

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Pickens County

Honorable Edward W. Miller, Circuit Court Judge

RECEIVED

AUG 08 2017

JOSEPH PETTIGREW SANDERS, IV,

S.C. SUPREME COURT  
PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2016-001795

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REPLY TO RETURN TO  
PETITION FOR WRIT OF CERTIORARI

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## ARGUMENT IN REPLY

The State concedes that trial counsel's strategy in this case was to show that Complainant lied about the abuse so she could return to Virginia. Return at 12. The State concedes that the witnesses who testified at the PCR hearing would have supported this strategy. Return at 13-14. However, the State attempts to excuse trial counsel's complete failure to contact these witnesses because of witnesses at the trial who "essentially said the same thing." Return at 13-14.

The witnesses at trial cited by the State—the guardian ad litem, Lankford, and Kelley—are all **qualitatively different** witnesses than the witnesses trial counsel failed to contact. Lankford and Kelley heard a vague threat after Sanders argued with Complainant's mother. App. 502, l. 17 – 504, l. 10. App. 509, l. 3 – 511, l. 4. Eads heard Complainant hatch her specific scheme to accuse Sanders of abuse **before the fact**. App. 804, ll. 12 – 17. Two witnesses (who were volunteers for the Miss South Carolina Pageant) who heard a teenager say she would "get even" with Sanders compared to a member of Complainant's family in Virginia who heard her plan to fabricate sexual abuse allegations against Sanders is not "essentially the same thing." App. 500, ll. 17 – 22 (Lankford testifying that she had worked for the Miss South Carolina Pageant for forty-five years); App. 507, ll. 18 – 22 (Kelley testifying that he was the former business manager for the Miss South Carolina Pageant).

Likewise, King was Complainant's friend—not Sanders' employee. Holder was Complainant's friend—not Sanders' employee. King and Holder would have supplied Complainant's motivation to the jury from the mouths of her friends. King and Holder were categorically different witnesses than the ones presented by trial counsel.

The solicitor's closing argument proves that Eads, King, and Holder would have been important witnesses. The solicitor ridiculed the notion that "this little girl" would make up "this whole elaborate story to go up to Virginia." App. 693, ll. 1 – 11. The solicitor said Complainant "was happy in South Carolina." App. 693, l. 13. He argued, "**I never heard anybody say she wasn't happy in South Carolina.**" App. 693, ll. 13 – 14 (emphasis added). The State's own argument at the trial proves that Eads, Holder, and King's testimony cannot be cumulative.

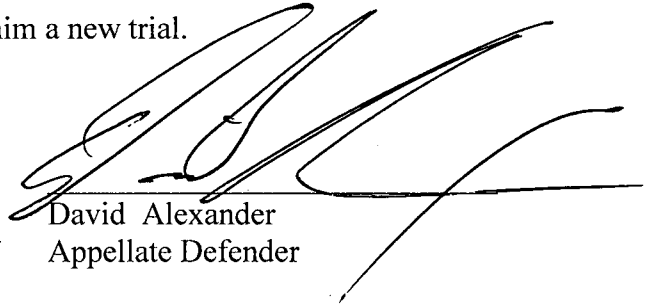
As for the State's notion that Sanders' character was not in question, this case completely hinged on credibility. Near the end of his closing argument, the solicitor viciously attacked Sanders' credibility. App. 701, ll. 3 – 10. Talking about Sanders, the solicitor said:

He did not tell you the truth. **He put his hand on that Bible and he did not tell you the truth.** He's the one that wanted to make the big sophisticated lie. If he doesn't tell you the truth about that, what else is he not telling you the truth about? Who has something to lose in this case and who has nothing to lose? The Defendants have a lot to lose.

App. 701, ll. 3 – 10 (emphasis added). Sanders' character was very much in question when he took the stand in this sexual abuse case. This Court should grant certiorari and reverse.

**CONCLUSION**

For the foregoing reasons, this Court should grant certiorari with the ultimate relief of reversing petitioner's conviction and granting him a new trial.

A handwritten signature in black ink, appearing to read 'D. Alexander', is written over a horizontal line. The signature is stylized and cursive.

David Alexander  
Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of August, 2017.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

Honorable Edward W. Miller, Circuit Court Judge

JOSEPH PETTIGREW SANDERS, IV,

PETITIONER,

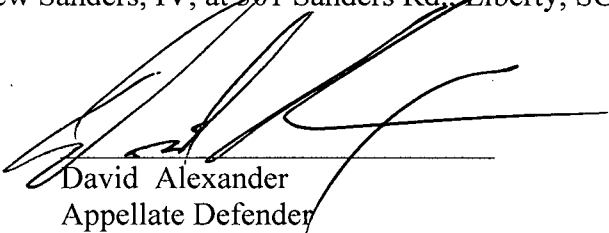
V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Reply to Return to Petition for Writ of Certiorari and a copy of the Appendix in the above referenced case has been served upon DeShawn H. Mitchell, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Joseph Pettigrew Sanders, IV, at 301 Sanders Rd., Liberty, SC 29657, this 8th day of August, 2017.

  
David Alexander  
Appellate Defender

ATTORNEY FOR RESPONDENT

SUBSCRIBED AND SWORN TO before me  
this 8th day of August, 2017.

Wanda Henderson (L.S)  
Notary Public for South Carolina  
My Commission Expires: July 3, 2023