STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Chester County
Honorable Brian M. Gibbons, Circuit Court Judge

Opinion No. 2024-UP-408 (S.C. Ct. App. Filed December 4, 2024)

Lower Court Case Nos. 2019-GS-12-00887, 2019-GS-12-00952, & 2019-GS-12-00974

THE STATE,

RESPONDENT,

V.

BRADLEY MARK CORLEW,

PETITIONER

APPELLATE CASE NO. 2021-000989

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on January 13, 2025.

QUESTION PRESENTED

Did the Court of Appeals err in affirming petitioner's convictions where the trial court reversibly erred in allowing the state to introduce bad acts evidence pursuant to Rule 404(b), SCRE where (1) petitioner's pretrial objection to both minor witnesses' testimonies was preserved and (2) the improper evidence was not harmless?

STATEMENT OF THE CASE

On December 17, 2019, a Chester County grand jury indicted petitioner for criminal sexual conduct with a minor in the first degree and criminal sexual conduct with a minor in the second degree. R. 460. On October 27, 2020, a Chester County grand jury indicted petitioner for incest. R. 464. The state, represented by Candice Lively and Kaitlyn Easler, called the case to trial before the Honorable Brian M. Gibbons and a jury on August 30, 2021 – September 2, 2021. R. 54. William Frick and Kay Boulware represented petitioner. R. 15. The jury found petitioner guilty as charged. R. 442, ll. 1-10. Judge Gibbons sentenced petitioner to life imprisonment without the possibility of parole for criminal sexual conduct with a minor in the first degree, to twenty years imprisonment for criminal sexual conduct with a minor in the second degree, and to ten years imprisonment for incest. R. 449, l. 19 – R. 450, l. 6.

On September 9, 2021, petitioner served his notice of appeal and filed a brief on July 20, 2022. The Court of Appeals affirmed petitioner's convictions and sentence finding (1) petitioner's objection was not preserved as to live witness testimony and (2) while the evidence was admitted in error it was harmless. *State v. Corlew*, Op. No. 2024-UP-408 (S.C. Ct. App. Filed Dec. 4, 2024). Pursuant to Rule 221(a), SCACR both the state and petitioner filed petitions for rehearing. Subsequently, on January 13, 2025, the Court denied both petitions for rehearing. This petition for a writ of certiorari follows.

ARGUMENT

The Court of Appeals erred in affirming petitioner's convictions where the trial court reversibly erred in allowing the state to introduce bad acts evidence pursuant to Rule 404(b), SCRE where (1) petitioner's pretrial objection to both minor witnesses' testimonies was preserved and (2) the improper evidence was not harmless.

Relevant facts

On August 11, 2021, the state filed a "motion in limine for admission of *res gestae* evidence and common scheme or plan." R. 453. The state moved to elicit testimony through the alleged victims in the case "of ongoing multiple acts of abuse perpetrated upon them *and their siblings*" by petitioner. R. 453 (emphasis added). The state also wanted to elicit testimony about "abuse inflicted upon them by the co-defendant, Sarah Lacy." R. 455. According to the state, "[t]he purpose of this testimony [was] to assist the jury in understanding the context of the crimes" charged. R. 453. Thus, the state argued the evidence was part of the res gestae of the criminal charges for which petitioner stood trial. R. 454.

Further, the state argued the evidence was admissible pursuant to the common plan or scheme exception found within Rule 404(b), SCRE. R. 454. Although citing the relevant case law, the state incorrectly argued that similarities among the acts *alone* were sufficient to support admissibility. R. 454. The state also argued the testimony established "a logical relevance to the underlying crime(s)" to support admission. R. 454.

On August 11, 2021, Judge Gibbons heard argument on the state's motion. R. 1. The state explained there were nine children living in the home along with petitioner and Lacy. R. 6, ll. 19-23. The state claimed that it was "a sort of lifestyle to normalize sexual behaviors between both of the defendants and their sexual activities, as well as having the children join in on the

sexual activities as well." R. 7, ll. 1-4. According to the state, if the judge ruled the evidence of other crimes committed by other people and against other people inadmissible, then the state would likely be unable to try the case. R. 7, ll. 5-9 ("it would tie our hands and be almost impossible to divvy out the type of abuse that was going on with each individual child because they were often"). After recognizing the state could not show a similar pattern of abuse, the state claimed it "clearly" showed "the logical connection between the events of sexual abuse that was going on between the children at the hands of these defendants." R. 8, ll. 2-14. According to the state, this was "one of these particularized situations that is very unique, very specific ... in regards to how these children were systematically abused on a daily basis." R. 8, ll. 15-19.

