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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Pickens County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

JOSEPH CAMPBELL WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000730

PETITION FOR WRIT OF CERTIORARI

LARA M. CAUDY
Senior 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

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ISSUE PRESENTED

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STATEMENT OF THE CASE

On November 30, 2013, Petitioner's stepdaughter, then seventeen years old, reported to the Pickens County Sheriff's Office that Petitioner had sexually abused her when she was between the ages of seven and twelve years old. App. 63, l. 1 – 64, l. 64, l. 4. The complainant was twenty-one years old at the time of trial. App. 86, ll. 21-22. From a very young age, the complainant and her younger sister lived with their maternal grandparents after their parents separated. The complainant testified that when she was six years old, she began living with her mother and Petitioner on South Lewis Street. App. 89, ll. 8-20. One night when she was seven years old and still living on South Lewis Street, the complainant alleged Petitioner laid down on the living room floor with her, kissed her, and rubbed her chest and legs close to her "privates." App. 91, l. 13 – 93, l. 13.

When the family moved to Jane Lane, the complainant claimed that the rubbing progressed to oral sex. App. 94, l. 3 – 98, l. 18. However, it was around this time that the complainant and her sister went to live with their grandparents on Railroad Street. When the complainant was ten years old and about to start fifth grade, she and her sister moved to High Top Drive where their mother and Petitioner were living. The complainant testified that the trailer on High Top Drive is "where the majority of everything that [Petitioner] done to [her] happened." However, the complainant admitted that, at that time, her grandparents lived a "couple of driveways down from [them]" on High Top Drive and she slept at her grandparents' trailer as much as she could. App. 94, l. 7 – 101, l. 2.

The complainant testified that the alleged abuse stopped about a week before her thirteenth birthday after she told Petitioner that she "lost [her] virginity" to her then boyfriend. App. 105, l. 3 – 107, l. 20. The alleged abuse never progressed beyond oral sex.

The complainant was in and out of counseling at Behavioral Health Services for various reasons from 2003 until 2011 when she was between the ages of six and fifteen years old. App. 132, l. 22 – 133, l. 2; App. 210, ll. 2-5. She was initially referred to Behavioral Health Services when she was six years old for "lying, defiance, foul language, false reports of abuse, some anger issues." App. 215, l. 21 – 216, l. 3. The counselor at Behavioral Health testified that "there were some allegations of physical abuse by DSS, but those were unfounded at the time." App. 216, ll. 7-8. When she was eight years old and in the third grade, the complainant was referred for services by Pickens Elementary School for "lying, telling exaggerated stories, behavior problems, being defiant." App. 217, ll. 1-4. The counselor testified that "there were reports during this time that she [the complainant] had been touched inappropriately by two separate men." App. 217, ll. 8-10.

When she was ten years old, the complainant was referred to Behavioral Health for services by DSS "because she had made reports at school that her mom was being physically abusive to her." The complainant's mother said at the time that the complainant was "defiant" and that "she may have been sexually abused." According to the counselor, the complainant "had accused two men of previously trying to rape her, was her terms." App. 218, ll. 3-15.

When the complainant was twelve years old, she was referred by Liberty Middle School because she stated, "that she felt like killing a girl." The counselor testified that "the sexual abuse history was identified during that assessment also" and the complainant "reported having bruises, being hit by her mom." App. 219, ll. 1-10. When she was fourteen years old, the complainant "reported being raped by another individual," but "his name wasn't listed" in the counselor's records. App. 220, ll. 6-16. Throughout the years, the complainant also expressed

symptoms of depression and anxiety that appeared to go untreated. App. 218, ll. 16-21; App. 219, ll. 10-21; App. 220, l. 17 – 221, l. 2.

