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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable Thomas William McGee, III, Circuit Court Judge

JERAMY DALE PARKS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002417

JOHNSON PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

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STATEMENT OF THE CASE

The state alleged Petitioner sexually abused his young daughter, Minor. App. 108, ll. 5-21. Minor had two sisters and four brothers. App. 105, ll. 35. When the alleged abuse occurred, Minor, her mother, Candace Parks, and the rest of her family were living at “Uncle Mike’s” trailer. App. 108, ll. 1-8.

Minor, who was seven years old at the time of trial, alleged that Petitioner committed a variety of sexual batteries, but was not always consistent in her allegations. App. 110, l. 6 – 165, l. 20. Minor initially stated that Petitioner “did bad stuff” to her. App. 114, ll. 17-18. When asked to explain by the solicitor, Minor stated, “he humped me and he put his finger inside me.” She claimed this happened on the couch. App. 114, ll. 19-25. She defined “humped” as skin to skin genital contact. App. 115, 116, l. 2. When asked again by the solicitor, “What did hump mean,” Minor replied, “it means he put his private in my private.” App. 116, ll. 6-8. Minor then described vaginal penetration and oral sex. App. 116, ll. 11-23.

Minor responded inconsistently to questions about vaginal and anal sex. The solicitor asked again if Petitioner “ever put his penis in any other part of your body?” App. 117, ll. 18-19. Minor replied, “Nope.” App. 117, l. 20. After changing the topic of questioning to the layout of Uncle Mike’s trailer, the solicitor asked Minor, “Do you know what the word slobber means?” and was able to get Minor to describe Petitioner allegedly performing oral sex on her. App. 126, ll. 8-10. The solicitor then led Minor back over the same ground:

Q. So just to go over and make sure what you have said happened, what did you say Daddy Jeremy did to your vagina?

A. Slobber.

Q. Okay. And did he put anything in your vagina?

A. His fingers.

Q. Anything else?

A. (No response)

Q. What about his penis?

A. No.

Q. Are you sure?

A. Yes.

Q. Okay. Did you just forget it, or why did you say no?

A. Just forget it.

Q. And, [Minor], did he put his penis anywhere else in your body?

A. In my mouth.

Q. In your mouth. What about anywhere else?

A. Nope.

Q. What about on your bottom?

A. Yes.

Q. And what is that?

A. A butt.

Q. And tell me about that. What happened with that?

A. He put his – I mean, his penis in my butt hole.

App. 126, l. 25 – 128, l. 4 (emphasis added).

Minor stated that Petitioner, during the night, would carry her from her bedroom to the couch in the living room of Uncle Mike's trailer. Two other children also slept in this bedroom. Her mother, Candace, would be on the couch during these instances. App. 121, ll. 1-22. Minor

claimed that Candace watched the sexual abuse, but did nothing. App. 121, l. 21 – 122 – l. 10. She stated she had seen Candace and Petitioner have sex on the couch. App. 137, ll. 15-25.

Minor claimed that none of her brothers witnessed the abuse. App. 122, ll. 11-18. However, Minor was sexually abused by one of her brothers. App. 138, ll. 17-24. The trial court sustained the state’s objection and prevented Petitioner from cross-examining Minor further about this abuse, but during an *in camera* proffer, Minor stated that her brother had vaginal intercourse with her at Uncle Mike’s trailer. App. 144, ll. 13-21.

On cross-examination, Minor admitted meeting with the solicitors several times before trial. App. 133, l. 23 – 134, l. 20. She did not know how many times she had talked with people about the alleged abuse. App. 169, l. 24 – 170, l. 4. She remembered watching the videotape of a forensic interview. App. 170, ll. 5-9. Minor remembered her mother offering her “Gummies, a Happy Meal, or a milk shake to talk to the nice lady.” App. 170, ll. 13-16. When asked, “how many times has your mommy promised you something to talk about this,” Minor replied, “I don’t know.” App. 170, ll. 21-23.

The state’s other main witness was Minor’s mother, Candance Parks, who testified under a proffer agreement. App. 206, ll. 18-25. Her credibility was also very much in question. Candace’s understanding of the proffer agreement was “that whatever I said after I signed that proffer cannot be used against me.” App. 206, ll. 21-24. Candace was not facing sexual abuse charges, but a charge of unlawful neglect at the time of Petitioner’s trial. App. 207, ll. 1-14. She claimed she had not been offered anything by the solicitor and was testifying “to try to help” her children. App. 207, ll. 1-14.

