

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM FLORENCE COUNTY
General Sessions Court
William H. Seals, Jr., Circuit Court Judge

Case No. 2013-GS-21-01353
Appellate Case No. 2017-002605

RECEIVED

FEB 15 2018

S.C. SUPREME COURT

The State,

Petitioner-Respondent,

v.

Bryant Christopher Gurley,

Respondent-Petitioner.

RESPONDENT-PETITIONER'S REPLY TO PETITIONER-
RESPONDENT'S RETURN TO RESPONDENT-PETITIONER'S
PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Did the trial court err in qualifying the complaining witness's counselor as an expert and in admitting the counselor's testimony?
2. Did the trial court err in allowing rebuttal testimony, which was not responsive to any evidence introduced by the defense and which was improper character evidence?
3. Did the trial court err in allowing testimony of the mother of the complaining witness that exceeded the limitation on admission of out-of-court statements of alleged victims of sexual assault, except as to time and place?
4. Should Petitioner (now referred to as Respondent-Petitioner) be granted a new trial based on the cumulative prejudice from the multiple errors of the trial court and the resulting denial of a fair trial?

ARGUMENT IN REPLY

Petitioner-Respondent, the State of South Carolina (hereafter, "the state"), is seeking a writ of certiorari with respect to the decision of the Court of Appeals that reversed the conviction of Respondent-Petitioner, Bryant Christopher Gurley (hereafter, "Gurley"). Gurley has filed a cross-petition for a writ of certiorari, asking that, if this Court should reverse the decision of the Court of Appeals with respect to the issues it decided in Gurley's favor, it also address the remaining issues raised on appeal but not decided by the Court of Appeals. The state has filed a return to Gurley's petition, contending that the proper remedy in that event is a remand to the Court of Appeals. If the Court reverses the decision of the Court of Appeals, Gurley urges the Court, in the interest of judicial economy and in keeping with numerous precedents of the Court, to

address the remaining issues and reverse Gurley's conviction on those additional grounds.

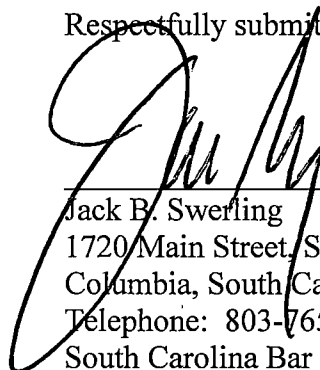
On many occasions, this Court has reached issues not decided by the Court of Appeals for various reasons, in the interest of judicial economy, even though remand to the Court of Appeals would also have been appropriate. *See, e.g., South Carolina Public Interest Foundation v. South Carolina Dep't of Transp.*, 421 S.C. 110, 122, 804 S.E.2d 854, 860-61 (2017); *Parsons v. John Wieland Homes & Neighborhoods of the Carolinas, Inc.*, 418 S.C. 1, 12 n.7, 791 S.E.2d 128, 134 n.7 (2016); *State v. Hewins*, 409 S.C. 93, 113 & n.6, 760 S.E.2d 814, 824 & n.6 (2014); *Woodson v. DLI Properties, LLC*, 406 S.C. 517, 528 n.10, 753 S.E.2d 428, 434 n.10 (2014); *State v. Kromah*, 401 S.C. 340, 354, 737 S.E.2d 490, 497 (2013); *Historic Charleston Holdings, LLC v. Mallon*, 381 S.C. 417, 427 n.2, 673 S.E.2d 448, 453 n.2 (2009).

In this case, the issues raised by Gurley's cross-petition were fully briefed on the merits by both parties in the Court of Appeals, and those briefs are before this Court. *See App. pp. 307-97.* If this Court remands those issues to the Court of Appeals, it is a virtual certainty that the non-prevailing party will again seek certiorari review in this Court of the decision of the Court of Appeals. Under these circumstances, a remand would waste valuable court time and resources, only to have the same issues return to this Court for decision. In the interest of judicial economy and in the interest of avoiding undue delay of the ultimate resolution of this appeal, if this Court reverses the decision of the Court of Appeals, it should decline to remand the remaining issues to the Court of Appeals and instead decide the merits of those issues at this juncture. *See Kromah*, 401 S.C. at 354, 737 S.E.2d at 497.

CONCLUSION

For the reasons set out above, if the Court grants the state's petition for writ of certiorari, it should also grant Gurley's cross-petition. If it reverses the decision of the Court of Appeals, it should also decide the remaining issues raised by Gurley, reverse, and remand his case for a new trial.

Respectfully submitted,



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PROOF OF SERVICE

I hereby certify that I have served the Respondent-Petitioner's Reply to Petitioner-Respondent's Return to Respondent-Petitioner's Petition for Writ of Certiorari upon Petitioner-Respondent, by mail to its counsel of record, Assistant Attorney General William M. Blicht, Jr., Post Office Box 11549, Columbia, South Carolina 29211, on February 15, 2018.



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