Despite reporting other allegations of sexual abuse over the years, the complainant repeatedly denied Petitioner had sexually abused her when directly questioned. During a counseling session on October 2, 2009, when the complainant was ten, her therapist asked her if Petitioner, her stepfather, had ever sexually assaulted her. The complainant told her therapist Petitioner had not. App. 148, l. 13 – 150, l. 11. Subsequently, on November 2, 2011, the complainant sought assistance from Healthy Families when she was pregnant with her first child. One of the questions on the intake form asked if the complainant had ever been the victim of sexual abuse by a relative or family member, such as a parent, stepparent, or guardian. The complainant "did not say anything about" the alleged abuse by Petitioner. However, she did report being raped by a nonfamily member on this same form. App. 150, l. 18 – 152, l. 22.

On November 29, 2017, the night before the complainant reported the alleged sexual abuse to the sheriff's office, she posted on Facebook: "I think its funny people wanna say they beat someone's ass when in reality they the ones who got beat. Pussy ass n***** wanna run, won't face a man, but wanna talk shit when everybody's gone. World War 3 is about to begin and everybody gonna wish they never fucked with me! That aint a threat, that's a promise! App. 153, l. 14 – 154, l. 24. That same night, the complainant sent a private Facebook message to her mother that read:

> You tell daddy I aint gonna control your house? I aint trying to control your house. That's what all them teenagers are there for you and your fucked up daughter, Minor 2. You sit there and allow all those punks at your house and let them come back after they get Minor 2 to fight me and are doin all those drugs at your house smoking weed in the building and letting Alexa come right in there with em. Alexa is wandering around inside and outside not bein watched walkin around with knives outta the dishwasher cuz she aint being watched. Last time I checked DSS has done said if they get a wiff of this shit again that shit would be

> done. And its like no one down there cares and obviously you don't neither cuz you allow them down there anyway. Minor 2 is gonna end up dead or in jail because of them and you aint doin shit to stop it and I'm here to tell you that your being there doesn't make a damn bit of difference and your in denial if you think it does. I get treated like shit for givin a fuck about my brothers and my niece because they don't deserve to be taken away from their family because of everyone else's bullshit but no I'm always the bitch startin shit and I'm put down and everyone else comes before me and you let them. You're my mom and I feel like you don't give a fuck about me. So guess what, I'm gonna quit givin a fuck about everyone and everything and worry about me because all yall are doing is distracting me from what I need to be focused on. I'm tired of worryin about my niece all the time and whether she's watched or not. I shouldn't have to. That's my baby girl and I'm no longer gonna be there for her because it's hurting me way too much and I can't take it anymore. I'm coming to get my shit from your house and I'm not coming back. Bye.

App. 156, l. 6 – 160, l. 19.

Hours after this Facebook activity, the complainant, while in the company of her biological father, reported the alleged sexual abuse by Petitioner to law enforcement. App. 151, ll. 4-11; App. 154, l. 2 – 160, l. 19.

Wendy Williams, the complainant's mother and Petitioner's wife, although the two were separated at the time of trial, testified that Petitioner was never left alone with the complainant while the family lived on South Lewis Street and Jane Lane. Wendy explained that the complainant and her sister always slept at their grandparents' house during this time period and were only at Wendy and Petitioner's residence "during waking hours." App. 250, l. 15 – 256, l. 9. When the family moved to High Top Drive, there were some nights when the complainant slept at Petitioner and Wendy's residence, but Wendy was always home when this occurred. Wendy explained that Petitioner and their two sons slept in the master bedroom, the complainant and her sister shared a bedroom on the other side of the house, and Wendy slept in the living room, which was in the middle of the house, at High Top Drive. Wendy never heard or saw "anything inappropriate between" the complainant and Petitioner. App. 256, l. 13 – 257, l. 18.

Wendy testified that she never left the complainant or her sister alone with Petitioner because both the complainant and her sister had previously made accusations against other men and Wendy was "always leery." Wendy further explained that the complainant told numerous lies about Wendy and, consequently, Wendy was "always worried" to leave her girls alone with Petitioner because she did not want Petitioner "to be put in that situation." Wendy maintained that the complainant's biological father would encourage her to tell such lies. App. 264, l. 1 – 265, l. 11.

