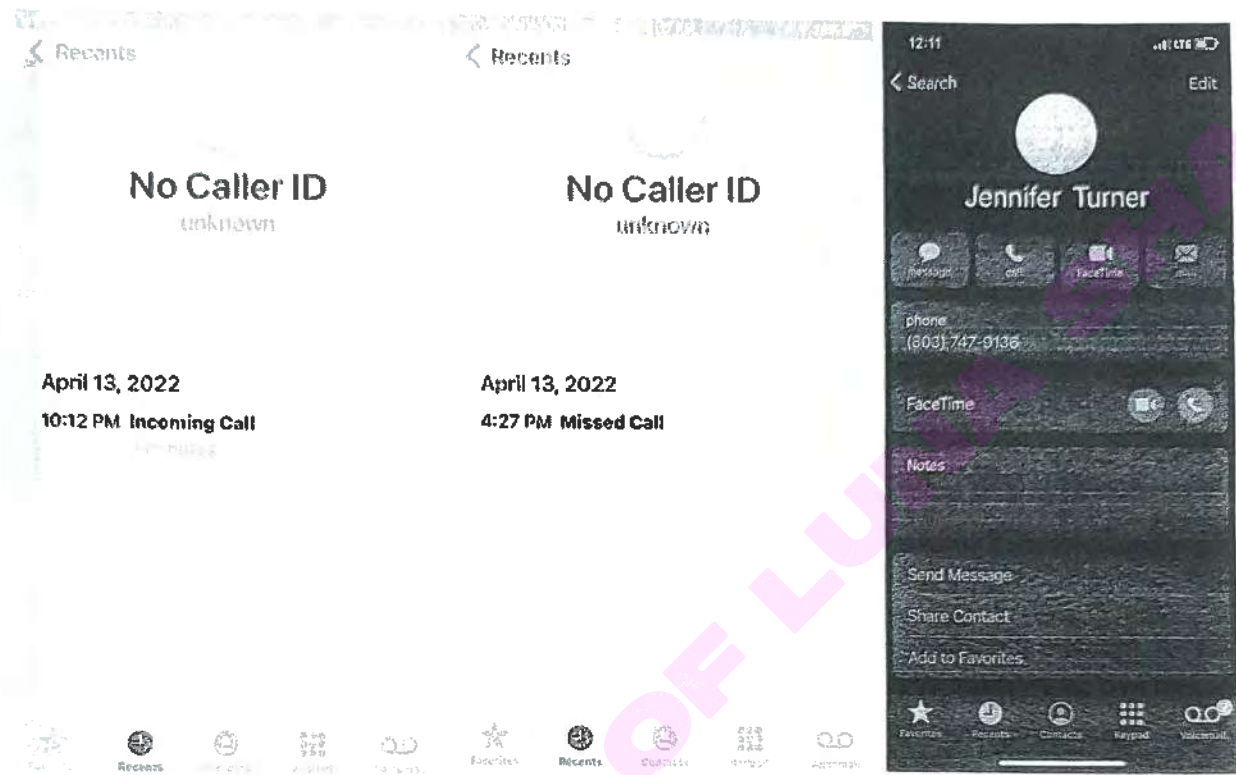


Exhibit 2 (Screenshots of calls by Unknown Caller and Defendant's mother)



FILED FOR RECORD
 JENNIFER B. CLARK
 2022 APR 21 PM 3:35
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 ORANGEBURG, SC

ATTEST: TRUE COPY
Winnaja B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

VERIFICATION)
)
Case No. 2019A3810200093

Karl M. Stoller, being duly sworn, states that they are a Victim herein, and have read the foregoing Request to Modify a Permanent Restraining Order and know the contents thereof, that the same is true of their own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters they believe them to be true.


Signature of Petitioner

SWORN to and Subscribed before me

This 20th day of April, 2022


Notary Public of South Carolina

My Commission expires: 5-7-2022



FILED FOR RECORD
ANDREAS B. CLARK
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CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

VERIFICATION
Case No. 2019A3810200093

Michelle Stoller, being duly sworn, states that they are a Victim herein, and have read the foregoing Request to Modify a Permanent Restraining Order and know the contents thereof, that the same is true of their own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters they believe them to be true.



Signature of Petitioner

SWORN to and Subscribed before me

This 21st day of April, 2022


Notary Public of South Carolina

My Commission expires: 5-7-2022

Nicole McCune
NOTARY PUBLIC SOUTH CAROLINA
My Commission Expires 5/7/22

FILED FOR RECORD
MICHELLE S. CLARK
2022 APR 21 PM 3:35
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ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)

IN THE GENERAL SESSIONS COURT
FIRST JUDICIAL CIRCUIT

COUNTY OF ORANGEBURG)

State of South Carolina,)

**SUMMONS
AND NOTICE OF HEARING**

vs.)

BOWEN GRAY TURNER,)

CASE NO:
2019A3810200093

Defendant.)

To: Bowen Turner

YOU ARE HEREBY SUMMONED and a hearing has been set in the above entitled action on _____ at _____ In Orangeburg, South Carolina. YOU ARE HEREBY NOTIFIED to be present in the Orangeburg County Courthouse located at _____ at the above stated hearing at that time. The Petitioners have requested that the Court modify the terms of a Permanent Restraining Order issued under this case number.

Date: _____

General Sessions Court Judge/Clerk

Orangeburg, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)
)
State of South Carolina,)
)
vs.)
)
BOWEN GRAY TURNER,)
)
Defendant.)

IN THE GENERAL SESSIONS COURT
FIRST JUDICIAL CIRCUIT

**SUMMONS
AND NOTICE OF HEARING**

CASE NO:
2019A3810200093

To: Walter and Jennifer Turner

YOU ARE HEREBY SUMMONED and a hearing has been set in the above entitled action on _____ at _____ In Orangeburg, South Carolina. YOU ARE HEREBY NOTIFIED to be present in the Orangeburg County Courthouse located at _____ at the above stated hearing at that time. The Petitioners have requested that the Court modify the terms of a Permanent Restraining Order issued under this case number.

Date: _____
Orangeburg, South Carolina

_____ 
General Sessions Court Judge/Clerk

Request for Return of Victim's Property

3 messages

Rebekah Hiatt <rebekah@scvan.org>

Mon, Apr 25, 2022 at 4:54 PM

To: DMiller@aikencountysc.gov, "Walker, Miriam D" <mdwalker@sled.sc.gov>, mmccallister@sled.sc.gov, sheriff@bambergcounty.sc.gov

Cc: Sarah Ford <sarah@scvan.org>, Nicole McCune <nmccune@scvan.org>

To Whom it May Concern:

On behalf of Dallas Stoller, a deceased victim, the South Carolina Victim Assistance Network would request the return of the victim's property to her parents, Karl and Michelle Stoller, as the charges relating to her in Case No. 2019A3810200093 have been dismissed.