Defense counsel argued "similarity is not enough" in order for evidence of prior bad acts to constitute common plan or scheme. R. 9, ll. 6-15. Here, all the state produced was "similarity" and failed to show any type of logical connection. R. 9, l. 16. Further, defense counsel argued the danger of unfair prejudice outweighed the evidence's probative value. R. 9, ll. 17-21; R. 11, ll. 2-4. Judge Gibbons took the matter under advisement. R. 12, ll. 24-25.

The parties reconvened on August 18, 2021. R. 15. The state reiterated its position that if the judge excluded the evidence of prior bad acts the state would be unable "to actually present a full picture to the jury." R. 18, ll. 9-15. Further, the state reiterated its argument, without explanation or the proffering of evidence, that "there [was] that logical connection" and "it would meet the requirement of clear and convincing evidence." R. 18, ll. 18-22.

Judge Gibbons granted the state's request to present the evidence of prior bad acts, and importantly, noted that the defense was "protected in the record." R. 19, ll. 4-6. Noting that trial counsel could make a contemporaneous objection "without having to stand up every single time

something is said." R. 19, ll. 6-9. He explained defense counsel could simply note his objection for the record during the trial. R. 19, ll. 9-15.[1]

Minor 1, petitioner's biological daughter, explained that petitioner and Sarah Lacy were in a romantic relationship. R. 178, ll. 2-3; R. 178, ll. 12-17. Petitioner and his five children lived in a house in Chester with Lacy and her four children. R. 182, ll. 11-24. Petitioner worked as a truck driver while Lacy stayed home. R. 183, ll. 1-2; R. 194, ll. 19-20. Petitioner would be "gone for like two days at a time" for his job as a truck driver. R. 214, ll. 18-22.

After explaining sexual abuse allegedly perpetrated on her by petitioner and Lacy, Minor 1 testified that the only other child in the room when these things would happen was Minor 2. R. 189, ll. 19-22. Minor 1 also claimed she often saw petitioner hitting Lacy. R. 194, ll. 1-12. She further claimed that Lacy urinated on Minor 1's brother a few times. R. 195, ll. 21-24.

During her first forensic interview on September 12, 2019, Minor 1 called Lacy a "sexual and physical abuser." State's Exhibit #1. Minor 1 then described the sexual abuse she, Minor 2, and Minor 1's brother suffered at the hands of Lacy. State's Exhibit #1. According to Minor 1, Lacy had "sex stuff," including "ding-a-lings." State's Exhibit #1. Lacy would stick these inside Minor 1 and make Minor 1 use them on herself. State's Exhibit #1. Minor 1 indicated Lacy would make Minor 1 touch Lacy sexually as well – either with her hand or the ding-a-ling. State's Exhibit #1. Minor 1 believed that Lacy sexually abused her brother because Lacy took him into a room and closed the door. State's Exhibit #1. Minor 1 was emphatic throughout the first interview that petitioner did not know of this sexual abuse and he was not abusive to her or

[1] During the trial, when the state sought to introduce State's Exhibit #1, which was digital media containing the first and second forensic interviews of Minor 1, defense counsel renewed his objection by stating, "Previous objection as ruled upon." R. 162, ll. 6-9. Similarly, defense counsel renewed his objection when the state sought to introduce State's Exhibit #2, which was the forensic interview of Minor 2. R. 162, ll. 20-24. State's Exhibits #1 and #2 are on file with this Court.

any of the children. State's Exhibit #1.

On September 25, 2019, a forensic interviewer talked to Minor 1 again. State's Exhibit #1. Minor 1 claimed she lied previously. State's Exhibit #1. According to Minor 1, she lied about petitioner; he did abuse her. State's Exhibit #1. Minor 1 explained that Lacy started sexually abusing her while petitioner was at work. State's Exhibit #1. However, petitioner subsequently joined Lacy in sexually abusing her. State's Exhibit #1.

During this second forensic interview, Minor 1 also claimed that she saw Lacy try to have sex with her brother. State's Exhibit #1. Minor 1 also believed Lacy and petitioner made her brother watch them have sex. State's Exhibit #1. When the forensic interviewer asked if she ever saw petitioner and Lacy make Minor 2 and Minor 1's brother have sex, Minor 1 claimed that once while watching a movie, she saw hands moving under covers. State's Exhibit #1.

