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Jan 29 2026
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Colleton County

Honorable Frank R. Addy, Circuit Court Judge

BRADLEY L. JACKSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001621

JOHNSON PETITION FOR WRIT OF CERTIORARI

W. CHANDLER NORVILLE
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ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

Whether the PCR court erred in holding that trial counsel was not ineffective for failing to move to quash one of the indictments, when that indictment was unconstitutionally overbroad and vague?

STATEMENT

Between June 13, 2018, and May 20, 2021, Petitioner lived with his girlfriend, and his girlfriend's two children. App. 157, ll. 11-15. One of the children, Minor, alleged to police that Petitioner sexually assaulted her on multiple occasions. App. 159-64. Minor was only able to provide the date of one of these alleged assaults, which occurred May 21, 2021. App. 163-64.

Trial

At its January 17, 2023, term, the Colleton County grand jury indicted Petitioner for two counts of criminal sexual conduct with a minor, first degree (CSC with Minor First). The first indictment was for the assault allegedly occurring on May 21, 2021, and is not at issue here. App. 424. The second indictment, however, purported to cover all other alleged assaults. That indictment read:

> That in Colleton County, South Carolina, on or about June 13, 2018 until May 20, 2021, the Defendant...did engage in sexual battery with [Minor] who was less than eleven years of age at the time of the sexual battery, all in violation of Section 16-3-655(A)(1), et al. of the Codes of Law of South Carolina.

App. 426. The case proceeded to trial on June 26-28, 2023, before the Honorable Carmen Mullen and a jury. App. 1. Matthew Walker represented Petitioner; Julie K. Keeney represented the state. App. 1.

Minor testified at trial about the allegations against Petitioner. Regarding the allegations between June 13, 2018, and May 20, 2021, Minor's testimony was vague, and she testified about the events only in general. For example, Minor testified as follows:

> [SOLICITOR]: Tell me what was going on with [Petitioner] back then?
>
> [MINOR]: I would get touched.
>
> ...

Q. Where would he touch you?

A. My vagina, my butt, and my chest.

Q. What would he touch you with? What parts of his body?

A. His penis.

Q. Anything else?

A. Tongue.

Q. Anything else?

A. Finger.

App. 159-60. Minor further testified that the first time anything happened was when she was "probably seven or eight." App. 161, ll. 15-18. By contrast, Minor testified about the assault occurring on May 21, 2021, in significant detail. App. 164-67.

The jury convicted Petitioner on both charges. App. 315. Judge Mullen sentenced Petitioner to thirty (30) years' imprisonment on both charges, to run consecutively. App. 327. Petitioner voluntarily dismissed his direct appeal. App. 348-50, 362.

Post-Conviction Relief Proceedings

On May 9, 2024, Petitioner filed a timely application for post-conviction relief (PCR). App. 351-361. He amended his application through appointed counsel on April 10, 2025. App. 368-69. Petitioner alleged that he had received ineffective assistance of counsel because, *inter alia*, trial counsel had "fail[ed] to challenge the indictments." App. 369.

The application proceeded to an evidentiary hearing on April 16, 2025, before the Honorable Frank Addy, Jr. App. 371. Chelsey Marto represented Petitioner; Kylee M. Kanealey represented the state. App. 371. At the PCR hearing, trial counsel testified he did not believe

anything was wrong with the indictments and did not consider moving to quash them. App. 398, ll. 10-15.

Judge Addy denied the application and dismissed the case with prejudice. App. 413-423. As to trial counsel's failure to challenge the indictments, Judge Addy found:

> Applicant alleged Trial Counsel was ineffective for failing to challenge the indictments. Trial Counsel credibly testified that he did not see anything wrong with the indictments and so did not consider moving to quash them. Applicant did not allege any grounds at the evidentiary hearing on which the indictments could have been dismissed. This Court finds Trial Counsel was not deficient in his performance with regard to this allegation because there was no meritorious ground to challenge the indictments. This Court finds Applicant has failed to prove deficiency and prejudice, and thus, this claim is denied.

App. 422. This Petition follows.

ARGUMENT

The PCR court erred in finding that trial counsel was not ineffective for failing to move to quash one of the indictments, because the indictment was unconstitutionally vague, over broad, and duplicitous.

One of the indictments against Petitioner spanned a range of more than two (2) years, rendering him unable to know what he was called upon to answer, and not limiting the state in any meaningful way. Trial counsel should have objected to the sufficiency of this indictment. Because he did not, the PCR court was wrong to deny relief. This Court should reverse.

To prevail on a PCR action for ineffective assistance of counsel, a petitioner must establish both that his trial counsel was deficient, and that deficiency prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). A petitioner is prejudiced when "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Smith v. State*, 386 S.C. 562, 566, 698 S.E.2d 629, 631 (2010). To prove that trial counsel was deficient, a petitioner must show "trial counsel's representation fell below an objective standard of reasonableness." *Chappell v. State*, 429 S.C. 68, 74, 837 S.E.2d 496, 499 (Ct. App. 2019) (alteration omitted) (quoting *Smalls v. State*, 422 S.C. 174, 181, 810 S.E.2d 836, 840 (2018)).

