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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
Court of Appeals – Appellate Case No. 2024-000090
Appeal from Greenville County Court of Common Pleas
The Honorable R. Scott Sprouse, Circuit Court Judge

DAVID QUINTAN JONES,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

Appellant Case No. 2026-000963

**RETURN TO PETITION FOR
WRIT OF CERTIORARI**

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PETITIONER'S STATEMENT OF THE ISSUES

I.

Whether the Court of Appeals erred in holding the trial court did not abuse its discretion in admitting the video recording of the child's forensic interview when the totality of the circumstances failed to establish particularized guarantees of trustworthiness, as required by S.C. Code Ann. § 17-23-175.

II.

- A. Whether it was error for the Court of Appeals to find unpreserved the issue of whether the trial court erred in admitting the testimony of a blind expert witness in the field of "child sex abuse dynamics" on the basis of the expert's bias and unsatisfied requirements of Rule 702, SCRE.
- B. Whether the trial court erred in admitting the testimony of a blind expert in the field of "child abuse dynamics" in light of the expert's inescapable bias as the CEO of the Julie Valentine Center and when the requirements of Rule 702, SCRE were not met.

STATEMENT OF THE CASE

In April 2021, Petitioner David Quintan Jones was indicted by a Greenville County Grand Jury for five counts of 1st degree criminal sexual conduct (victim under the age of eleven) ("CSC") of his biological daughter. (App., pp. 515–527, Indictments). On June 5-8, 2023, Petitioner's case was called to trial with the Honorable Perry H. Gravely presiding. Petitioner was represented by William Yarborough Esq., and Christy Sustakovitch and Walker Miller of the 13th Circuit Solicitor's Office prosecuted the case. (App., p. 1). At the conclusion of trial, the jury returned a guilty verdict as to all five counts. (App. 478-479). Judge Gravely imposed a concurrent sentence of forty-five (45) years on each charge with 1496 days credit for time served. (App., p. 490; pp. 528–537, Sentencing Sheets).

On June 16, 2023, Petitioner, through counsel, filed a Notice of Appeal with the South Carolina Court of Appeals (*State v. David Quintan Jones*, App. Case No. 2023-000987). On June 21, 2023, Petitioner served the Notice of Appeal upon the State by hand delivery and filed a copy with the Greenville County Clerk of Court. On June 22, 2023, the appeal was dismissed pursuant to Rule 203(b)(2), SCACR for service of the Notice of Appeal upon the State outside of the ten day time frame. Petitioner's subsequent motion to reinstate was denied and the Remittitur was issued on September 7, 2023.

Petitioner, through Counsel, filed a post-conviction relief application on July 31, 2023, seeking a belated direct appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974) on the basis that his appellate rights were not knowingly, intelligently, or voluntarily waived. (App. 538–546). After conferring with Counsel for Respondent a consent order granting the PCR application for a belated direct appeal was issued by the Honorable R. Scott Sprouse on January 17, 2024. (App., pp. 547–548). A notice of appeal was accordingly filed with this Court on January 19, 2024. Petitioner filed the Petition for Writ of Certiorari accompanied by the brief pursuant to

Rule 243(i)(1), SCACR. The State filed its Brief of Respondent on December 16, 2024. On February 4, 2026, the Court of Appeals affirmed Appellant's convictions and sentencing. *Jones v. State*, No. 2024-000090, 2026 WL 294907 (S.C. Ct. App. Feb. 4, 2026).

On May 1, 2026, Petitioner filed a Petition for Writ of Certiorari with this Court. Respondent herein submits its Return to the Petition for Writ of Certiorari.

STATEMENT OF FACTS

The charges arose following allegations of sexual abuse made by Petitioner's eight-year-old daughter ("Child"). At the time the allegations came to light, Child was living with her mother, Marita Jones, Petitioner (her father), and her older brother, "Z.J." The family's home had burned down on April 1, 2019, and the family had to live in a hotel for a period of time and later lived with grandparents.

During the time period which the family was living in the grandparents' house, Child told Z.J. that she was being sexually abused. (App., p. 157; p. 192). Z.J. did not tell anyone about what his sister had told him but encouraged her to tell their mother. (App., p. 157; p. 192). When Child did tell Marita and Z.J. that Petitioner was her abuser, the three of them were in their vehicle in a Publix parking lot. (App., p. 290). Petitioner had run inside the store to get groceries and was not inside the vehicle at the time. (App., p. 290). Marita did not tell Petitioner at that time because she wanted to have Child checked out by a doctor, hopeful that a doctor could tell her what was going on. (App., pp. 291-292).