Minor 2, Sarah Lacy's biological daughter, described being sexually abused by petitioner, but she claimed Minor 1 would leave the room prior to any abuse occurring. R. 228, l. 23 – R. 229, l. 4. The state played Minor 2's forensic interview, which covered much more ground, for the jury. State's Exhibit #2.

During her forensic interview, Minor 2 graphically described physical abuse allegedly suffered by Lacy at petitioner's hands. State's Exhibit #2. Minor 2 then described being sexually abused by petitioner. State's Exhibit #2. She claimed her mother, Lacy, tried to stop the abuse, but petitioner would hit Sarah in order to continue abusing Minor 2. State's Exhibit #2.

Minor 2 claimed petitioner forced Minor 1's brother to "do it" to Lacy. State's Exhibit #2. She further claimed that petitioner would make all the kids watch him and Lacy have sex. State's Exhibit #2. Minor 2 alleged that petitioner made her – Minor 2 – have sex with Minor

1's brother. State's Exhibit #2. According to Minor 2, petitioner held her while she had sex with the brother. State's Exhibit #2.

Minor 2 claimed petitioner beat her brother when he urinated on himself. State's Exhibit #2. Petitioner would use drop cords to beat them. State's Exhibit #2. Minor 2 even claimed two other children were forced to have sex. State's Exhibit #2.

Discussion

In its opinion the Court of appeals found petitioner only renewed his pretrial objection to the admission of bad act evidence as to the forensic interview videos and not the victims' testimony. However, as pointed out by the Court in the opinion, during pretrial motions the trial court granted the state's request to present the evidence of prior bad acts, and importantly, noted that the defense was "protected in the record." R. 19, ll. 4-6. The trial court specifically instructed counsel should make a contemporaneous objection "without having to stand up every single time something is said." R. 19, ll. 6-9. The court explained that defense counsel could simply note his objection for the record during the trial. R. 19, ll. 9-15.

Counsel for petitioner relied on the trial court's verbal assurance that their objection was "protected in the record." Counsel's objection was to the victims' testimony and to the forensic interview videos. Counsel objected at the first mention of the prior bad act evidence and his objection to the victims' testimonies is preserved for appellate review.

Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion. Rule 404(a), SCRE. "Rule 404(b) prevents the State from introducing evidence of a defendant's other crimes for the purpose of proving his propensity to commit the crime for which he is currently on trial." *State v. Perry*, 430 S.C. 24, 30, 842 S.E.2d 654, 657 (2020). "In any criminal case, however, evidence the

defendant committed similar criminal acts has the inherent tendency to show this propensity." *Id.* "Proof that a defendant has been guilty of another crime equally as heinous prompts to a ready acceptance of and belief in the prosecution's theory that he is guilty." *Id.* (internal quotation omitted). "Thus, evidence of a defendant's other crimes serves the prohibited purpose of showing he has a propensity to engage in criminal behavior." *Id.* In essence, evidence of other bad acts is not admissible to prove a person's guilt; however, such evidence may be admissible to show motive, identity, existence of a common scheme or plan, absence of mistake or accident, or intent. Rule 404(b), SCRE; *see also State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923).

"To be admissible, the bad act must logically relate to the crime with which the defendant has been charged." *State v. Gaines*, 380 S.C. 23, 29, 667 S.E.2d 728, 731 (2008). "Whether evidence of other distinct crimes properly falls within any of the recognized exceptions noted is often a difficult matter to determine." *Lyle*, 125 S.C. at 406, 118 S.E. at 807. "The acid test is its logical relevancy to the particular excepted purpose or purposes for which it is sought to be included." *Id.* "[T]he dangerous tendency and misleading probative force of this class of evidence require that its admission should be subjected by the courts to rigid scrutiny." *Id.* Judges must resolve the question of admissibility "in the light of the consideration that the inevitable tendency of such evidence is to raise a legally spurious presumption of guilt in the minds of the jurors." *Id.* Therefore, "if the court does not clearly perceive the connection between the extraneous criminal transaction and the crime charged, that is, its logical relevancy, the accused should be given the benefit of the doubt, and the evidence should be rejected." *Id.*

In addition, if the defendant were not convicted of the prior bad act, evidence of the conduct must be clear and convincing. *Gaines*, 380 S.C. at 29, 667 S.E.2d at 731; *State v. Wilson*, 345 S.C. 1, 545 S.E.2d 827 (2001). "Clear and convincing evidence is that degree of proof which will

produce in the mind of the trier of facts a firm belief as to the allegations sought to be established. "Such proof is intermediate, more than a mere preponderance but less than is required for proof beyond a reasonable doubt; it does not mean clear and unequivocal." *State v. Fletcher*, 379 S.C. 17, 24, 664 S.E.2d 480, 483 (2008).