The parents are requesting the return of the following named items, and any other items that may have been collected of which they are unaware:

- Victim's cell phone
- Victim's clothes
- Rape Kit

Please do not hesitate to contact us should you have questions or concerns about the information contained in this letter. You can reach our Legal Director, Sarah Ford, by phone at 803-509-6550 or by email at sarah@scvan.org.

--

Rebekah Hiatt

Bilingual Staff Attorney/ Legal Technology Director

www.scvanlegal.org

Direct Phone: (803) 542-1312

P.O. Box 212863, Columbia, SC 29221



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McCallister, Mary <mmccallister@sled.sc.gov>

Mon, Apr 25, 2022 at 5:05 PM

To: Rebekah Hiatt <rebekah@scvan.org>, DavidMiller <dmliller@aikencountysc.gov>, "Walker, Miriam D" <mdwalker@sled.sc.gov>, "sheriff@bambergcounty.sc.gov" <sheriff@bambergcounty.sc.gov>

Cc: Sarah Ford <sarah@scvan.org>, Nicole McCune <nmccune@scvan.org>

This request needs to be forwarded to SLED's Office of General Counsel.

Get [Outlook for iOS](#)

From: Rebekah Hiatt <rebekah@scvan.org>

Sent: Monday, April 25, 2022 4:54:01 PM

To: DavidMiller <dmiller@aikencountysc.gov>; Walker, Miriam D <mdwalker@sled.sc.gov>; McCallister, Mary <mmccallister@sled.sc.gov>; sheriff@bambergcounty.sc.gov <sheriff@bambergcounty.sc.gov>

Cc: Sarah Ford <sarah@scvan.org>; Nicole McCune <nmccune@scvan.org>

Subject: [EXTERNAL] Request for Return of Victim's Property

You don't often get email from rebekah@scvan.org. [Learn why this is important](#)

EXTERNAL EMAIL Do not click any links or open any attachments unless you trust the sender and know the content is safe.

[Quoted text hidden]

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Rebekah Hiatt <rebekah@scvan.org>

Tue, Apr 26, 2022 at 10:27 AM

To: "McCallister, Mary" <mmccallister@sled.sc.gov>

Cc: DavidMiller <dmiller@aikencountysc.gov>, "Walker, Miriam D" <mdwalker@sled.sc.gov>,

"sheriff@bambergcounty.sc.gov" <sheriff@bambergcounty.sc.gov>, Sarah Ford <sarah@scvan.org>, Nicole McCune <nmccune@scvan.org>

Thank you for letting me know, I will do so.

[Quoted text hidden]



Nicole McCune <nmccune@scvan.org>

Fwd: Initial Brief of Appellant- Corrected Case No. 2022-000472

1 message

Sarah Ford <sarah@scvan.org>

To: Rebekah Hiatt <rebekah@scvan.org>, Nicole McCune <nmccune@scvan.org>

Thu, Nov 9, 2023 at 3:33 PM

----- Forwarded message -----

From: **Cassie Green** <cassie@scvan.org>

Date: Fri, May 13, 2022 at 4:10 PM

Subject: Initial Brief of Appellant- Corrected Case No. 2022-000472

To: <ctappfilings@sccourts.org>, <cbhutto@williamsattys.com>, <DMiller@aikencountysc.gov>, <rdudek@sccid.sc.gov>, <wblitch@scag.gov>, <awilson@scag.gov>

Cc: Sarah Ford <sarah@scvan.org>, Tamika Cannon <tamika@scvan.org>, Terri Bailey <terri@scvan.org>

Good Afternoon All-

Please see the attached *Initial Brief of Appellant*, that was edited to reflect the assigned appeal case number, per prior correspondence today from the Clerk with Mrs. Cannon.

Best regards,

Caspian Green (she/her/hers)

Victim Access Coordinator

South Carolina Victim Assistance Network

PO Box 212863

Columbia, SC 29221

Office: (803) 750-1200/ 843-929-4000

Fax: (866) 473-1272

www.scvanlegal.org



SCVAN

Legal Services

Program

--

Sarah A. Ford

Legal Director



PO Box 212863, Columbia, SC 29221

www.scvanlegal.org



SOUTH CAROLINA
VICTIM ASSISTANCE NETWORK

Legal Services Program

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 **Initial Brief of Appellant- 2022-000472.pdf**
145K

COMPLIMENTS OF LUNA MARK

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

R. Markley Dennis, Jr., General Sessions Judge

Case No. 2022-000472

The State, Respondent,
v.
Bowen Gray Turner, Respondent,
In re: Victim C.B., Appellant.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

Whether Victim's constitutional rights to present and be heard at the Plea Hearing were violated when the court deemed the Rule to Show Cause, Motion to Enforce Victims' Rights and to be Heard Prior to Guilty Plea, and Petition for Writ of Mandamus as each being untimely filed.

COMPLIMENTS OF LUNA SHARK

STATEMENT OF THE CASE

In May 2018, Respondent Bowen Turner was accused of sexual assault of a teenager at her home. They were both high school students and this accusation did not result in charges. On January 29, 2019, Turner was charged with Criminal Sexual Conduct - First Degree in the General Sessions Court in Bamberg County for sexually assaulting a second high school student, Victim D.S. Victim D.S. is now deceased. On June 2, 2019, while out on bond for the sexual assault against Victim D.S, Turner assaulted Victim C.B., his third victim, and was again charged with Criminal Sexual Conduct - First Degree.

On August 5, 2019, after several bond hearings, Respondent was released on what the court termed "strict house arrest" with an ankle monitor. Respondent was allowed to live at his grandmother's house and was restricted against traveling from that location to his own home. The Court further instructed that Respondent could travel to a medical, legal or mental health appointment without any stops, and was prohibited from contacting anyone outside of his immediate family and from accessing the internet. The Order Granting Bond read in relevant part:

ANY AND ALL violations of the conditions of HOME DETENTION shall be reported to the Second Circuit Solicitor's Office or the Orangeburg County Sheriff's Office within 24 hours of the violation. FAILURE TO COMPLY WITH THIS NOTIFICATION REQUIREMENT WILL SUBJECT THE ELECTRONIC MONITORING COMPANY TO POTENTIAL CRIMINAL AND CIVIL SANCTIONS FOR CONTEMPT OF COURT. (All caps portions are true to the Order and were not added for emphasis).