Marita took Child to an early doctor's visit the following Monday morning, under the guise that Child was having issues with her tonsils. (App. 292). Child's pediatrician, Dr. Erin Bhatia, testified that during that visit, Marita and herself talked privately, out of earshot from Child, and that the Child had told Marita that she "had intercourse in various ways," and asked Dr. Bhatia if she could tell if there were any signs of abuse. (App., pp. 119-120). Dr. Bhatia told Marita that she

was not specialized in this area to make such a determination, however, upon a brief, cursory exam of the Child's vaginal area, Dr. Bhati testified that she did not see any indications of sexual abuse. (App., pp. 114–115; p. 125; p.p. 128-129). Marita confirms that Child did not hear her conversation with Dr. Bhatia and that though she was crying when talking with Dr. Bhatia, she had to look strong when she went back into the room with Child. (App., p. 293). At the conclusion of the visit, Dr. Bhatia explained to Marita that she would have to report the allegation. (App., p. 294). As a pediatrician, Dr. Bhatia is a mandated reporter, and she was ultimately the one who reported Child's disclosure of sexual abuse to Department of Social Services (DSS) and authorities. (App., pp. 120-121; pp. 125-126; p. 129; p. 136.) Marita testified that she understood the allegation would have to be reported, but she didn't realize the police and DSS were involved until they contacted her. (App., pp. 294-295).

At around 4:30 pm that same day, DSS Investigator Dyneshia Kilgore arranged a meeting with the family and Greenville County investigators at the site of the former family home to begin their respective investigations. (App., p. 138; p. 295). Up until that point, Child had not disclosed the identity of the person abusing her. (App., p. 141; p. 251; State's Ex. 22). Upon the family's arrival, Greenville County Investigator Shannon McHale first took Child aside to speak with her away from her parents and her brother. (App., pp. 140-141; pp. 249–250). Child did not want to talk about it or reveal the perpetrator's identity because she felt uncomfortable getting anyone in trouble, and so she ultimately lied about a boy on the bus abusing her. (App., p. 195; p. 202; p. 253; p. 257; State's Ex. 22). At Investigator McHale's encouragement, she shortly thereafter gave more specific information, including the identity of the perpetrator. (App., pp. 253–254). Child also disclosed to Investigator Kilgore that she had been abused for the last three years approximately. (App. p. 144; pp. 194–195; p. 198). No arrest was made at that time, and the family was permitted to leave together; but as part of DSS's safety plan, Petitioner was to stay elsewhere and would not

have contact with either child. (App., p. 252; pp. 256–257; p. 257; pp. 301–302; State's Ex. 22).

On April 24, 2019, Dr. Mary Ann Croswell performed a chronic sexual abuse exam on Child. Dr. Croswell, who has extensive experience in the “capacity as a child abuse pediatrician,” testified for the State as an expert witness in the field of pediatric child sexual abuse. (App., pp. 209–213). Dr. Croswell explained that a chronic sexual abuse exam is an examination that along with a head-to-toe examination and lab work, thoroughly examines the genital area with use of colposcope, a powerful light and magnification system for photo documentation. (App., pp. 214–215; p. 216–217; p. 219).

Child would not identify to Dr. Croswell the person sexually abusing her when her mother was out of the room. (App., p. 221). Child did not feel comfortable speaking about the topic without her mother with her and only disclosed that she was indeed the victim of abuse and by whom once her mother returned to the room. (App., pp. 221-222; pp. 227-228). Dr. Croswell testified that it was very important to learn the specific type of suspected sexual trauma to guide her during the genitals examination and speaks with the child to gain an independent account and medical history for this purpose. (App., p. 219). Child informed Dr. Croswell of the specific type of physical contact involved in the abuse, including oral, vaginal, and anal penetration, including penile penetration and contact, with the last abuse occurring that same month of April 2019. (App., p. 223).

