



The Supreme Court of South Carolina

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October 24, 2018

The Honorable Sherry R. Rhodes
Clerk of Court, Marion County
PO Box 295
Marion SC 29571-0295

REMITTITUR

Re: The State v. Jimmy Turner
Lower Court Case No. 2012-GS-33-00194
Appellate Case No. 2016-002204

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc:

John Benjamin Aplin, Esquire

Edgar Lewis Clements, III, Esquire

David Alexander, Esquire

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State, Petitioner,

v.

Jimmy Turner, Respondent.

Appellate Case No. 2016-002204

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Marion County
William H. Seals, Jr., Circuit Court Judge

Memorandum Opinion No. 2018-MO-35
Heard October 17, 2018 – Filed October 24, 2018

CERTIORARI DISMISSED AS IMPROVIDENTLY
GRANTED

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General John Benjamin Aplin,
both of Columbia; and Solicitor Edgar Lewis Clements,
III, of Florence, all for Petitioner.

Appellate Defender David Alexander, of Columbia, for
Respondent.

PER CURIAM: We granted the State's petition for a writ of certiorari to review the Court of Appeals' decision to reverse Respondent's convictions due to improper bolstering by an expert witness. *State v. Turner*, Op. No. 2016-UP-411 (S.C. Ct. App. filed Sept. 21, 2016). We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED.

BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Jimmy Turner, Appellant.

Appellate Case No. 2013-000335

Appeal From Marion County
William H. Seals, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-411
Heard September 7, 2016 – Filed September 21, 2016

REVERSED

Appellate Defender David Alexander, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General John Benjamin Aplin, both of
Columbia; and Solicitor Edgar Lewis Clements, III, of
Florence, for Respondent.

PER CURIAM: Appellant Jimmy Turner appeals his convictions for first-degree
criminal sexual conduct with a minor and lewd act with a minor. Appellant claims

the trial court erred by allowing the State's expert to testify regarding the recommendations she made to the alleged victim, which improperly bolstered the victim's credibility.

We find the trial court erred by admitting the State's expert's testimony that she recommended the alleged victim seek therapy and have no contact with Appellant. *See State v. Chavis*, 412 S.C. 101, 109, 771 S.E.2d 336, 340 (2015) (explaining that although "experts may give an opinion, they are not permitted to offer an opinion as to the credibility of others"); *id.* ("Specifically, it is improper for a witness to testify as to his or her opinion about the credibility of a child victim in a sexual abuse matter."); *id.* at 108, 771 S.E.2d at 340 (finding the trial court erred by admitting expert testimony regarding a recommendation that the victim "not be around [the defendant] for any reason" because it was improper bolstering of the victim's credibility).¹

To the extent the State asserts the trial court's error was harmless, we disagree. *See id.* at 110, 771 S.E.2d at 341 ("The determination whether a bolstering error is harmless depends on whether the case turns on the credibility of the victim."); *State v. Jennings*, 394 S.C. 473, 480, 716 S.E.2d 91, 95–96 (2011) (finding the bolstering error was not harmless because there was no physical evidence and "the children's credibility was the most critical determination" of the case).

REVERSED.

WILLIAMS, THOMAS, and GEATHERS, JJ., concur.

¹ We note our supreme court decided *Chavis* after Appellant's trial, and thus, the trial court did not have the opportunity to assess the State's expert's testimony in light of the holding in *Chavis*.