The State and defense agreed, outside of court, that Respondent should be allowed to leave his grandmother's house on December 24th, and return the following day so he could spend Christmas with his immediate family. No hearing was held on that issue, and Victim was not given an opportunity to be heard on this bond modification.

Respondent's bond was again modified in March 2020, to allow him to reside with his parents over Victim's objections; all of the other conditions of bond remained in place. At the Victim's request, the South Carolina Law Enforcement Division ("SLED") obtained the GPS records generated by the ankle monitoring device for the previous three months. SLED determined that between November 2021, and February 2022, Respondent violated bond more than fifty (50) times. He made thirteen (13) visits to a golf course, six (6) to a golf center, and multiple visits to Sam's Club, Costco, Red Robin Restaurant, Hibbett Sports, Staples, an apartment complex and several other locations. This information was gathered on March 2, 2022, and the State filed a Motion to Revoke Bond against Respondent on March 25, 2022. A hearing was scheduled for April 8, 2022.

On April 4, 2022, just four days before the scheduled bond hearing, the Solicitor notified Victim C.B. that he planned to make a plea offer to reduced the original charge of criminal sexual conduct 1st degree to assault and battery. In response, on April 6, 2022, Victim filed a Petition for Writ of Mandamus to require law enforcement or the Solicitor to enforce the bond order and arrest Respondent. In addition, Victim filed a Rule to Show Cause against the bond company for failing to report the violations. SLED filed a brief in opposition to Victim's Petition for Writ of Mandamus.

The hearing on the Motion to Revoke Bond was still scheduled for April 8, 2022. Despite being informed of an offer on April 4, no notice was given that the hearing would be converted into a change of plea, when egregious violations of bond were pending. Yet this is what occurred. Victims had been informed of the offer four days earlier, on April 4, but were never notified that the hearing to revoke bond was actually going to be a guilty plea. The hearing on

the Motion to Revoke Bond never took place and instead a guilty plea hearing was held. In response to the scheduled plea hearing, Victim filed and electronically served a formal Motion to Enforce Victims' Rights and to be Heard Prior to Guilty Plea the morning of April 8.

At the April 8 guilty plea hearing, the trial court denied Victim C.B.'s three motions, not on the merits, but on the basis that each was untimely filed and served in violation of "the four day rule". During the hearing, counsel for C.B. moved the court for a continuance in order to comply with the court's four day rule. The court denied this.

Victim C.B. seeks appellate review of the court's findings related to Victim's timeliness of filing and service of Victim's motions and her request to be allowed to present and be heard prior to the plea acceptance.

STANDARD OF REVIEW

Determination that a motion has not been properly filed as required by the “four-day rule” is a question of law which is reviewed de novo, without any particular deference to the circuit court. Catawba Indian Tribe of S.C. v. State, 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007).

The enforceability of rights granted by the South Carolina Constitution is a question of law which is reviewed de novo, without any particular deference to the circuit court. Jeter v. S.C. Dept. of Transp., 369 S.C. 43, 438, 633 S.E.2d 143, 146 (2006) (holding interpretation of statute is a question of law).

ARGUMENT

I. THE TRIAL COURT DENIED VICTIM C.B. PROCEDURAL JUSTICE WHEN IT REFUSED TO HEAR FROM HER BEFORE ACCEPTING THE GUILTY PLEA, IN VIOLATION OF HER CONSTITUTIONAL RIGHTS TO BE HEARD AND TO PRESENT.

The South Carolina Constitution includes the Victims' Bill of Rights.¹ This important document sets out the rights accorded every victim in the justice system and is included in the Constitution to insure that the Victims' rights be protected "as diligently as those of the defendant." S.C. Code Ann 16-3-1550 (D). Despite this mandate, Victim C.B.'s constitutional rights have been consistently disregarded throughout this case. This appeal focuses on two of the procedural injustices she suffered: the right to be heard and to present at the guilty plea.

Victims have the right to "be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present." S.C. Const. Art. I, § 24(A)(3). Despite this clear constitutional mandate, Victim CB. was not allowed to make any statement before the trial court accepted the guilty plea. Under South Carolina law, once a guilty plea has been accepted by the court, the parties are bound to it. Reed v. Becka, 333 S.C. 676, 511 S.E.2d 396 (S.C. App. 1999). Although she was allowed to speak after the plea was

¹ The South Carolina Constitution Article 1, § 24(A) to preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to: 1) be treated with fairness, respect and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victims' constitutional rights, provided by statute; 2) be reasonably informed when the accused or convict person is arrested, released from custody, or escaped; 3) be informed of and present at any criminal proceeding which are dispositive of the charges where the defendant has the right to be present; 4) be reasonably informed of and be allowed to submit a written or oral statement at all hearings affecting bond or bail 5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing; 6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process; 7) confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition; 8) have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial; 9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders; 10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision; 11) a reasonable disposition and prompt and final conclusion of the case; 12) have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

accepted, the timing rendered her presentation a meaningless show: the plea had already been accepted and could not be changed. This process denies the Victim of any meaningful input and thereby circumvents the constitutional provision that she be allowed to “present.”

In South Carolina, the recommended plea becomes a “done deal” once it is accepted by the court. The trial court’s custom of delaying the victims’ statement until the sentencing phase of the plea denies the Victim procedural justice. If the Victim is not allowed to present until after the plea is accepted, the court is just going through the motions when it listens to the Victim’s Impact Statement and the Victim’s input, rendered after-the-fact, is reduced to a mere formality.

The S.C. Supreme Court’s decision in Ex parte Littlefield provides a roadmap for situations like this. Littlefield v. Williams, 343 S.C. 212, 540 S.E.2d 81 (2000). Littlefield explains the responsibilities of the prosecutor as well as the rights of the victims. While prosecutors retain broad discretion over whether “to pursue a case to trial, to plea bargain it down to a lesser offense, or they may simply decide not to prosecute the case in its entirety,” their discretion is constrained by many sources, including the Victims’ Bill of Rights. Prosecutors have certain duties to crime victims.

As Littlefield explains, under the Victims’ Bill of Rights, S.C. Const.art. I, § 24(C)(2), “a victim has the right to ‘be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present’.” (Emphasis in original.) The Court in Littlefield held that once a criminal proceeding has concluded, it cannot be re-opened even when there has been a violation of victims’ rights. In Littlefield, the two petitioners lost substantial funds in financial dealings with the defendant, following the commission of white-collar crimes. The Solicitor’s Office determined that there was not probable cause to charge the defendant with any crime against petitioner Littlefield, but it proceeded with

charges relating to petitioner Jeter. Littlefield and Jeter both moved the court to set aside the guilty plea that was entered, arguing that they were not notified of the plea prior to the hearing and were denied the right to attend. The Court determined that a victim's rights to participate in the criminal process arise when the defendant is charged with a crime involving that victim. Since the defendant was not charged with any crime involving Littlefield, the prosecution was not his "concern" and Littlefield was not a "victim" in that case. In effect, neither the petitioner-victims nor defendants have the right to participate in cases that do not involve them. Similarly, once Jeter was notified that the indictment was dismissed due to inability to prosecute, he was not a victim in the subsequent proceedings and there was apparently no need for further communication with him. Littlefield at p. 221.