As for the results, Dr. Croswell found no abnormalities in the examination of Child’s mouth and her throat swab and lab work for sexual transmitted diseases were all negative. (App., pp. 222–223; pp. 226-227). Dr. Croswell testified that Child’s anal/rectal examination and vaginal examination were also normal. (App., p. 224– 232). When asked how often such exams come back “normal, quote unquote” when there is a history of sexual abuse disclosed by the victim, Dr. Croswell opined that multiple studies show that an “overwhelming majority,” even as high as 80

to 97% of the time, there will be no specific findings or physical evidence of sexual abuse during a genital examination. (App., p. 224-225). Dr. Croswell pointed to several factors to account for these results: (1) the mucosal tissue and nature of the hymen and muscles that make up the genital and anal area, respectively, which can heal rather rapidly, and (2) the victim's perception of the physical contact. (App., pp. 225-226; pp. 233-234). Dr. Croswell was therefore unsurprised that Child's vagina, anus, rectum, etc. showed no evidence or any physical sign that she had been a victim of vaginal and anal sexual abuse. (App., pp. 225-226). On cross-examination, Dr. Croswell reiterated that it was normal and expected to have a normal exam and untornd hymen even when, as was alleged in this case, the victim is a small girl who has been raped numerous times by a full-grown man for several years starting when she was just five years old. (App., pp. 229-231). For additional support for this position, Dr. Croswell cited a specific study in which a majority of pregnant teenagers were found to have intact hymens. (App., p. 230; pp. 232-233).

Melissa Collins conducted a forensic interview of the Child on May 1, 2019. Ms. Collins testified that a forensic interview is neutral, fact-finding, interview with a child by a trained professional as part of an investigation. (App., p. 361). Ms. Collins testified that during the interview, it is just her and the child in the room with a camera that is explained to the child. (App., p. 362). She testified that she asks the child nonleading, non-suggestive questions and open-ended questions when possible and will clarify with follow up questions if needed. (App., p. 362). Ms. Collins testified that she conducted the interview with Child when Child was eight years old and that her mother brought her to the interview. (App., pp. 362-363). A redacted version of the forensic interview video was played for the jury. (State's Ex. 31).

Shauna Galloway Williams testified as an expert in child sexual abuse dynamics. (App., p. 349). Ms. Galloway Williams testified as to a child's delayed reporting of sexual abuse due to fear as to what may happen after they disclose the abuse, especially if it is a loved one or someone they know. (App., p. 351). She added that sometimes children do not have the words to describe what has happened to them and have no context for the sexual behavior. (App., p. 351). Ms. Galloway Williams testified that it is more common for children to be abused by someone they know, love and trust, and that the confusion from being abused by someone close to them makes it even more challenging to disclose the abuse. (App., p. 353). She identified the concept of grooming and noted how the abuse can occur during caregiving activities such as bathing or changing clothes, making it hard for a child to comprehend what is happening to them. (App., pp. 354-355). Additionally, she elaborated on grooming, noting that gift-giving by the abuser makes the child feel even more responsible for the behavior that's occurred, making it more difficult to tell someone what has happened. (App., p. 356). She also touched on the reasons why children may recant the disclosure of abuse. The child's fear of having to move or leave their home or face some other kind of consequence may lead the child to decide to change their statement (App., pp. 356-357). Ms. Galloway Williams testified that she had never met Child before and that her testimony serves to educate the jury on hallmarks of child sexual abuse. (App., 358).

Marita, Z.J., Child, and Petitioner all testified at Petitioner's trial. Child maintained her allegations against Petitioner, and Z.J. testified that he no longer sees Petitioner as his father. (App., p. 148; pp. 183-192). Marita testified that she initially tried to protect Petitioner as well as her children, but after Child began to cut herself and attempted suicide, Marita testified that she now looks back and "hear[s] the stupidity," and has since divorced Petitioner and remarried.

(App., pp. 309-311). Petitioner testified that he did not abuse his daughter and that he loved his family. (App., pp. 382-383; pp. 385-386). He testified that he felt as if investigators did not look into the facts or investigate thoroughly enough to discover the truth. (App., pp. 383-384).