Candace testified that Petitioner was sexually molesting Minor. App. 204, ll. 22 – 205, l. 2. Candace said she “had caught [Petitioner] a few times. I seen it.” App. 212, ll. 15-24.

Candace saw Petitioner sexually abuse Minor more than four times, but said she did nothing about it. App. 212, l. 23 – 213, l. 7. When she asked Petitioner to stop, she claimed Petitioner said, “It’s his daughter; he can do what he wants.” App. 214, ll. 5-12. The solicitor used this alleged statement by Petitioner as the very beginning of her opening statement and the final lines of her closing argument. App. 96, ll. 12-13. App. 467, ll. 23-25.

During cross-examination, Candace revealed that before moving in with Uncle Mike, she was living with the father of her three oldest boys. App. 258, ll. 9-23. Candace admitted fighting with Petitioner about child support owed by the father and wrote her attorney about it. App. 262, l. 23 – 263, l. 23. Defense counsel questioned Candace about a statement made during the forensic interview that Minor was “sucking your ninnies.” App. 266, ll. 3-18. Candace replied, “I wasn’t aware if she was. I might have been drunk and passed out.” App. 266, ll. 17-20. She was forced to admit that her conduct may have been greater than simply being a passive observer because she “drank a lot.” App. 266, ll. 21-24. She had not yet pled guilty to unlawful conduct. App. 266, l. 25 – 267, l. 23. She admitted lying to doctors at MUSC. App. 274, l. 10 – 275, l. 17.

A Berkeley County grand jury indicted Petitioner on February 11, 2014, for two counts of first degree criminal sexual conduct with a minor (CSCM) and one count of third degree CSCM, and on September 8, 2015, for an additional count of first degree CSCM. App. 666-672. Petitioner’s case was called to trial on September 14, 2015, before the Honorable Deadra Jefferson, and a jury. App. 1. Assistant Solicitors Ann Williams and Debbie Herring Lash represented the state. David Schwacke and Debbie Littlejohn represented Petitioner. App. 2. On September 16, 2015, the jury found Petitioner guilty as indicted. App. 503, l. 6 – 504, l. 14. He was sentenced to thirty years imprisonment for each count of first degree CSCM and fifteen

years consecutive for third degree CSCM for an aggregate sentence of forty-five years imprisonment. App. 541, l. 20 – 542, l. 5.

The Court of Appeals affirmed Petitioner’s convictions on appeal. State v. Parks, 2018-UP-077 (S.C. Ct. App. filed February 7, 2018). App. 588-589. Petitioner argued in part that the trial court erred by instructing the jury that the victim’s testimony need not be corroborated in violation of State v. Stukes, 416 S.C. 493, 787 S.E.2d 480 (2016). App. 545. The Court of Appeals held the issue was not preserved for appellate review because appellate counsel argued a different ground on appeal than Petitioner’s counsel argued at trial. App. 589.

On June 29, 2018, Petitioner filed an application for post-conviction relief (PCR). App 591-598. The state filed a return to this application on February 14, 2019. App. 599-604. An evidentiary hearing was convened on October 13, 2025, before the Honorable Thomas McGee. App. 612. Assistant Attorney General Danielle Dixon represented the state. Denise Swope represented Petitioner. App. 612.

David Schwacke, Petitioner’s trial counsel, acknowledged during his testimony that the Court of Appeals held Schwacke did not properly preserve the objection to the jury instruction that the testimony of the victim need not be corroborated based on State v. Stukes, 416 S.C. 493, 787 S.E.2d 480 (2016). He testified, “The transcript tells what happened. I can’t deny it.” App. 644, ll. 3-12.

By order filed November 6, 2025, the PCR court denied Petitioner relief. App. 657-665. The court found trial counsel was not deficient for failing to object to the jury instruction that the testimony of the victim need not be corroborated on grounds that the instruction was an unconstitutional comment on the facts and confusing to the jury because the instruction was proper under the law that existed at the time of Petitioner’s trial. App. 662 (citing State v.

Rayfield, 369 S.C. 106, 117-18, 631 S.E.2d 244, 250 (2006)). The court emphasized that State v. Stukes, 416 S.C. 493, 78 S.E.2d 480 (2016), which held the instruction was an unconstitutional comment on the facts, was not decided until after Petitioner’s trial. App. 662. Moreover, the court found Petitioner failed to prove he was prejudiced by counsel alleged deficient performance because there was “substantial and overwhelming corroborating evidence presented by the state” during Petitioner trial in addition to Minor’s testimony. App. 663. Accordingly, the court concluded there was no reasonable probability the outcome of Petitioner’s direct appeal would have been different if trial counsel had argued the instruction was an unconstitutional comment on the facts, as held in Stukes. App. 663.