Recently, in a trilogy of cases decided on the same day, this Court overruled *State v. Wallace*, 384 S.C. 428, 683 S.E.2d 275 (2009) concerning evidence constituting the common plan or scheme exception found within Rule 404(b), SCRE, in criminal sexual conduct cases. *State v. Durant*, 430 S.C. 98, 106-107, 844 S.E.2d 49, 53 (2020); *State v. Perry*, 430 S.C. 24, 842 S.E.2d 654 (2020); *State v. Cotton*, 430 S.C. 112, 844 S.E.2d 56 (2020). In order to understand Rule 404(b), SCRE, all three decisions must be read in tandem.

This Court explained that *Wallace* was an outlier in the case law as it held only a close degree of similarity was necessary to establish the required connection between the prior bad act and the charged offense. *Perry*, 430 S.C. at 35-37, 842 S.E.2d at 660-61. According to this Court, "[t]he decision in *Wallace* effectively created a new rule of evidence, and rendered meaningless the restrictive application of the common scheme or plan exception that is so deeply embedded in our precedent." *Id.* After overruling *Wallace*, this Court explained that in order for the common plan or scheme exception to apply, "the state must demonstrate to the trial court that there is in fact a scheme or plan common to both crimes, and that evidence of the other crime serves some purpose other than using the defendant's character to show his propensity to commit the crime charged." *Id.* at 44, 842 S.E.2d at 664-665.

After ensuring the Bench and Bar were well aware that the logical connection test applies when determining admissibility of other crimes evidence to show common scheme or plan, this Court held evidence of prior bad acts allegedly committed by Perry were not admissible. *Id.* at 38,

842 S.E.2d at 661. Perry was charged with criminal sexual conduct with two of his daughters. *Id.* at 27, 842 S.E.2d at 655. First daughter testified that Perry first assaulted her when she was between five and seven years old. *Id.* She claimed that after the first incident, he would digitally penetrate her early in the morning during her weekend visitations with him. *Id.* She asserted the assaults often involved physical force, and that Perry threatened she would get into trouble if she told. *Id.* The assaults stopped when she was sixteen years old. *Id.* at 27, 842 S.E.2d at 656.

The second daughter claimed the sexual assaults against her started when she was about ten years old. *Id.* Perry would digitally penetrate her early in the morning. *Id.* The assaults did not involve any physical force, and they stopped when she turned twelve. *Id.* Perry had told her not to tell because she would get into trouble. *Id.* at 28, 842 S.E.2d at 656.

The state introduced the testimony of Perry's stepdaughter ostensibly under the common plan or scheme exception within Rule 404(b), SCRE. *Id.* Stepdaughter testified that when she was nine-years old Perry digitally penetrated her. *Id.* This occurred periodically over the next four years. *Id.* The assaults included an incident in the bathtub. *Id.* She further claimed that Perry told her not tell because no one would believe her. *Id.* The alleged assaults against Stepdaughter occurred twenty-two to twenty-seven years prior to the offenses for which Perry stood trial. *Id.*

This Court held the sexual assault of Stepdaughter was "not substantially similar" to the assaults of the biological daughters. *Id.* at 37, 842 S.E.2d at 661. The assaults started at different ages, occurred within a different frequency, varied regarding use of physical force, and involved different forms of ensuring silence. *Id.* at 38, 842 S.E.2d at 661-662. This Court was unpersuaded that the dissimilarities in the girls' ages could be made similar by describing the ages as pre-pubescent. *Id.* at 39, 842 S.E.2d at 662. This Court was also unpersuaded that the dissimilarity of the locations of the alleged assaults could be made similar by claiming all occurred within the home.

Id. Put bluntly and succinctly, this Court held it could not be said that Perry had a "monopoly" on his criminal method simply because of the similarities present: father figure, in the home, in a bedroom, and beginning in the pre-pubescent years. *Id.* at 40, 842 S.E.2d at 662.