Rebecca Miller, Wendy's sister and the complainant's aunt, testified that she has always had a close relationship with the complainant and lived nearby the family. She explained that between 2003 and 2009, the complainant primarily lived with Rebecca's parents, the complainant's grandparents. Rebecca saw the complainant and her sister almost on a daily basis. To her knowledge, the complainant never stayed the night at Wendy and Petitioner's trailer on Jane Lane. Also, to her knowledge, the complainant was never in the same house with Petitioner if Wendy, the complainant's mother, or another adult, was not home. App. 282, l. 19 – 289, l. 9.

Christopher Williams, Petitioner's brother, testified that between 2003 and 2009, he saw Petitioner, his wife, Wendy, and the complainant on a "frequent basis." For part of that time, Petitioner and Christopher worked construction and drove to work together every day. Christopher never saw Petitioner alone with the complainant. He explained that he and Petitioner had had conversations about Petitioner being alone with the complainant and her younger sister. Christopher testified that the complainant "had a troubled past" and she "had already made false accusations." However, the court sustained the state's objection to this testimony and struck it from the record. App. 296, l. 6 – 301, l. 15.

Petitioner denied sexually abusing the complainant. He testified that the complainant and her sister always spent the night with their grandparents because he refused to stay with them. App. 302, l. 8 – 303, l. 21. Between 2003 and 2009, Petitioner never allowed himself to be alone with the complainant because he was afraid the complainant would "make up some kind of allegations" about Petitioner. On the rare occasions the complainant slept at Petitioner and Wendy's trailer, Petitioner went to his mother's house with his two sons to avoid being in the same residence with the complainant. App. 309, l. 9 – 310, l. 6.

Petitioner attempted to testify that he never allowed himself to be alone with the complainant because she had previously made false accusations, but the trial court sustained the state's objection to this testimony pursuant to the "rape shield statute." For whatever reason, the trial court also prevented Petitioner from fully proffering what he sought to admit regarding the complainant's false allegations. App. 303, l. 18 – 308, l. 13.

A Pickens County grand jury indicted Petitioner on July 14, 2015, for first degree criminal sexual conduct with a minor, and on March 21, 2017, for second degree criminal sexual conduct with a minor.[1] App. 823-828. Petitioner's case was called to trial on August 31, 2017, before the Honorable Perry Gravely, and a jury. App. 1. Assistant Solicitor Shannon Odom represented the state. Scott Dover represented Petitioner. App. 1.

The jury struggled to reach a verdict and asked several questions during its deliberations, including if it could read the Facebook post the complainant made before disclosing the alleged abuse, to rehear the testimony of the complainant's aunt, to rehear the testimony of the complainant's mother, to rehear the complainant's testimony, and what happens if it cannot agree on a verdict. App. 409, l. 4 – 410, l. 17; App. 452, l. 21 – 455, l. 24. After rehearing

[1] The indictment for first degree criminal sexual conduct with a minor was amended by the grand jury on August 22, 2017.

testimony, the jury told the court it could not reach a unanimous verdict. Accordingly, the court gave the jury an Allen[2] charge. Twenty-two minutes after the Allen charge, the jury returned with a verdict finding Petitioner guilty as indicted. App. 533, l. 13 – 535, l. 7. He was sentenced to thirty years for first degree CSC with a minor and ten years for second degree CSC with a minor. The sentences were ordered to be served consecutively for an aggregate sentence of forty years imprisonment. App. 538, l. 17 – 539, l. 1.