Victim C.B. was notified in advance of the pending plea offer; however, she was not notified of the final negotiated deal. Although she was given an opportunity to attend the guilty plea proceedings, she was not allowed to *present* until after the guilty plea was accepted. Once the court accepted the guilty plea, the deal was done and her subsequent presentation was meaningless.

Unlike the petitioners in Littlefield, Victim C.B. was the subject of the charged Criminal Sexual Conduct 1st Degree. The crimes against her were actively prosecuted and she was entitled to all protections under the Victims' Bill of Rights. When she was informed of the guilty plea hearing, she promptly filed a formal Motion to Enforce Victim's Rights and to Be Heard Before Guilty Plea. A hearing on the Solicitor's Motion to Revoke Bond had originally been scheduled for Friday, April 8, but it was never confirmed that it was to be recast as a guilty plea hearing. Appearing at the scheduled hearing, Victim's counsel moved the trial court to be heard on the motion prior to the announcement of the plea bargain. Transcript p. 6, lines 12-15. The

trial judge denied that motion as not properly served and without proper notice in violation of the 4-day rule. T. at p. 7, lines 2-4. Victim's counsel moved for a continuance, which was denied. Then the judge asked the Solicitor whether he wanted to continue the matter and was answered in the negative. T. at p. 7, lines 5-11. At that point he allowed the State to present the terms of the recommended plea and heard from the Defendant about his acceptance and understanding of the plea. It was clarified by the Solicitor that the plea was a recommendation, which could be accepted or rejected by the court. T. at p. 8, lines 21-25; T. at p. 9, lines 1-2. The judge accepted the plea. T. at p. T. at p.16, line 10.

After the plea was formally accepted, the Court allowed Victim's counsel and father to address the court regarding the plea. Victim's counsel expressed Victim's objection to the plea bargain. T. at p. 18, lines 13-15. Victim's father read a Victim's Impact Statement and then the father of Defendant's second alleged sexual assault victim read an impact statement. After hearing from counsel and the families, the Court modified the plea offer to extend probation from two to five years.

Victim C.B., in this instance, moved to protect her rights while the Victims' Bill of Rights were still applicable, as compared to the appellants in Littlefield, who were non-victims seeking to enforce rights after the guilty plea had already been entered. Victim C.B., unlike the Littlefield petitioners, is not seeking to re-open the guilty plea, but is seeking a finding that the court should have heard from Victim prior to ruling on the guilty plea and should not have proceeded to sentencing at the guilty plea hearing, because doing so deprived Victim of an opportunity to be heard and to present regarding the plea and its acceptance and for those comments to be afforded due consideration.

A. Victim Had A Right to Present At The Plea Hearing

As noted above, the Victims Bill of Rights specifies that “victims of crime have the right to . . . be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present.” S.C. Const.art. 1, § 24(C)(2).

It is undisputed that as the defendant in a criminal action, Respondent Turner and his counsel had the right to present throughout the proceedings on April 8; they presented their position before the plea was accepted and again during the sentencing stage. Prior to the hearing, Victim C.B. filed a motion that she be allowed the same opportunity to present before the plea was accepted. This was denied as not timely, as was her request for a continuance in light of the 4-day rule. T. at p. 6, lines 12-24; T. at p. 7, lines 2-10. By this ruling, the trial court denied Victim C.B. the right to make a meaningful presentation before the sentencing.

The Trial Court apparently construed the word “present” to be an adjective, as in describing a particular location, such as “a doctor must be present at the ringside”. Google’s English Dictionary, provided by Oxford Languages. Similar adjectives include near, close, and at hand. However, in this context, “present” is not an adjective; it is actually a transitive verb, meaning “to lay (something such as a charge) before a court as an object of inquiry.” Merriam-Webster’s Collegiate Dictionary (1999) . Or, as Black’s Law puts it: “. . . To find or represent judicially; used of the official act of a grand jury when they take notice of a crime or offense from their own knowledge or observation, without any bill of indictment before them.” Present, Black’s Law Dictionary, (10th ed. 2014).

Under the first canon of construction, the plain meaning rule, words are given the plain meaning in the statutory text. Anderson v. S.C. Election Comm’n, 397 S.C.551,556, 725 S.E.2d 704, 707 (2012). Another canon is the presumption that every word in a statute or law has

meaning. Under this canon, every word and every provision is to be given effect. 16 Jade Street, LLC v. R. Design Const. Co., LLC., 398 S.C. 338, 728 S.E.2d 448 (2012). Applying these two canons of construction, the word “be” is intentionally included in S.C. Const.art. I, § 24(A)(2), which reads a victim has a right to ... “be reasonably informed when the accused is arrested, released from custody or escapes”. By contrast, the verb “to be” is omitted from the next paragraph, that the victim has a right to “be informed of and present at any criminal proceeding.” This absence of “be” in the second clause is important because it provides a different meaning to the paragraph. As written, the statute bestows the right for victims to be noticed of and to make presentations at the criminal proceedings. In contrast, if the phrase read a victim has a right to be informed of and “to be present”, the meaning would then be that a victim merely has the right to attend the proceeding as does the general public.

This interpretation of the word “present” as a verb is consistent with other sections of the Victims’ Bill of Rights. Specifically, S.C. Const.art. I, §24(A)(10) uses the word “present” in the sense of “appearing” in parallel construction with the infinitive “to be” when it specifies that victims have a right to “be informed” and “be present,” as follows: the victim’s right to “(10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision.” The public at large has a right to attend criminal hearings, which are open proceedings, so there would be no need to include in the Constitution that victims have a right that is available to all.

Allowing the Victim C.B. the constitutional “right to present” is fully compatible with the Court of Appeals ruling in Reed v. Becka, 333 S.C. 676, 511 S.E.2d 396 (S.C. App. 1999), that the victim does not have the right to veto a proposed plea agreement. While recognizing the solicitor’s unfettered discretion in arriving at a plea agreement and presenting it to the trial court

as either a recommended or negotiated plea, the victim still has the constitutional right to present her point of view before the plea is accepted. Denial of the opportunity to speak to the court before the plea is accepted is a violation of the victim's constitutional right to present.