STANDARD OF REVIEW

“A writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons.” Rule 242(b), SCACR. The South Carolina Appellate Court Rules set forth a nonexclusive list of the circumstances in which review may be granted. Therein, Rule 242(b) continues: “[t]he following, while neither controlling nor fully measuring the Supreme Court's discretion or power to grant review in general, indicate the character of reasons which will be considered:

- (1) Where there are novel questions of law.
- (2) Where there is a dissent in the decision of the Court of Appeals.
- (3) Where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court.
- (4) Where substantial constitutional issues are directly involved.
- (5) Where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court.

Rule 242(b), SCACR.

ARGUMENT

I. The Court of Appeals properly affirmed the trial court's admission of the redacted video recording of the Child's forensic interview after reviewing the factors in S.C. Code Ann. § 17-23-175(A)(1)-(4) and finding that the forensic interviewer conducted a trustworthy interview.

The Court of Appeals correctly affirmed the trial court's decision to admit the redacted video of Child's forensic interview. Petitioner's only disputes the fourth requirement under Subsection 17-23-175(A): “the court finds, in a hearing conducted outside the presence of the jury, that the totality of the circumstances surrounding the making of the statement provides particularized guarantees of trustworthiness.” S.C. Code Ann. § 17-23-175(A). However, the

record demonstrates that the trial court thoroughly evaluated the totality of the circumstances, as prescribed under subsection (B) of the statute, and found the evidence admissible under the listed factors. The Court of Appeals properly applied an abuse of discretion standard, and Petitioner has failed to demonstrate an error of law or finding of fact that is without evidentiary support. The Court of Appeal's holding was proper and certiorari is unwarranted in this matter.

“In determining whether a statement possesses particularized guarantees of trustworthiness, the court may consider, but is not limited to, the following factors: ‘(1) whether the statement was elicited by leading questions; (2) whether the interviewer has been trained in conducting investigative interviews of children; (3) whether the statement represents a detailed account of the alleged offense; (4) whether the statement has internal coherence; and (5) sworn testimony of any participant which may be determined as necessary by the court.’” S.C. Code Ann. § 17-23-175(A)(1)-(4). In embarking on an evaluation of these factors, the court began by hearing the testimony of the Ms. Collins, who explained that she conducted the interview with Child alone and began with a building of rapport. She then transitioned into the topic of concern. She testified that in conducting forensic interviews she uses open-ended questions, and if needed, she follows up with more specific clarifying questions. Thereafter, she then returns to open-ended questioning. The full interview was then admitted for purposes of the hearing and the court noted it would review it. (App. 32-35). Petitioner cross-examined Ms. Collins regarding the distinctions between leading and nonleading questioning. (App. 36-38).

During the lunch break the court reviewed the video in question, as well as the agreed upon redactions by the parties which were entered as Court's Exhibit 1. (App. 71). The State then argued that under the totality of the circumstances, there is a guarantee of trustworthiness established in the redacted interview. Petitioner argued that notwithstanding their agreement as to the redactions that were considered and agreed upon, any leading question or improper statement rendered the

entire interview tainted and inadmissible.¹ (App. 71-73). The trial court disagreed, noting that while there “may” have been some leading questions . . . he did not find them to be “the type of leading question that was in the form of manipulating and takes away from the trustworthiness of the interview.” (App. 74). “[O]verall, the questions as to the event were of a nature that were not leading and were open ended.” (App. 74). Moreover, the judge concluded the redactions further aided in alleviating any concern as to that factor.² (App. 74). The court went on to find that 1) Ms. Collins’s training for investigative interviews was established, 2) “there’s definitely a detail[ed] account of the offense,” and 3) her overall interview was internally coherent. See S.C. Code of Laws § 17-23-175(B)(1)-(4). In consideration of those matters together, the court concluded that it found a guarantee of trustworthiness existed and admitted the redacted video. (App. 74-75).

In its review, the court reached factual findings regarding the statutory factors that are supported by the record. Such are entitled to deference unless clearly erroneous, so as to constitute an abuse of discretion. *State v. Quattlebaum*, 338 S.C. 441, 527 S.E.2d 105 (2000); *State v. Hamilton*, 344 S.C. 344, 353, 543 S.E.2d 586, 591 (Ct.App.2001), overruled on other grounds by *State v. Gentry*, 363 S.C. 93, 610. Petitioner’s arguments attempt to find fault in matters relating to the interviewer’s instructions when the Child might not understand the interviewer’s terminology or a question that was asked, or by the interviewer asking questions in different ways, or in seeking more detail to subjects after Child provided an initial answer. These arguments ring hollow.