Looking for that logical connection, this Court held there was not any fact in the crimes charged that was made more or less likely to be true by the testimony of the stepdaughter. *Id.* at 40, 842 S.E.2d at 663. "It is not enough to meet the 'logical connection' standard for admission of other crimes under the common scheme or plan exception to Rule 404(b) that the defendant previously committed the same crime." *Id.* at 41, 842 S.E.2d at 663. "'Repetition of the same act or same crime does not equal a "plan."'" *Id.* (quoting *State v. Perez*, 432 S.C. 491, 502, 816 S.E.2d 550, 556 (2018) (Hearn, J., concurring). "The common scheme or plan exception demands more. There must be something in the defendant's criminal process that logically connects the 'other crimes' to the crime charged." *Id. See State v. Parker*, 315 S.C. 230, 234, 433 S.E.2d 831, 833 (1993) (holding there was no connection between the other crime and the charged crime in order to support the common plan or scheme exception where there was only a general similarity between the two); *State v. Rivers*, 273 S.C. 75, 78, 254 S.E.2d 299, 300 (1979) (holding evidence of prior bad acts should have been excluded where the Court was "[u]nable to clearly perceive the connection between the acts").

This Court held the prior acts in dispute were admissible where the defendant "had a particularly unique method of committing his attacks common to all the girls." *State v. Durant*, 430 S.C. 98, 106-107, 844 S.E.2d 49, 53 (2020). This Court explained

> Durant exercised his position of trust, authority, and spiritual leadership to hold private prayer meetings with teen girls who had grown up in his church. He told them he was praying for their health and good fortune, and represented that part of this process was touching them sexually and having intercourse. Durant then warned the girls of misfortune if they refused or told anyone. Moreover, he used scripture as a means of grooming the children into performing sex acts.

Id. This Court held that the facts demonstrated the requisite logical connection between the prior acts of sexual abuse and the one forming the basis of the crime charged. *Id.*

This Court affirmed the admission of prior bad acts where the similarities between the prior acts and current criminal charge were extensive and a logical connection existed. *Cotton*, 430 S.C. at 114, 844 S.E.2d at 57. Cotton met a young woman online, picked her up in his car to take her on a date, and quickly became aggressive, forcing her to perform oral sex on him in the car. *Id.* at 113-114, 844 S.E.2d at 57. Then, he drove to a secluded location, threatened to shooting the woman, raped her outside the car, and drove her home. *Id.* at 114, 844 S.E.2d at 57. The prior bad act evidence consisted of testimony from another woman that she met Cotton online, he picked her up in his car to take her on a date, and he became aggressive quickly. *Id.* He forced her to perform oral sex on him in the car. *Id.* He then drove to a secluded location where he raped her. *Id.* Afterward, he drove her home. *Id.*

This Court, in *Perry*, explained its ruling in *Cotton*: "We affirmed the admission of the evidence under the common scheme or plan exception. The similarities between the two incidents were extensive. The trial court discussed these similarities at length in its pre-trial ruling. But the 'other crimes' evidence in *Cotton* had more than just similarity." *Perry*, 430 S.C. at 43-44, 842 S.E.2d at 664. The trial court supplied a logical connection between the prior bad act evidence and a specific, disputed fact in the case before the jury. *Id.* The trial court also "conducted an extensive, on-the-record analysis of the balance between the unfair prejudice that would result from the evidence against the probative value in the logical connection." *Id.*

Regarding the evidence that petitioner physically harmed Sarah Lacy, the Court of Appeals held the evidence was admissible finding it was introduced for some purpose other than to show the accused is a bad person or acted in conformity with prior bad acts. The Court found

specifically; this evidence was used by the state to explain any delay by the victims in disclosing the alleged abuse. *State v. Corlew*, Op. No. 2024-UP-408 (S.C. Ct. App. Filed Dec. 4, 2024). In support of its holding the Court cited *State v. Galloway*, 443 S.C. 229, 904 S.E.2d 866 (2024) ([i]t was not error for the trial court to admit the testimony about [the defendant's violence towards a third party living in the victim's home] because it is clear the State did not elicit the testimony for the purpose of demonstrating [the defendant's] propensity to be sexually violent. Instead, the [s]tate offered the evidence to explain why the victim did not disclose the abuse when she was a child).

This case is distinct from *Galloway*, where the victim in that case disclosed the abuse she endured as a child in elementary school several years later when she was thirty-seven. There was no delay of disclosure to explain away in this case. Here, the minors alleged the sexual abuse was ongoing until they were separated from petitioner. The minors were thirteen at the time of trial. This evidence could not have been used to explain a delay in disclosure where there was none in this case. Furthermore, whether petitioner physically assaulted Lacy, his co-defendant, was not connected to the alleged sexual assaults at all. There was simply no relationship between the two.