B. Obtaining A Writ Was Impossible Under These Circumstances

Littlefield concludes with an exposition as to the proper enforcement of victims' rights in the trial courts. The Victims' Bill of Rights does not establish a civil cause of action: these rights are properly presented in a writ of mandamus to the circuit judge or any justice in the Supreme Court. S.C. Const.art. I, § 24(B)

A victim may seek a writ of mandamus to enforce compliance with the Victims' Bill of Rights. However, considering the short amount of notice that is usually given to victims before a plea hearing is held, it is not practical or possible for a victim to obtain a writ of mandamus prior to the hearing. Also, a victim can not seek a writ of mandamus before the plea hearing because the issue of a victim being heard is not ripe until it is actually denied. A writ of mandamus was not a practical option in this case because the court accepted the plea minutes after denying Victim's motion to be heard. There was no time for the Victim to present a writ to the Supreme Court under these circumstances.

The trial court erred in finding that Victim's Motion to Enforce Victim Rights was not timely filed and served. Victim was not able to provide more notice than she was provided by the State in terms of a recommended plea being presented at the scheduled hearing. Victim filed and provided notice of the motion on the same day that she learned for certain that the State was going to present the plea recommendation to the court. The court's finding that sufficient notice of the motion was not provided is error. There is no known South Carolina Rule of Criminal Procedure, or case law, that requires a specified amount of notice of a motion to a party in a

criminal proceeding. And even if such a rule existed, it would not have been possible for Victim C.B. to have provided lengthy notice of the Motion to Enforce, because she was only given four day notice that the plea offer was being made.

There is a legal quandary in having a writ of mandamus as the remedy for violations of victims' rights related to a plea agreement; it is not ripe to seek relief before the violation occurs and it is too late to seek relief for a violation after the plea is approved.

In Reed, 333 S.C.2d 396, the Victim and State appealed an order finding a plea agreement was valid and enforceable. The court held that a victim possesses no rights in the appellate process and that nothing in the South Carolina Constitution or statutes provides the victim standing to appeal the trial court's order. Id. at 681. The court went on to find that the rights granted to victims by the Constitution and statute are enforceable by a writ of mandamus, rather than direct participation at the trial level. Id. at 681. In the current case before the Court, Victim was denied the opportunity to even be heard on the Petition for Writ of Mandamus, which the Reed court recognized as a means to enforce victims' rights. Under Reed, Victim should have at a minimum been heard on the Petition for a Writ of Mandamus.

The common practice of hearing guilty pleas and sentencing within one proceeding makes it impractical to seek a writ of mandamus for a victim to enforce their rights. This is particularly true for the vast majority of victims in our state who are not represented by legal counsel. Although the court may be limited in remedying the violations in the present case because the guilty plea has already been accepted, it is a matter of public interest for the court to address the right to present and timing of victims being heard during a guilty plea hearing.

The court will not address moot or speculative questions. Sloan v. South Carolina Dep't of Transp., 379 S.C. 160 (2008). However, there are three exceptions to the mootness doctrines

and under which the appellate court can take jurisdiction: 1) if the issue is capable of repetition but generally will evade review 2) to decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest, or 3) if a decision by the trial court may affect future events, or have collateral consequences for the parties. *Id.* at 667.

This case falls within the first two exceptions to the mootness doctrine. First, this situation is likely to repeat itself. Defendants enter guilty pleas on a daily basis in South Carolina. Requiring victims to be afforded an opportunity to be heard before the plea is approved or rejected, would allow victims, who are overwhelmingly unrepresented by legal counsel, to be heard, to present and to be treated with dignity and respect. This issue is likely to evade review because of the practice of conducting plea review and sentencing at the same time and thus closing the opportunity for a victim to seek a writ. Secondly, the handling of plea hearings and victims participation in the process is of important public interest. Pleas, as in this case, often address matters of public safety like restraining orders.

The likelihood of this issue of a victim not being heard before a plea is accepted is great. This likelihood, and the important public interest of this issue, warrants the Court issuing an order in the present matter requiring victims be provided an opportunity to be heard before a recommended plea is accepted or rejected by the trial court.

C. Victims Are Entitled To A Reasonable Disposition In A Case

Victims are entitled to a reasonable disposition in a case. S.C. Const Art. I § 24(11). It cannot be presumed that a plea bargain is automatically reasonable. The appellate courts have held that judges are not required to accept plea agreements and may reject them. State v. Rosier, 312 S.C. 145 (S.C. App. 1993). A plea is subject to the scrutiny of the court. The court may reject a plea in exercise of sound judicial discretion. Once the State and Defense have agreed to

terms of a proposed plea, there is no way for the trial court to know whether those terms are reasonable under all of the facts of a case. The court is dependent upon the facts as presented by the two parties to the case, the State and Defense, who are in agreement that the plea, which is their construct, should be approved. Allowing a Victim to be heard and express any objections or concerns about the proposed plea before it is accepted and cannot be revoked, would increase the likelihood that a reasonable disposition is reached in a case.

In this case, Defendant was allowed to plead down from Criminal Sexual Conduct 1st Degree to Assault and Battery first degree. The original charge was not presented to the trial court when the State presented the proposed plea bargain. T. at p. 9, line 7. The court did not have the benefit of the full history of the case and details such as Defendant violated bond more than fifty times, before deciding to accept the plea. The full context of the case and the details that would potentially make the plea unreasonable would only have been able to be presented through the Victim and Victim's counsel. The trial court denied Victim a reasonable disposition in this case by not allowing Victim's counsel to present. As a result, the court deprived itself of an opportunity to learn the full factual background of this case that should have affected whether the plea was accepted and whether the plea recommendation was reasonable.

CONCLUSION

Victims should be given an opportunity to present and be heard before a guilty plea recommendation or plea is approved by the Court. This is necessary for procedural justice in the criminal process and would uphold the Victims' Bill of Rights as a requirement under the South Carolina Constitution, as opposed to its current treatment as discretionary. Victim C.B. is seeking a finding that the trial court should have heard from Victim prior to accepting the guilty plea, because doing so deprived Victim of an opportunity to present and be heard regarding the plea.

Respectfully submitted:

Other Counsel of Record:

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S.C. Commission on Indigent Defense

Attorneys for Appellant:

s/ Sarah A. Ford
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Attorney for Victim
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s/ Tamika D. Cannon
Tamika D. Cannon, Bar #72834
Attorney for Victim
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s/ Terri Bailey
Terri Bailey, Bar #4539
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COMPLIMENTS OF LUNA SHARK

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

R. Markley Dennis, Jr., General Sessions Judge

Case No. 2022-000472

The State,

Respondent,

v.