To be sufficient, an indictment must do two things. First, it must state the offense "with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon." *State v. Gentry*, 363 S.C. 93, 102-03, 610 S.E.2d 494, 500 (2005). Second, it must apprise the defendant of the elements of the offense that is charged. *Id.*

The "sufficiency of an indictment must be judged from a practical standpoint, with all of the circumstances of the particular case in mind." *State v. Wade*, 306 S.C. 79, 83, 409 S.E.2d 780, 782 (1991). The test of an indictment is "whether it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet." *Id.* (quoting *State v. Ham*, 259 S.C. 118, 129, 191 S.E.2d 13, 17 (1972)).

While indictments are mere "notice documents," *see Gentry*, 363 S.C. at 102-03, 610 S.E.2d at 500, they can be invalid in several different ways. Relevant here, an indictment is invalid if duplicitous, meaning it alleges more than one offense in the same count. *See generally, State v. Samuels*, 403 S.C. 551, 743 S.E.2d 773 (2013). An indictment is duplicitous when it alleges "two distinct and separate offenses in the same count." *Samuels*, 403 S.C. at 556, 743 S.E.2d at 776. The danger of duplicitous indictments is that they chip away at a defendant's right to jury unanimity. *See Ramos v. Louisiana*, 140 S.Ct. 1390, 1397 (2020) (holding that Sixth Amendment guarantees the right to a unanimous jury). "For example, such indictments present the risk that a jury divided on two separate offenses in one count could nevertheless convict through a general verdict on the one count." *Samuels*, 403 S.C. at 556, 743 S.E.2d at 776 (citing *United States v. Robinson*, 627 F.3d 941, 957 (4th Cir. 2010)). In *Samuels*, for example, this Court found that an indictment for assault with intent to kill was duplicitous because it alleged that the defendant assaulted two separate victims in the same count. *Id.* at 557, 743 S.E.2d at 777. Since each victim constitutes a separate assault offense, the indictment alleged two crimes in one count and was therefore duplicitous. *Id.*

Here, the indictment alleges that Petitioner committed CSC with a Minor First some time between June 13, 2018, and May 20, 2021. At trial, the state presented vague evidence that Petitioner had assaulted Minor on numerous separate occasions. Each one of these assaults is a

separate and distinct criminal act. *See, e.g.,* S.C. Code Ann. § 16-3-655(A)(1).[1] Some of the jurors may have believed that Minor was digitally penetrated on one occasion, but no others. Some of the jurors may have believed that Minor was anally penetrated on one occasion, but no others. The fact that the indictment crammed all these separate acts into one single count obliterated any limiting function that the indictment may have on the state's evidence. It was as if the indictment did not matter. But "indictments [do] matter." *Dent*, 446 S.C. at 125, 919 S.E.2d at 396. Therefore, the indictment was duplicitous, and trial counsel should have objected to it.

Further, Petitioner was prejudiced by the faulty indictment. Duplicitous indictments can be cured through either jury instructions or the use of a special verdict form. *Samuels*, 403 S.C. at 557, 743 S.E.2d at 777. Neither was employed here. The trial court's jury instruction merely told the jury that each indictment was a separate and distinct offense, not that one of the indictments alleged multiple offenses. App. 304-06. Further, while the verdict form in this case included the alleged dates of the offenses, there was no additional language separating out each individual offense charged in the second indictment. App. 315.

Accordingly, the second indictment against Petitioner was duplicitous. Further, the lack of a limiting instruction or special verdict form prejudiced Petitioner. Petitioner's counsel was

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[1] To be clear, Petitioner does not assert that the indictment was defective in that it allowed the jury to be non-unanimous as to the *method* of sexual battery; Petitioner asserts that the indictment was duplicitous because it allowed the jury to be non-unanimous on individual instances of sexual battery and reach a general verdict. *Contra State v. Adams*, 430 S.C. 420, 434, 845 S.E.2d 217, 224 (Ct. App. 2020) ("Sexual battery…is the conduct the statute is designed to prohibit…the precise form of the sexual battery is immaterial…. If some jurors believe the defendant committed fellatio…and others believe he committed an anal intrusion, that disagreement does not create a reasonable doubt about the fact the defendant committed a sexual battery."); *but see, State v. Dent*, 446 S.C. 121, 133, 919 S.E.2d 394, 400 (2025) (when indictment alleged sexual battery in the specific manner of fellatio, and the proof at trial showed different forms of sexual battery, defendant was entitled to a directed verdict).

ineffective for failing to challenge the sufficiency of the indictment. This Court should grant certiorari, reverse the PCR court, and order a new trial.

CONCLUSION

For the foregoing reasons, this Court should grant certiorari.

W. Chandler Norville
Appellate Defender

ATTORNEY FOR PETITIONER

This 29th day January, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Bradley Lamont Jackson 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 Frank R. Addy, which was held on April 16, 2025, 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 Bradley Lamont Jackson.

Respectfully Submitted,

W. Chandler Norville
Appellate Defender

ATTORNEY FOR PETITIONER

This 29th day of January, 2026.

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CERTIFICATE OF COUNSEL

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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This 29th day of January, 2026.