Because Petitioner’s 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 object to the jury instruction that the testimony of a victim need not be corroborated because the instruction was an unconstitutional comment on the facts and confusing to the jury, and where Petitioner was prejudiced because if counsel had correctly objected to the instruction at trial, there is a reasonable probability the appellate court would have reversed Petitioner's convictions based on *State v. Stukes*, 416 S.C. 493, 78 S.E.2d 480 (2016), since the credibility of Minor was crucial to the state's case.

The trial court instructed the jury “that the Code of Laws of the State of South Carolina provide that the testimony of a victim need not be corroborated and the law further defines that a victim means the person alleging to have been subjected to criminal sexual conduct.” App. 491, 1. 22 – 492, 1. 2. Trial counsel objected to the instruction arguing there was evidence in the case, specifically the testimony of Candace Parks, that corroborated Minor's testimony, and therefore, the instruction was unnecessary and confusing. However, for whatever reason, counsel failed to argue the instruction was an unconstitutional comment on the facts as the dissent in *State v. Rayfield*, 369 S.C. 106, 631 S.E.2d 244 (2006), asserted. The trial court overruled counsel's objection finding the instruction was “an accurate statement of the law.” App. 437, 1. 5 – 439, 1. 23.

Petitioner argued on direct appeal that the trial court erred by instructing the jury that the testimony of a victim need not be corroborated in violation of *State v. Stukes*, 416 S.C. 493, 78 S.E.2d 480 (2016). However, the Court of Appeals found the issue was not preserved for appellate review because appellate counsel argued a different ground on appeal than Petitioner's counsel argued at trial. App. 589. It is clear that trial counsel was ineffective for failing to

object to the contested jury instruction on grounds that the instruction was an unconstitutional comment on the facts. Petitioner was prejudiced by counsel's deficient performance because there is a reasonable probability that had counsel correctly objected at trial, the appellate court would have reversed Petitioner's convictions on appeal.

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 687-88.

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).

Our Supreme Court "has previously held that an issue that was raised on direct appeal but found to be unpreserved may be raised in the context of a PCR claim alleging ineffective assistance of counsel." McHam v. State, 404 S.C. 465, 475, 746 S.E.2d 41, 47 (2013) (citing McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003) and Foye v. State, 335 S.C. 586, 518 S.E.2d 265 (1999)). In McHam, the Supreme Court found McHam's trial counsel's failure to

renew his Fourth Amendment objection constituted deficient performance that satisfied the first prong of the Strickland analysis. Id. at 474, 746 S.E.2d at 46.

In State v. Stukes, 416 S.C. 493, 498, 78 S.E.2d 480, 480 (2016), this Court held the trial court erred by instructing the jury that the testimony of a victim need not be corroborated because the instruction is an unconstitutional comment on the facts. In so holding, the Court asserted, “By addressing the veracity of a victim’s testimony in its instructions, the trial court emphasizes the weight of that evidence in the eyes of the jury. The charge invites the jury to believe the victim, explaining that to confirm the authenticity of her statement, the jury need only hear her speak.” Id. at 499, 787 S.E.2d at 483. The Court further held the error was not harmless because the “case hinged on credibility.” Id. at 500, 787 S.E.2d at 483.

Based on the holding in Stukes, trial counsel should have objected to the instruction, not because there was corroborating evidence, but rather because the charge was an unconstitutional comment on the facts. Counsel’s failure to do so constitutes deficient performance. While Petitioner acknowledges that this Court’s opinion in Stukes was not published until eight months after Petitioner’s trial, trial counsel should have been aware that the proper objection to the instruction was that it is an unconstitutional comment on the facts based on the dissent in State v. Rayfield, 369 S.C. 106, 119-20, 631 S.E.2d 244, 251-52 (2006) (Pleicones, J., dissenting), which was published almost a decade before Petitioner’s trial. Counsel’s failure to correctly object prevented the issue from being preserved for appellate review.