The Court of Appeals affirmed Petitioner's convictions in an unpublished opinion filed on July 1, 2020. State v. Williams, 2020-UP-199 (S.C. Ct. App. filed July 1, 2020). App. 579-582. Petitioner argued on appeal that the trial court abused its discretion by excluding evidence of prior false accusations of sexual abuse made by the complainant against persons other than Petitioner. He also argued the trial court abused its discretion by refusing to allow witnesses, including Petitioner, to testify about the prior false allegations and their effect on Petitioner's state of mind. The Court of Appeals held Petitioner's argument that the trial court failed to conduct an analysis pursuant to State v. Boiter, 302 S.C. 381, 396 S.E.2d 364 (1990), in determining the admissibility of the complainant's prior false allegations of sexual abuse was unpreserved because Petitioner did not raise the argument to the trial court. Regardless, the Court of Appeals held the trial court did not err in excluding the evidence because Petitioner failed to proffer witness testimony or other evidence to show the allegations were false and the prior allegations were too remote to be admitted. App. 579-581. As to the state of mind argument, the Court of Appeals held any statements Petitioner made to others about the complainant's prior allegations to prove he never spent time alone with the complainant was hearsay and did not fall under any exceptions to the hearsay rule. App. 581- 582.

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[2] Allen v. United States, 164 U.S. 492 (1986).

Petitioner filed a petition for rehearing with the Court of Appeals on July 14, 2020. App. 583-590. The Court of Appeals denied the petition for rehearing by order filed August 24, 2020. App. 591. Petitioner filed a petition for writ of certiorari with this Court on September 21, 2020. App. 592-609. The state filed a return to this petition on October 21, 2020. App. 610-621. By order filed May 7, 2021, this Court granted certiorari and ordered further briefing. App. 622. After additional briefing and oral argument, this Court affirmed the decision of the Court of Appeals holding that Petitioner's argument that the trial court erred in excluding evidence that the complainant had falsely accused others of sexual abuse since the evidence does not constitute "prior sexual conduct" for purposes of the "Rape Shield" Statute was "not preserved for *direct* appellate review." State v. Williams, 2022-MO-001 (S.C. Sup. Ct. filed January 12, 2022). App. 689-690.

On July 5, 2022, Petitioner filed an application for post-conviction relief (PCR) raising the claim argued in this petition. App. 691-698. Petitioner filed an amended application on September 10, 2024. App. 699-702. The state filed a return to this application dated October 9, 2024. An evidentiary hearing was convened on October 9, 2024, before the Honorable Patrick Fant. Assistant Attorney General R. Brandon Larrabee represented the state. J. Falkner Wilkes represented Petitioner. App. 711.

Wendy Williams, Petitioner's estranged wife and the complainant's mother, testified at the PCR hearing that from the time the complainant was very young, she would make false accusations of physical abuse against Wendy to the Department of Social Services. The complainant had also made false allegations of sexual abuse against two men, her paternal grandmother's boyfriend and then about two years later, a neighbor. Wendy further explained

that in 2009, the complainant alleged that an individual named Tyler Gilstrap forcefully raped her. App. 719, l. 22 – 721, l. 3.

Wendy testified that Petitioner would never be alone with the complainant due to all of her prior false accusations. Even before Petitioner and Wendy began dating, the complainant had made numerous false allegations against Wendy to DSS. While Wendy was not certain whether the complainant's allegations of sexual abuse against the neighbor were false, Wendy knew the complainant's allegations of sexual abuse involving her paternal grandmother's boyfriend were false and had been made "out of anger." Wendy testified that often after the complainant had talked to her biological father on the phone, the next day, DSS would be "at my door." The false allegations of abuse began when the complainant was around five or six years old and continued into her teens. Having dealt with the complainant's recurring false allegations of abuse, Wendy refused to leave the complainant with Petitioner. When Wendy was at work, she would leave the complainant with Wendy's parents. App. 719, l. 22 – 723, l. 7.

Wendy testified that Petitioner's trial attorney knew about the complainant's false accusations of sexual abuse and the accusations being the reason why Petitioner was never alone with the complainant. App. 723, ll. 9-10.

