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Apr 13 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lancaster County

Honorable Brian M. Gibbons, Circuit Court Judge

Opinion No. 2026-UP-068 (S.C. Ct. App. Filed February 18, 2026)

Lower Court Case No. 2023-000897

THE STATE,

RESPONDENT,

V.

JARIUS SANDERS,

PETITIONER

APPELLATE CASE NO. 2023-000897

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS

WANDA H. CARTER
Chief 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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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that pursuant to the South Carolina Court of Appeals' Opinion issued in this case on February 18, 2026, a Petition for Rehearing was filed on March 5, 2026, which was denied by the South Carolina Court of Appeals on March 10, 2026.

QUESTION PRESENTED

Did the Court of Appeals err in failing to consider petitioner's operative sentence in analyzing whether the revocation in question unlawfully extended his incarceration time beyond its legal limits?

STATEMENT OF THE CASE

Petitioner Jarius Sanders was convicted of assault and battery of a high and aggravated nature during the February 2016 term of the Chester County General Sessions Court and was sentenced to imprisonment for a period of ten years, suspended on the service of three years probation. On September 19, 2016, petitioner's probation was revoked whereinafter an eight-year sentence was imposed and his probation was terminated. On May 24, 2023, a probation revocation hearing was held at the Lancaster County before Judge Brian Gibbons who issued a one-year revocation of petitioner's community supervision in the case. Attorney Ryan Payne, Esquire, appeared on behalf of petitioner at the hearing and SCDPPP Probation Agent Chapman appeared on behalf of the state.

Petitioner appealed, but his probation revocation was affirmed. Petitioner filed a Petition for Rehearing on March 5, 2026, which was denied on March 10, 2026. This Petition for Writ of Certiorari follows.

ARGUMENT

The Court of Appeals erred in failing to consider petitioner's operative sentence in analyzing whether the revocation in question unlawfully extended his incarceration time beyond its legal limit.

Petitioner Jarius Sanders was convicted of assault and battery of a high and aggravated nature during the February 2016 term of the Chester County General Sessions Court and sentenced to imprisonment for a period of ten years, suspended on the service of three years probation. On September 19, 2016, petitioner's probation was revoked and thereafter an eight-year sentence was imposed, and his probation was terminated. On May 24, 2023, a probation revocation hearing was held whereinafter his probation was revoked by one year.

The issue raised on appeal was whether the circuit court judge erred in revoking one year of petitioner's community service time because the revocation resulted in an increased sentence that exceeded the limit on his operative eight-year sentence inasmuch as the original ten-year sentence no longer existed in the case.

The Court of Appeals affirmed and held as follows:

The sentence (one year revocation) did not extend [petitioner's] time in prison beyond his original sentence of ten years imprisonment....thus, the circuit court did not err.

In the case at bar, petitioner's prior ten-year sentence, suspended upon probation for three years, was ultimately supplanted by an eight-year sentence (operative sentence) along with an accompanying termination of probation. At petitioner's first probation revocation hearing held on September 19, 2016, the circuit court judge sentenced petitioner to eight years and terminated his probation. Therefore, after petitioner's second probation revocation hearing, which formed the basis of the instant appeal, the issue raised was whether the circuit court judge erred in

calculating the matter of probation based on a ten-year sentence rather than the eight-year controlling and hence operative sentence. Clearly, the eight-year sentence was the controlling and operative sentence in this case, which meant that it was error to revoke petitioner's probation for one year because the revocation exceeded service time on the operative eight-year sentence. The Court of Appeals apparently based its ruling on the mistaken impression that the one-year probation revocation referenced the ten-year sentence and thus did not exceed or increase petitioner's sentence time; but to the contrary, the one-year revocation indeed increased petitioner's sentence time because the operative and/or controlling sentence was an eight-year sentence rather than a ten-year sentence.

The circuit judge found that petitioner violated his probation (drug use and firearm possession) in the instant case and issued a one-year revocation of his community supervision term. However, that one-year revocation in the case enlarged petitioner's overall sentence to exceed his operative eight-year sentence. This increased sentence beyond eight years was the result of the probation revocation that violated S.C. Code Ann. §24-21-560 as petitioner's eight-year sentence was the operative sentence that was controlling in the case. In addition, petitioner's probation revocation resulted in an illegal sentence.

