

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Nov 20 2025

SC Court of Appeals

Appeal from Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

Opinion No. 2025-UP-371

THE STATE,

RESPONDENT,

V.

ADAM D. LAWLESS,

APPELLANT

APPELLATE CASE NO. 2023-000636

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Adam D. Lawless requests that this Court grant rehearing on both issues on appeal.

Issue One

This Court erred in ending its analysis after crediting the trial judge with a proper credibility finding regarding James Lawless's confession. This Court correctly ruled that the trial judge used the wrong standard, but failed to see how the wrong credibility finding undermined the lower court's decision.

The trial court never observed James testify. James did not testify at trial. After confessing to appellant's attorney, he retained counsel. James then did not testify at the hearing on the motion for new trial. Any credibility finding by the trial judge is not based on observing

James' demeanor or any other kind of observation that gives rise to an appellate court's deference to a finding below. The trial court's credibility finding is only based on the situation presented at the hearing and the trial record. Judge Sprouse was in no better position to assess the credibility of James' confession than this Court. This Court erred in resting its entire decision on the standard of review related to credibility findings and in not conducting its own review of the evidence.

Furthermore, the trial judge made a positive credibility as to trial counsel. Judge Sprouse found that Epps accurately relayed what James told him. Epps would be a powerful witness before a jury.

Second, this Court failed to evaluate James' confession in light of the closeness of this case. The evidence at the trial corroborated James' confession. James' DNA was found on the steak knife. R. 509. James' DNA was found on the bedsheet on F's room where Tabatha's fingernail and nose ring were ripped out. R. 516-517. The botched cleaning of the crime scene matches a theory of James trying to conceal the crime from Adam and Donna. A car resembling James and his wife's black SUV was seen in Adam and Tabatha's driveway in Iva by a disinterested witness at approximately 8:15-8:30 AM. R. 425-26. James' red Chevy Cavalier was seen by a disinterested witness across the street from the house at approximately 9:40 AM. R. 434. The State's cell phone expert admitted that activity on Tabatha's phone after Adam left and before the Lawless's car was seen in the driveway could have been initiated by Tabatha. R. 794-95. A geofence the State obtained from Google confirmed Tabatha's phone was in the Iva house after Adam left for work. R. 663-664.

This Court also failed to consider the impact James' confession would have on the defense trial strategy. The defense strategy would be completely different in a new trial. Epps was forced to point the finger at unknown assailants and impeach the investigation by the police. In a new trial, Adam would point to James as the killer. The fight between Donna, James, and

Tabatha gives James more of a motive to kill Tabatha than Adam, who had already resumed a sexual relationship with Kayla Riggins. The State's star witness, Kenyon, recanted his testimony implicating Adam during cross-examination. R. 205.

James' wife was facing a potential criminal investigation because of the tax filing. Donna's texts with Adam show their primary concern was her job. Adam's concern that evening seemed to be sexting with Riggins, smoking pot, and playing video games. In this highly unusual case replete with reasonable doubt, the trial court erred in denying the motion for a new trial and denying Adam the ability to have a jury fairly assess his guilt in light of James' confession. This Court should grant rehearing and reverse.

Issue Two

This Court erred in finding the juror comments were about trial strategy instead of Adam's decision not to testify. Respectfully, the jurors' comments can be interpreted no other way than discussing Adam's failure to testify. The foreman wrote, "After the prosecution and the defense settled, it really shocked me and the other jurors that the defense did not call any one to the stand for questions. I as a juror would have like to have seen Adam, the Coroner and Adam's parents called to the stand which could have provided a time of death as well more questions asked about the parent's involvement in the case. During deliberations this was something every juror would have like to have seen and, in my opinion, could have affected the way the verdict could have gone." R. 985.

The foreman's affidavit said **every** juror wanted to see Adam testify. The foreman's affidavit said if Adam had testified, it could have changed the verdict. The trial judge did not find the foreman's statement not credible. The court misconstrued the affidavit and improperly held the parts of the affidavit that did not show misconduct outweighed the portion that did. The jurors flagrantly disobeyed the instruction not to consider Adam's failure to testify. The unusual

facts and closeness of this case also weigh heavily in favor of appellant receiving a new trial untainted by juror misconduct. This Court should grant rehearing and reverse.



David Alexander
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ATTORNEY FOR APPELLANT

This 20th day of November, 2025.

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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 Kaylee Christene Kemp, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Adam D. Lawless, #391107, at Turbeville Correctional Institution, 1578 Clarence Coker Hwy, Turbeville, SC 29162, this 20th day of November, 2025.



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ATTORNEY FOR APPELLANT

Bast, Daniel

From: Bast, Daniel
Sent: Thursday, November 20, 2025 3:32 PM
To: kayleekemp@scag.gov
Cc: Alexander, David; BrandyRankin@scag.gov
Subject: 2023-000636 - The State v. Adam D. Lawless
Attachments: 2023-000636 - The State v. Adam D. Lawless - Petition for Rehearing.pdf

Good afternoon,

Attached is a copy of the Petition for Rehearing in the above referenced case which will be filed today, November 20, 2025, with the Court of Appeals.

All the best,

Daniel Bast
Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
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