Christopher Williams, Petitioner's brother, testified at the PCR hearing that he never saw Petitioner alone with the complainant. He explained that Petitioner was aware that the complainant had made accusations of sexual abuse against a neighbor who had lived behind the family. Christopher and Petitioner talked about the complainant's prior allegations and Christopher told Petitioner he should never be alone with the complainant as a result. Based on the complainant's history, Petitioner was concerned the complainant would make a false accusation against Petitioner. App. 739, l. 13 – 741, l. 7.

Scott Dover, Petitioner's trial counsel, testified that his trial strategy was to attack the credibility of the complainant. He was aware of the prior accusations of sexual abuse that the complainant had lodged against other men before accusing Petitioner. Dover maintained that he attacked the complainant's credibility "as hard as [he] could" and even "called her a veteran of reporting sexual abuse" during his closing argument. Dover tried to elicit evidence of the complainant's prior false accusations of sexual abuse during trial from Wendy Williams and Petitioner. However, the trial court excluded some of the evidence Dover sought to admit pursuant to the rape shield statute. Dover testified that he would never have asked the complainant about the allegations involving Tyler Gilstrap or sought to admit this evidence because he believed it violated the rape shield statute.[3] App. 750, l. 4 – 752, l. 10.

By order filed April 10, 2025, the PCR court denied Petitioner relief. The court found trial counsel was not ineffective for failing to proffer evidence regarding the prior false accusations of sexual abuse made by the complainant against other men. The court determined Petitioner failed to show the allegations were false. Moreover, the court found Petitioner "did nothing to address the Court of Appeals' finding regarding the remoteness of the allegations." Lastly, the court found the prior allegations were not relevant because Petitioner did not show that any of the prior allegations were factually similar to the complainant's allegations. Consequently, the court found that even if trial counsel had proffered the evidence and preserved

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[3] Petitioner presented testimony during the PCR hearing that Tyler Gilstrap had sexual intercourse with the complainant when Gilstrap was twenty years old and the complainant was thirteen years old. The complainant supposedly claimed she did not consent and it was "forcible rape." See App. 723, l. 22 – 724, l. 10; App. 728, l. 9 – 737, l. 6. Petitioner's PCR attorney explained that Gilstrap was originally charged with "forcible rape" but pled guilty to "statutory rape." App. 742, ll. 3-8. The sentence sheets show Gilstrap pled guilty to second degree criminal sexual conduct with a minor and lewd act upon a child. App. 777-788.

the issue for appellate review, the appellate court would have affirmed because the evidence was not admissible pursuant to State v. Boiter, 302 S.C. 381, 396 S.E.2d 364 (1990). App. 811-814.

Addressing the complainant's allegations specifically against the neighbor, the PCR court commented that it was "skeptical that [Petitioner] provided any proof that the allegations of abuse . . . were false" since Wendy Williams testified that she did not know whether the accusations against the neighbor were true or false. App. 816-817. Accordingly, the court concluded evidence of the accusations against the neighbor would not have been admissible pursuant to Boiter. The court further found the allegations against the neighbor were less probative since the neighbor had no familial ties to the complainant, unlike Petitioner who was her stepfather. The court determined that trial counsel was not deficient for failing to offer this evidence and Petitioner was not prejudiced by any alleged deficient performance because the evidence would not have been admitted at trial even if offered and would not "have constituted a basis for appeal." App. 816-817.

Finally, the PCR court found that trial counsel was not ineffective for failing to proffer testimony from Christopher Williams, Petitioner's brother, about Petitioner's knowledge of the complainant's false allegations and Christopher and Petitioner's discussion about these prior accusations. More specifically, Christopher's advice to Petitioner that he should never be alone with the complainant because she might make a false report about Petitioner. The court concluded that "even if trial counsel did not do a perfect job of preserving his attempt to get some of this testimony into the record, there is no showing of prejudice." The court emphasized that the jury heard testimony that the complainant had made previous allegations of sexual abuse against other men and that Petitioner was afraid to be alone with the complainant due to these prior accusations. App. 817-819.

Because Petitioner's Sixth and Fourteenth Amendment rights to the effective assistance of counsel were violated, this petition for writ of certiorari follows.