Bowen Gray Turner,

Respondent,

In re: Victim C.B.,

Appellant.

APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD OF
APPEAL

Appellant proposes the following to be included in the Record of Appeal:

1. Transcript of Record from April 8, 2022 Hearing
2. Order Granting Bond dated August 5, 2019
3. Order Granting Bond Reconsideration dated March 16, 2020
4. Sentencing Sheet for Bowen Gray Turner dated April 8, 2022

We certify that this designation contains no matter which is irrelevant to this appeal.

s/ Sarah A. Ford
Attorney for Victim, Bar #77029
S.C. Victim Assistance Network
P.O. Box 212863
Columbia, SC 29221
(803) 509-6550

s/ Tamika D. Cannon
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Attorney for Victim
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s/ Terri Bailey
Terri Bailey, Bar #4539
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COMPLIMENTS OF LUNA SHARK

COMPLIMENTS OF LUNA SHARK

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

R. Markley Dennis, Jr., General Sessions Judge

Case No. 2022-000472

The State,

Respondent,

v.

Bowen Gray Turner,

Respondent,

In re: Victim C.B.,

Appellant.

PROOF OF SERVICE

I certify that I have served the Initial Brief of Appellant and Appellant's Designation of Matter by emailing a copy of it on May 11, 2022, to the South Carolina Court of Appeals at ctappfilings@sccourts.org; to Deputy Solicitor for Aiken County, David Miller at DMiller@aikencountysc.gov; to Alan Wilson of the S.C. Attorney General's Office at awilson@scag.gov; to William Blich of the S.C. Attorney General's Office at wblitch@scag.gov; to Robert Dudek of the S.C. Commission on Indigent Defense at rdudek@sccid.sc.gov; and to and by emailing a copy of it on May 11, 2022, to Respondent Bowen Gray Turner's attorney of record, Bradley Hutto at cbhutto@williamsattys.com.



Caspian Green

Victim Access Coordinator
South Carolina Victim Assistance Network
P.O. Box 212863
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(843) 929-4000

s/ Sarah A. Ford
Sarah A. Ford, Bar #77029
Attorney for Victim
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COMPLIMENTS OF LUNA SHARK

Fwd: The State v. Bowen G. Turner (In re: Victim C.B.) 2022-000472, 7.13.22

1 message

Sarah Ford <sarah@scvan.org>

Thu, Nov 9, 2023 at 3:34 PM

To: Nicole McCune <nmccune@scvan.org>, Rebekah Hiatt <rebekah@scvan.org>

----- Forwarded message -----

From: Orr, Jacklyn <jorr@sccourts.org>

Date: Wed, Jul 13, 2022 at 9:43 AM

Subject: The State v. Bowen G. Turner (In re: Victim C.B.) 2022-000472, 7.13.22

To: sarahaford@gmail.com <sarahaford@gmail.com>, tamika@scvan.org <tamika@scvan.org>, terri@scvan.org <terri@scvan.org>, dmiller@aikencountysc.gov <dmiller@aikencountysc.gov>, wblitch@scag.gov <wblitch@scag.gov>, cbhutto@williamsattys.com <cbhutto@williamsattys.com>, rdudek@sccid.sc.gov <rdudek@sccid.sc.gov>

Cc: sarah@scvan.org <sarah@scvan.org>, tdevlin76@gmail.com <tdevlin76@gmail.com>, terri.bailey@icloud.com <terri.bailey@icloud.com>, Caroline Collins <CCollins@scag.gov>, vmware@williamsattys.com <vmware@williamsattys.com>

Attached please find correspondence from the Court of Appeals.

Jacklyn Orr

Team Lead- Criminal

South Carolina Court of Appeals

(803) 734-1890

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**Sarah A. Ford**

Legal Director

-  [REDACTED]
-  PO Box 212863, Columbia, SC 29221
-  [www.scvanlegal.org](http://www.scvanlegal.org)

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**2 attachments**



**State v. Turner- Cover Letter.pdf**

75K



**State v. Turner(In Re Victim C.B.)-Order.pdf**

189K

COMPLIMENTS OF LUNA SHARK



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
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1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
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FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 13, 2022

Mr. William M. Blich, Jr., Esquire  
S.C. Attorney General's Office  
PO Box 11549  
Columbia SC 29211

Ms. Sarah Anne Ford, Esquire  
PO Box 212863  
Columbia SC 29221

Re: The State v. Bowen G. Turner (In re: Victim C.B.)  
Appellate Case No. 2022-000472

Dear Counsel:

Enclosed is the decision of the Court. The initial brief of respondent and designation of matter is due to be served and filed within thirty (30) days of the date of this letter.

Very truly yours,

*V. Claire Allen*

CLERK

cc: David Warren Miller, Esquire  
Alan McCrory Wilson, Esquire  
C. Bradley Hutto, Esquire

Robert Michael Dudek, Esquire  
Tamika D. Cannon, Esquire  
Terri Hearn Bailey, Esquire

COMPLIMENTS OF LUNA SHARK

# The South Carolina Court of Appeals

The State, Respondent,

v.

Bowen Gray Turner, Respondent.

In re: Victim C.B., Appellant.

Appellate Case No. 2022-000472

---

## ORDER

---

After careful consideration, the State's motion to dismiss is denied at this time. Nothing in this order prevents the parties from arguing the issues of appealability or standing in their briefs.



FOR THE COURT

Columbia, South Carolina

cc:

David Warren Miller, Esquire  
William M. Blich, Jr., Esquire  
Alan McCrory Wilson, Esquire  
C. Bradley Hutto, Esquire  
Robert Michael Dudek, Esquire  
Sarah Anne Ford, Esquire  
Tamika D. Cannon, Esquire  
Terri Hearn Bailey, Esquire

**FILED**  
**Jul 13 2022**



Nicole McCune &lt;nmccune@scvan.org&gt;

**Fwd: 2022-000472 The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)**

1 message

Sarah Ford &lt;sarah@scvan.org&gt;

Thu, Nov 9, 2023 at 3:35 PM

To: Nicole McCune &lt;nmccune@scvan.org&gt;, Rebekah Hiatt &lt;rebekah@scvan.org&gt;

----- Forwarded message -----

From: **Matthews, Lindsey** <lmatthews@sccid.sc.gov>

Date: Fri, Aug 12, 2022 at 8:33 AM

Subject: 2022-000472 The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)

To: Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Cc: SC - BLITCH WILLIAM &lt;Wblitch@scag.gov&gt;, sarah@scvan.org &lt;sarah@scvan.org&gt;, tamika@scvan.org

&lt;lamika@sevan.org&gt;, terri@scvan.org &lt;terri@scvan.org&gt;, dmiller@aikencountysc.gov &lt;dmiller@aikencountysc.gov&gt;,

Dudek, Robert &lt;RDudek@sccid.sc.gov&gt;

Attached is a copy of a motion for an extension and email of service on opposing counsel in the above-referenced case.