Since the issue was not considered on direct appeal because it was found to be unpreserved, an examination of the merits of the issue is proper in analyzing the prejudice prong. See McHam, 404 S.C. at 475, 746 S.E.2d at 47; Sikes v. State, 323 S.C. 28, 30, 448 S.E.2d 560, 562 (1994) (“When the defendant claims that counsel’s failure to articulate a Fourth Amendment

claim was ineffective assistance, [the] defendant must show that such claim is meritorious and that the verdict would have been different absent the evidence that should have been excluded.”).

Again, based on the holding in Stukes, if trial counsel had correctly argued the contested instruction was an unconstitutional comment on the facts, the appellate court would have held the trial court erred by instructing the jury on the impermissible charge. Moreover, there is a reasonable probability the appellate court would have further held the error was not harmless because the case hinged on credibility.

As shown above, Minor’s testimony was contradictory and inconsistent. The solicitor went to great lengths to defend Minor’s credibility during her closing argument. She argued that Minor “did the best job she could to remember what she could.” App. 449, l. 24 – 450, l. 8. The solicitor tried to explain differences between Minor’s forensic interview and her testimony. App. 451, l. 2 – 452, l. 25. She stated that Minor “does remember more on the tape, but that was two and a half years ago. If you notice, she is using more grownup language in the courtroom.” App. 452, ll. 19-22. The solicitor also admitted that there were differences between Minor’s forensic interview, Minor’s testimony, and Candace’s testimony stating, “Are there differences? Yeah, there are differences.” App. 453, l. 1 – 454, l. 23. Finally, the solicitor relied on the forensic interviewer to explain Minor’s odd demeanor on the stand arguing that anxiety produces “restlessness, giggling,” in nervous children. App. 462, l. 2 – 463, l. 16.

The solicitor also had to address Candace’s credibility during her closing argument telling the jury that Candace “is a disgusting, despicable person, but you have to evaluate her value as a witness.” App. 442, ll. 7-14. The solicitor also addressed whether Candace coached Minor. App. 442, l. 7 – 443, l. 15. She argued, “if Candace Parks was going to coach her child

to say things that hurt [Petitioner], would she not be smart enough to coach her not to incriminate her?” App. 442, ll. 20-23.

The jury needed to believe Minor and the “despicable” Candace to convict Petitioner. This Court has consistently held that where credibility is the central issue at trial, errors cannot be harmless. See Stukes, 416 S.C. at 500, 787 S.E.2d at 483. In Stukes, the Court held that the case was not “amenable to a harmless error analysis” because the case “hinged on credibility.” Id. See also State v. Anderson, 413 S.C. 212, 219, 776 S.E.2d 76, 79-80 (2015) (reversing in a child sex case because the case “turned solely on the credibility of the minor and of Appellant” and because the case lacked physical evidence of sexual abuse); State v. Chavis, 412 S.C. 101, 110, 771 S.E.2d 336, 341 (2015) (“The determination whether a bolstering error is harmless depends on whether the case turns on the credibility of the victim.”).


Minor’s credibility was the central question at trial. The trial court did not give the impermissible charge during its general charge on witness credibility, but immediately after it defined the elements of the offense. App. 490, l. 10 – 492, l. 2. The placement of the unconstitutional charge after the elements of criminal sexual conduct emphasized that the jury could simply believe Minor, and caused confusion. Therefore, had trial counsel correctly objected to the instruction, thereby preserving the issue for appellate review, the appellate court would have held the error was not harmless beyond a reasonable doubt and reversed Petitioner’s convictions.

Respectfully, this Court should grant certiorari and hold the PCR court erred by finding trial counsel was not deficient when counsel failed to argue the instruction that the testimony of the victim need not be corroborated was an unconstitutional comment on the facts, and that Petitioner was not prejudiced since the case hinged on the credibility of Minor.

CONCLUSION

Petitioner respectfully requests this Court grant the petition for writ of certiorari and permit full 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 4th day of June, 2026.

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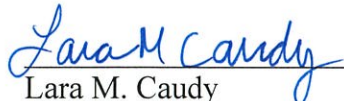
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PETITION TO BE RELIEVED AS COUNSEL
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Counsel for Jeramy Dale Parks states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense, and was appointed to represent Petitioner.
2. She has reviewed the record of Petitioner's post-conviction relief hearing, which was held on October 13, 2025, before the Honorable Thomas William McGee, III, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She 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 her as counsel for Jeramy Dale Parks.

Respectfully Submitted,


—————
Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 4th day of June, 2026.


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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of her 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."


Lara M. Caudy
Senior Appellate Defender

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ATTORNEY FOR PETITIONER

This 4th day of June, 2026.