ARGUMENT

The post-conviction relief (PCR) court erred by finding trial counsel was not ineffective when counsel failed to proffer evidence of the complainant's prior false accusations of sexual abuse against other men and argue the evidence was admissible pursuant to *State v. Boiter*, 302 S.C. 381, 396 S.E.2d 364 (1990), to attack the complainant's credibility, where there is reasonable probability the trial court would have admitted this evidence if counsel had correctly proffered the evidence and argued for its admissibility, or in the alternative, the appellate court would have reversed the trial court if counsel had properly preserved the issue for appeal.

Trial counsel was deficient for failing to argue that evidence of the complainant's prior false accusations of sexual abuse against other men was admissible pursuant to State v. Boiter, 302 S.C. 381, 396 S.E.2d 364 (1990), to attack the complainant's credibility. Instead, it appeared trial counsel conceded this evidence was inadmissible pursuant to S.C. Code Ann. § 16-3-659.1, commonly known as the "rape shield statute." Counsel was also deficient for failing to proffer evidence about the complainant's prior false accusations. Because trial counsel failed to properly argue and proffer this evidence, the Court of Appeals and this Court subsequently held that whether the trial court abused its discretion by excluding evidence of the complainant's prior false accusations of sexual abuse was not preserved for appellate review.

Petitioner was prejudiced by trial counsel's deficient performance because if trial counsel had correctly argued that evidence of the complainant's prior false accusations of sexual abuse was admissible pursuant to Boiter and proffered this evidence, there is a reasonable probability the trial court would have found the evidence admissible or, in the alternative, the appellate court would have reversed the ruling of the trial court.

In order to show ineffective assistance of counsel as a ground for relief, Petitioner must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

A two pronged test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must prove "that counsel's performance was deficient" and fell below reasonable professional norms, and there is a reasonable probability that, but for counsel's unprofessional errors, the result would have been different. Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989) (citing Strickland, 466 U.S. at 688). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland, 466 U.S. at 668).

Rule 412, SCRE, provides, "In prosecutions for criminal sexual conduct or assault with intent to commit criminal sexual conduct, the admissibility of evidence concerning the victim's sexual conduct is subject to the limitations contained in S.C. Code Ann. § 16-3-659.1." Section 16-3-659.1, commonly known as the rape shield statute, states in relevant part: "Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is not admissible in prosecutions under Sections 16-3-615 and 16-3-652 to 16-3-656." The evidence trial counsel sought to admit, but failed to correctly proffer, was not evidence of the complainant's sexual conduct, but rather evidence of her prior false accusations. Consequently, it was not inadmissible pursuant to the rape shield statute as the trial court found.

Petitioner sought to admit evidence of the complainant's prior false accusations of sexual abuse not to probe her sexual history or conduct, but rather to attack her credibility. However, trial counsel, for whatever reason, conceded some of the evidence was not admissible, and failed to bring to the trial court's attention this Court's opinion in State v. Boiter, 302 S.C. 381, 396 S.E.2d 364 (1990), which sets forth the analysis a trial court must conduct before admitting evidence of prior false accusations of sexual abuse.

In Boiter, this Court recognized that "evidence of prior false accusations by a complainant may be probative on the issue of credibility." Id. at 383, 396 S.E.2d 365. Boiter sought to admit evidence that his stepdaughter, who alleged Boiter sexually abused her when she was seventeen years old, had previously claimed at the age of eight that her biological father had sexually assaulted her. Id. The trial court excluded evidence of the stepdaughter's prior accusation ruling it was too remote. Id. This Court held "that in deciding admissibility of evidence of a victim's prior accusation, the trial court should first determine whether such accusation was false. If the prior allegation was false, the next consideration becomes remoteness in time. Finally, the trial court shall consider the factual similarity between the prior and present allegations to determine relevancy." Id. at 383-84, 396 S.E.2d at 365. This Court concluded the trial court did not abuse its discretion in excluding evidence of the previous accusation because Boiter presented no evidence to establish its falsity. In so holding, this Court emphasized that the trial court determined that "the bare accusation of an eight year old child made nine years earlier was too remote to be of sufficient probative value." Id. at 384, 396 S.E.2d at 365-66.