Thank you.

Sincerely,

Lindsey M. Matthews

Administrative Assistant

SC Commission on Indigent Defense

Appellate Division

1330 Lady Street, Suite 401

P.O. Box 11589

Columbia, SC 29201

Phone: (803) 734-1330

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# Sarah A. Ford

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### 2 attachments

2022-000472 State v. Bowen Gray Turner In re Victim C.B., Appellant - Motion for Extension.pdf  
24K

Email service 2022-000472 The State v. Bowen Gray Turner (In re\_ Victim C.B., Appellant.) - Motion for Extension.pdf  
123K

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

August 12, 2022

The Honorable Jenny Kitchings  
South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Re: The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)  
Appellate Case No. 2022-000472

Dear Ms. Kitchings:

The initial brief of respondent and designation of matter in the above-referenced case are due to be served and filed today, August 12, 2022. However, due to my heavy workload, I am requesting a thirty-day extension until September 12, 2022, in which to serve and file this brief. No prior extensions have been requested in this case.

By copy of this letter, I am informing William M. Blich, Jr., Esquire of the Attorney General's office, Sarah Anne Ford, Esquire, Tamika D. Cannon, Esquire, Terri Hearn Bailey, Esquire, and David Warren Miller, Esquire, all of my request.

Sincerely,

Robert M. Dudek  
Chief Appellate Defender

RMD/lmm

cc: William M. Blich, Jr., Esquire  
Sarah Anne Ford, Esquire  
Tamika D. Cannon, Esquire  
Terri Hearn Bailey, Esquire  
David Warren Miller, Esquire

**From:** [Matthews, Lindsey](#)  
**To:** [SC - BLITCH WILLIAM](#); [sarah@scvan.org](mailto:sarah@scvan.org); [tamika@scvan.org](mailto:tamika@scvan.org); [terri@scvan.org](mailto:terri@scvan.org); [dmiller@aikencountysc.gov](mailto:dmiller@aikencountysc.gov)  
**Cc:** [Dudek, Robert](#)  
**Subject:** 2022-000472 The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)  
**Date:** Friday, August 12, 2022 8:30:00 AM  
**Attachments:** [2022-000472 State v. Bowen Gray Turner In re Victim C.B., Appellant - Motion for Extension.pdf](#)

---

Attached is a copy of a motion for an extension which will be filed with the Court of Appeals today in the above-referenced case.

Thank you.

Sincerely,  
Lindsey M. Matthews  
Administrative Assistant  
SC Commission on Indigent Defense  
Appellate Division  
1330 Lady Street, Suite 401  
P.O. Box 11589  
Columbia, SC 29201  
Phone: (803) 734-1330

COMPLIMENTS OF LUNA SHARK



Nicole McCune <nmccune@scvan.org>

**Fwd: State v. Turner. In Re: Victim CB, 2022-000472**

1 message

**Sarah Ford** <sarah@scvan.org>

Thu, Nov 9, 2023 at 3:35 PM

To: Nicole McCune <nmccune@scvan.org>, Rebekah Hiatt <rebekah@scvan.org>

----- Forwarded message -----

From: **Orr, Jacklyn** <jorr@sccourts.org>

Date: Thu, Aug 18, 2022 at 1:42 PM

Subject: State v. Turner, In Re: Victim CB, 2022-000472

To: dmiller@aikencountysc.gov <dmiller@aikencountysc.gov>, SC - BLITCH WILLIAM <wblitch@scag.gov>, cbhutto@williamsattys.com <cbhutto@williamsattys.com>, rdudek@sccid.sc.gov <rdudek@sccid.sc.gov>, sarahaford@gmail.com <sarahaford@gmail.com>, tamika@scvan.org <tamika@scvan.org>, terri@scvan.org <terri@scvan.org>, sarah@scvan.org <sarah@scvan.org>

Attached please find correspondence from the Court of Appeals.

*Jacklyn Orr*

Team Lead- Criminal

South Carolina Court of Appeals

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--

**Sarah A. Ford**

Legal Director



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www.scvanlegal.org




**SOUTH CAROLINA**  
VICTIM ASSISTANCE NETWORK

Legal Services Program

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 In Re Victim CB- 1st Ext Order.pdf  
60K

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Parish, Fwd  
11/10/23, 9:47 AM  
In Re: Victim CB, 2022-000472  
Scvan.org Mail - Fwd: State v. Turner, In Re: Victim CB, 2022-000472

# The South Carolina Court of Appeals

The State, Respondent,

v.

Bowen Gray Turner, Respondent.

In re: Victim C.B., Appellant.

Appellate Case No. 2022-000472

The Honorable R. Markley Dennis, Jr.  
Orangeburg County  
Trial Court Case No. 2022GS3800611

---

## ORDER

---

The requests for extensions to serve and file the initial briefs of respondents and designations of matter are granted and extended until September 12, 2022. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 ([www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01)), any further extension request must be based on a showing of good cause.

FOR THE COURT

BY           *V. Claire Allen*            
CLERK

Columbia, South Carolina  
August 18, 2022

cc:  
David Warren Miller, Esquire  
William M. Blich, Jr., Esquire  
Alan McCrory Wilson, Esquire

C. Bradley Hutto, Esquire  
Robert Michael Dudek, Esquire  
Sarah Anne Ford, Esquire  
Tamika D. Cannon, Esquire  
Terri Hearn Bailey, Esquire

COMPLIMENTS OF LUNA SHARK



Nicole McCune &lt;nmccune@scvan.org&gt;

**Fwd: 2022-000472 The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)**

1 message

Sarah Ford &lt;sarah@scvan.org&gt;

Thu, Nov 9, 2023 at 3:35 PM

To: Rebekah Hiatt &lt;rebekah@scvan.org&gt;, Nicole McCune &lt;nmccune@scvan.org&gt;

----- Forwarded message -----

From: **Matthews, Lindsey** <lmatthews@sccid.sc.gov>

Date: Mon, Sep 12, 2022 at 10:02 AM

Subject: 2022-000472 The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)

To: SC - BLITCH WILLIAM <Wblitch@scag.gov>, sarah@scvan.org <sarah@scvan.org>, tamika@scvan.org <tamika@scvan.org>, terri@scvan.org <terri@scvan.org>, dmiller@aikencountysc.gov <dmiller@aikencountysc.gov>  
Cc: Dudek, Robert <RDudek@sccid.sc.gov>, SC - COLLINS CAROLINE <CCollins@scag.gov>

Attached is a copy of a motion for second extension which will be filed with the Court of Appeals today in the above-referenced case.