The Court of Appeals correctly found evidence related to the other children in the home was erroneously admitted where the acts did not constitute evidence of a common scheme or plan and was used to show propensity. *State v. Corlew*, Op. No. 2024-UP-408 (S.C. Ct. App. Filed Dec. 4, 2024). Additionally, the Court correctly found evidence related to other bad acts—testimony that Lacy urinated and defecated on the floor—was erroneously admitted where the evidence had "little logical connection" charged offenses. *Id.* at 7-8. The Court correctly held none of the bad act evidence was admissible as part of the res gestae of the charged crimes

stating, "[w]e are unpersuaded that the [s]tate needed the bad acts evidence to prosecute the case. *Id.* at p. 8.

The state introduced these prior bad acts to convince the jury petitioner was a sexual deviant, and as such, he had likely committed the charged offenses of sexual battery. According to the state, the children lived in a "house of horrors" created by petitioner and Lacy, which involved sexual assaults between the adults and among even the children, physical beatings between the adults and the adults and the children, lack of sanitation, deficiencies in hygiene, and a general mood of hyper-sexualization. This so-called "house of horrors" was not connected at all to the charged offenses as it had no tendency to prove a fact in dispute or that petitioner committed the charged offenses. The state used the prior bad acts for the very purpose for which they are prohibited – propensity.

The Court of Appeals held the above errors were harmless stating "the abundant remaining evidence was more than sufficient to establish [petitioner's] guilt beyond a reasonable doubt." *Id.* at 8.

Error is harmless where it could not reasonably have affected the result of the trial. *In re Harvey*, 355 S.C. at 63, 584 S.E.2d at 897; *State v. Burton*, 326 S.C. 605, 610, 486 S.E.2d 762, 764 (Ct.App.1997). Generally, appellate courts will not set aside convictions due to insubstantial errors not affecting the result. *State v. Sherard*, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991); *State v. Adams*, 354 S.C. 361, 380–381, 580 S.E.2d 785, 795 (2003). Thus, an insubstantial error not affecting the result of the trial is harmless when guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached. *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989).

The admission of improper evidence is harmless where the evidence is merely cumulative

to other evidence. *State v. Blackburn*, 271 S.C. 324, 329, 247 S.E.2d 334, 337 (1978); *State v. Weaverling*, 337 S.C. 460, 471, 523 S.E.2d 787, 793 (Ct.App.1999); see also *State v. Williams*, 321 S.C. 455, 463, 469 S.E.2d 49, 54 (1996) (instructing that error in admission of evidence is harmless where it is cumulative to other evidence which is properly admitted).

As with any improper evidence, the next step is to determine whether the erroneous admission qualifies as a harmless error. *See In re Gonzalez*, 409 S.C. 621, 636, 763 S.E.2d 210, 217 (2014) ("No definite rule of law governs this finding [of harmless error]; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case." (quoting *Judy v. Judy*, 384 S.C. 634, 646, 682 S.E.2d 836, 842 (Ct. App. 2009))). We do not weigh the evidence when determining this. Instead, we ask "whether beyond a reasonable doubt the trial error did not contribute to the guilty verdict." *State v. Tapp*, 398 S.C. 376, 389–90, 728 S.E.2d 468, 475 (2012).

The trial court's admission of these shocking acts allegedly committed by petitioner were not "insubstantial error[s] not affecting the result" of trial but rather were *critical* errors which undoubtedly affected the result. *State v. Sherard*, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). Moreover, because the objection was preserved as to both the testimony and the forensic interviews the evidence was not cumulative to other evidence. *State v. Blackburn*, 271 S.C. 324, 329, 247 S.E.2d 334, 337 (1978). The state's case against petitioner was far from compelling where beyond the two minors' testimonies it presented, one normal physical exam and one exam with injury explaining that both could be consistent or inconsistent with sexual trauma, and Sarah Lacy's dubious and self-serving testimony. The copious, disturbing evidence admitted in this trial contributed to the guilty verdict.

CONCLUSION

Petitioner respectfully requests this Court issue the writ of certiorari and order full briefing on the issue presented.

Respectfully Submitted,

Sarah E. Shipe
Appellate Defender

ATTORNEY FOR PETITIONER

This 11th day of February, 2025.

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STATE OF SOUTH CAROLINA

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BRADLEY MARK CORLEW,

PETITIONER

APPELLATE CASE NO. 2021-000989

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 writ of certiorari to the Court of Appeals and appendix in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and the South Carolina Court of Appeals; and on Bradley Mark Corlew, #385931, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 11th day of February, 2025.

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