According to the record, petitioner served five or six months beyond his 85% time on his operative eight-year sentence, which resulted in a service time of approximately seven years and two or three months. Clearly, a one-year revocation resulted in the service of two or three months beyond petitioner's operative eight-year sentence (i.e. eight years and two months or eight years and three months). Note trial counsel's supporting argument below:

Defense Counsel: This is the Form 4 from the original violation that happened in 2016 I believe. The judge, at that time, revoked 8 years and terminated Mr. Sander's sentence. Mr. Sanders went to prison on or about, I guess, September 19, 2016. His tart date was

eventually backdated to 11/6/15. He was released from SCDC on 1/29/22, after he served 5 or 6 months longer than he should have actually served on an 85 percent crime. So according to the community supervision tab, the original sentence should be 10 years and the Court can revoke him up to one year for that violation. However, the SCDC tab of the probation file says that Mr. Sanders only has 163 days left, that I guess SCDC will actually incarcerate him. If the Court does revoke the full year that probation is asking for, that puts him serving longer than the 8 years sentence that he was actually revoked on. Tr. 3, lines 6-22.

Defense Counsel: [I]f the Court is inclined to side with probation, you end up extending his sentence longer than the 8 years that he was initially revoked and terminated on. I just don't think that the Court can supersede that 8 years sentence. Tr. 4, lines 11-16.

In State v. Picklesimer, 388 S.C. 264, 695 S.E.2d 845 (2010), the Court addressed this issue in relation to S.C. Code Ann. §24-21-560 as follows:

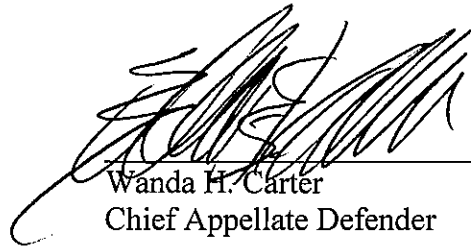
A prisoner who is sentenced for successive revocations of the community supervision program may be required to serve terms of incarceration for successive revocations and may be required to serve additional periods of community supervision for successive revocations; [however], the maximum aggregate amount of time a prisoner may be required to serve when sentenced for successive revocations may not exceed an amount of time equal to the length of incarceration imposed for the original...offense...

Additionally, note that petitioner had only one suspended sentence, which was ultimately terminated before the instant revocation. Hence, there was no suspended sentence on the operative eight-year sentence that existed at the time of the instant probation revocation; and as a result, the one-year revocation in the present case not only exceeded petitioner's operative eight-year sentence, but it resulted in the issuance of an illegal sentence as well.

CONCLUSION

Based on the foregoing argument, counsel for petitioner would request this Court's review of the Court of Appeals decision in the case.

Respectfully Submitted,



Wanda H. Carter
Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 13th day of April, 2026.

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lancaster County

Honorable Brian M. Gibbons, Circuit Court Judge

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Lower Court Case No. 2023-000897

THE STATE,

RESPONDENT,

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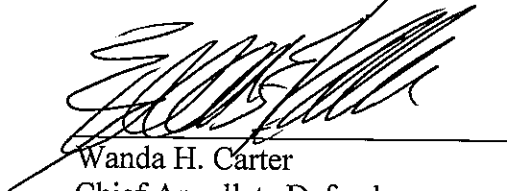
JARIUS SANDERS,

PETITIONER

APPELLATE CASE NO. 2023-000897

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 in this case have been served on Matthew C. Buchanan, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Jarius Sanders at 396 Border Rd. E, Rock Hill, SC 29730; and the Court of Appeals, at 1220 Senate Street, Columbia, SC 29201, this 13th day of April, 2026.



Wanda H. Carter
Chief Appellate Defender

ATTORNEY FOR PETITIONER

Leverett, Scott

From: Leverett, Scott
Sent: Monday, April 13, 2026 3:51 PM
To: SC - BUCHANAN MATTHEW
Cc: SC - NICHOLS DAWN; Carter, Wanda
Subject: 2023-000897 - State v. Jarius Sanders - Petition for Writ of Certiorari to the Court of Appeals
Attachments: 2023-000897 - State v. Jarius Sanders - Petition for Writ of Certiorari to the Court of Appeals.pdf

Dear Mr. Buchanan,

Attached please find a copy of the Petition for Writ of Certiorari to the Court of Appeals in the above referenced case that is being filed today with the Supreme Court and with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Wanda Carter
Appellate Defense

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