In this case, trial counsel was deficient for failing to proffer evidence of the complainant's prior false accusations of sexual abuse against a neighbor and her paternal grandmother's boyfriend and for failing to argue the evidence was admissible pursuant to Boiter to impeach the

complainant's credibility. The assistant solicitor incorrectly argued the evidence was inadmissible pursuant to the rape shield statute, an argument which unfortunately the trial court accepted.

Petitioner was prejudiced by trial counsel's deficient performance because if counsel had correctly argued the evidence was admissible pursuant to Boiter and allowed the trial court to conduct a proper Boiter analysis, there is a reasonable probability the trial court would have found the evidence admissible. If, however, the trial court had excluded the evidence after conducting a Boiter analysis, and trial counsel had properly proffered the evidence, there is a reasonable probability the appellate court would have reversed the decision of the trial court and remanded for a new trial.

During Petitioner's PCR hearing, Wendy Williams, Petitioner's estranged wife and the complainant's mother, testified that the complainant made false accusations of sexual abuse against a neighbor and, about two years later, against her paternal grandmother's boyfriend "out of anger." Christopher Williams, Petitioner's brother, testified that Petitioner was aware of the complainant's false accusations and due to these prior false allegations, Petitioner was concerned the complainant would make a false accusation against Petitioner and therefore chose to never be alone with the complainant.

This testimony established that the accusations the complainant made were false satisfying the first factor of the Boiter analysis. While the prior accusations were made several years before the complainant accused Petitioner, the age when the complainant claimed Petitioner sexually abused her was close in time to when the complainant falsely alleged other men also sexually assaulted her. As to the last Boiter factor, the complainant's mother, Wendy, testified that the complainant made the false accusations against her paternal grandmother's boyfriend "out of anger," which is similar to the factual scenario in this case. First, there is a

familial relationship between Petitioner and the complainant similar to the relationship between the complainant and her paternal grandmother's boyfriend. Moreover, the accusations in this case were also made out of anger as evidenced by the complainant's Facebook activity mere hours before she made the allegations against Petitioner. Accordingly, the prior accusations were sufficiently similar as to make them relevant to impeach the complainant's credibility.

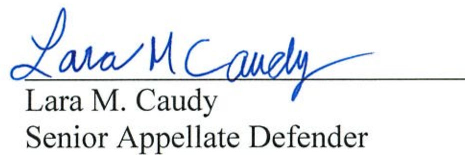
Again, based on the above analysis, if trial counsel had correctly argued the evidence was admissible pursuant to Boiter and proffered the evidence, there is a reasonable probability the trial court would have admitted the evidence or the appellate court would have reversed the trial court on appeal. If the jury had heard evidence that the complainant had falsely accused two other men, a neighbor and her paternal grandmother's boyfriend, of sexual abuse, it is extremely likely that the jury would have acquitted Petitioner. There was no physical evidence of abuse. The sole evidence against Petitioner was the complainant's testimony. The jury struggled to reach a verdict, reheard the testimony of several witnesses during its deliberations, including that of the complainant, and only found Petitioner guilty after receiving an Allen charge. Simply put, the state's evidence against Petitioner was weak. The complainant was clearly a troubled person and appeared to have made the accusations against Petitioner out of anger based on her Facebook activity hours before she contacted law enforcement and reported the accusations against Petitioner. Accordingly, Petitioner was prejudiced by counsel's deficient performance.

Respectfully, this Court should hold the PCR court erred by denying Petitioner relief, reverse Petitioner's convictions, and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests this Court grant the petition for writ of certiorari and order further briefing on the issue presented. Petitioner ultimately requests this Court reverse his convictions and remand for a new trial.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 16th day of January, 2026.