Thank you.

Lindsey M. Matthews

Administrative Assistant

SC Commission on Indigent Defense

Appellate Division

1330 Lady Street, Suite 401

P.O. Box 11589

Columbia, SC 29201

Phone: (803) 734-1330

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--



# Sarah A. Ford

Legal Director



PO Box 212863, Columbia, SC 29221

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VICTIM ASSISTANCE NETWORK

Legal Services Program

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---

 **2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant) - Motion for Second Extension.pdf**  
251K

COMPLIMENTS OF LULIA MARK



# SCCID

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 12, 2022

The Honorable Jenny Kitchings  
South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Re: The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.)  
Appellate Case No. 2022-000472

Dear Ms. Kitchings:

The initial brief of respondent and designation of matter in the above-referenced case are due to be served and filed today, September 12, 2022. However, due to my heavy workload, I am requesting a thirty-day extension until October 12, 2022, in which to serve and file this brief. No prior extensions have been requested in this case. The Court has granted one previous extension.

By copy of this letter, I am informing William M. Blich, Jr., Esquire of the Attorney General's office, Sarah Anne Ford, Esquire, Tamika D. Cannon, Esquire, Terri Hearn Bailey, Esquire, and David Warren Miller, Esquire, all of my request.

Sincerely,

Robert M. Dudek  
Chief Appellate Defender

RMD/lmm

cc: William M. Blich, Jr., Esquire  
Sarah Anne Ford, Esquire  
Tamika D. Cannon, Esquire  
Terri Hearn Bailey, Esquire  
David Warren Miller, Esquire



Nicole McCune &lt;nmccune@scvan.org&gt;

## Fwd: 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)

1 message

Sarah Ford &lt;sarah@scvan.org&gt;

Thu, Nov 9, 2023 at 3:36 PM

To: Rebekah Hiatt &lt;rebekah@scvan.org&gt;, Nicole McCune &lt;nmccune@scvan.org&gt;

----- Forwarded message -----

From: Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Date: Wed, Oct 12, 2022 at 1:32 PM

Subject: RE: 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)

To: Matthews, Lindsey &lt;lmatthews@sccid.sc.gov&gt;, Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Cc: SC - BLITCH WILLIAM &lt;Wblitch@scag.gov&gt;, sarah@scvan.org &lt;sarah@scvan.org&gt;, tamika@scvan.org &lt;tamika@scvan.org&gt;, terri@scvan.org &lt;terri@scvan.org&gt;, dmiller@aikencountysc.gov &lt;dmiller@aikencountysc.gov&gt;, Dudek, Robert &lt;RDudek@sccid.sc.gov&gt;, SC - COLLINS CAROLINE &lt;CCollins@scag.gov&gt;

Dear Counsel:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

From: Matthews, Lindsey &lt;lmatthews@sccid.sc.gov&gt;

Sent: Wednesday, October 12, 2022 12:27 PM

To: Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Cc: SC - BLITCH WILLIAM &lt;Wblitch@scag.gov&gt;; sarah@scvan.org; tamika@scvan.org; terri@scvan.org; dmiller@aikencountysc.gov; Dudek, Robert &lt;RDudek@sccid.sc.gov&gt;; SC - COLLINS CAROLINE &lt;CCollins@scag.gov&gt;

Subject: 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Attached is a copy of a motion for third extension and email of service on opposing counsel in the above-referenced case.

Thank you.

~Lindsey

Lindsey M. Matthews

Administrative Assistant

SC Commission on Indigent Defense

Appellate Division

1330 Lady Street, Suite 401

P.O. Box 11589

Columbia, SC 29201

Phone: (803) 734-1330

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--

Sarah A. Ford

Legal Director



PO Box 212863, Columbia, SC 29221

www.scvanlegal.org



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State v. Turner - Ext.pdf  
586K

RECEIVED

Oct 12 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

R. Markley Dennis, Circuit Court Judge

The State,

Respondent,

V.

Bowen Gray Turner,

Respondent,

In Re: Victim C.B.,

Appellant.

APPELLATE CASE NO. 2022-000472

MOTION FOR AN EXTENSION OF TIME  
IN WHICH TO FILE THE INITIAL BRIEF OF RESPONDENT  
AND DESIGNATION OF MATTER

The undersigned counsel respectfully requests a thirty-day extension from October 12, 2022 until November 14, 2022, in which to file the initial brief of respondent and designation of matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The initial brief of respondent and designation of matter in this case are due to be served and filed today, October 12, 2022, having been extended by two prior orders of this Court.
2. Counsel is working on the merit brief in the case of The State v. Dionte J'Chon Habersham, which is due to be served and filed with this Court on Tuesday, October 18, 2022. Counsel, with co-counsel Kathrine H. Hudgins, is also working on the reply brief in the death

penalty case of Jerome Jenkins, Jr., v. State, which will be filed with the United States Supreme Court on or before Monday, October 17, 2022. Counsel filed the brief of petitioner in the murder case of The State v. Robert Xavier Geter with this Court on Friday, October 7, 2022. Counsel also filed the brief of petitioner in the murder case of The State v. Gregg Pickrell with this Court on Friday, October 7, 2022. Counsel filed the initial brief of appellant and designation of matter in the murder case of The State v. Dae'Kwon Jaheem Simmons with the Court of Appeals on September 26, 2022. Counsel presented the Case Law Update PowerPoint presentation at the Annual Public Defender Conference, in North Myrtle Beach, South Carolina, on September 19-21, 2022. Counsel filed the reply brief of petitioner in the case of Shana Robinson v. State with the Court of Appeals on September 16, 2022. Counsel filed the initial brief of appellant and designation of matter in the murder case of The State v. Diante Jermaine Willis with the Court of Appeals on September 9, 2022. Counsel, with co-counsel Kathrine H. Hudgins, filed the petition for writ of certiorari in the death penalty case of State v. Jerome Jenkins, Jr., with the United States Supreme Court on August 31, 2022. Counsel also filed the petition for writ of certiorari in the murder case of Justin Jamal Warner v. State, with the United States Supreme Court on August 26, 2022. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

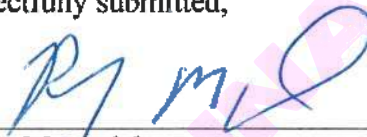
3. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

4. Opposing counsel, the Attorney General's Office, has graciously consented to this extension request by way of the extended thirty-day general consent granted by Deputy Attorney

General Donald J. