have made the difference and this Court should grant certiorari, reverse petitioner's conviction, and remand for a new trial.

**CONCLUSION**

For the foregoing reasons, petitioner's conviction should be reversed and a new trial ordered.



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David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 23<sup>rd</sup> day of December, 2024.

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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for Bobby Jones states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. He has reviewed the record of petitioner's post-conviction relief hearing before Judge Roger M. Young, which was held on Nov. 27, 2023, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed an arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve him as counsel for Bobby Jones.

Respectfully Submitted,

  
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David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 23<sup>rd</sup> day of December, 2024.

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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of his ability this Johnson Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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