¹ Petitioner did not identify or make particular objection to specific portions of the video after the Judge returned from reviewing it during lunch.

² Further discussion of the redactions indicated that they dealt with 1) Child’s recitation that her mommy told her to tell the truth, 2) certain questions that were part of the rapport building, and 3) commentary about the process being one where she should tell the truth. Counsel for Petitioner agreed that those redactions were appropriate but maintained that he was objecting to the introduction of the tape in its entirety. (App. 75).

The trial court focused on the trustworthiness of the method in which the Child was examined and found that under § 17-23-175(B) each of the first four factors³ were met and they collectively established particularized guarantees of trustworthiness for admission of the evidence. Under the totality of the circumstances, Petitioner failed to prove *any* viable factor weighed in favor of suppression at trial. Petitioner has subsequently failed to demonstrate an error of law on the part of the trial court, and Petitioner has likewise failed to demonstrate any finding of fact that is not supported by the record. As such Petitioner has failed to demonstrate an abuse of discretion in this case and the Court of Appeals was correct to affirm the trial court's ruling. Certiorari should therefore be denied.

II. The Court of Appeals correctly concluded that Petitioner failed to properly preserve for appeal the admission of the blind expert's testimony because Petitioner raised entirely different grounds for reversal on appeal than were presented to the trial court. In any case, the trial court did not abuse its discretion in admitting the testimony.

The Court of Appeals correctly concluded that Petitioner sought to appeal the admission of the blind expert's testimony on different grounds than those argued to the trial court. As such, the claim was not properly preserved for appellate review. This finding was correct and certiorari is therefore unwarranted and inappropriate.

A defendant is not permitted to argue one ground below and another on appeal. *State v. Haselden*, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003) (citing *State v. Byram*, 326 S.C. 107, 485 S.E.2d 360 (1997); *State v. Caldwell*, 378 S.C. 268, 283, 662 S.E.2d 474, 482 (Ct. App. 2008)). That is precisely what Petitioner has attempted to do. On appeal, Petitioner argued that the expert witness strayed beyond "blind" expertise and instead ventured into the realm of

³ The fifth listed factor did not appear to be discussed by the court or the parties.

“treating” expertise. The record proves otherwise, but regardless, and contrary to defense counsel’s arguments at trial, Petitioner’s argument on appeal conceded the propriety of blind witness testimony and sought to argue error in the scope of the testimony actually provided. The appellate arguments further asserted that the testimony admitted was not reliable under Rule 702. Neither of these arguments were conveyed to the trial court, nor was an objection on these grounds raised. They are wholly absent from the record.

Instead, at trial Petitioner objected to the use of a blind expert as being inherently irrelevant (essentially a Rule 401 argument) and overly prejudicial compared to the probative value (essentially a Rule 403 argument).⁴ (App., p. 65; p. 68). Petitioner also did not provide citations to supporting case law.

In any case, the trial court found that the law supports the admission of blind witness testimony, thereby providing a preliminary ruling on the issue. (App. 66-68). When the issue arose during the course of the trial, the State confirmed that Ms. Galloway-Williams was in fact a blind witness who was not familiar with the case file and would only be speaking to the generalities of the expertise. In support of its argument, the State referenced supporting authority in *State v. Brown*, 411 S.C. 332, 768 S.E.2d 246 (Ct. App. 2015), abrogated by *State v. Jones*, 423 S.C. 631, 817 S.E.2d 268 (2018). Appellant even conceded that the witness did not have personal knowledge of Victim’s case, but he did not raise new objections that would preserve the arguments pursued on appeal. (App. 345).

Petitioner did not preserve for appeal the arguments regarding SCRE 702 or the witness’s scope of testimony, and the Court of Appeals was correct to rule accordingly. Certiorari is therefore

⁴ Defense counsel noted that he “always” objects to such expert testimony.

unwarranted.⁵

CONCLUSION

Based on the foregoing reasons, Respondent respectfully submits the Court should deny and dismiss the Petition for Writ of Certiorari.

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⁵ Additionally, the ruling of the trial court was correct under the law, but certiorari to address the merits of the underlying argument for error would be improper. Such would first be better suited by remand, but for the same reasons as argued above a remand is unwarranted.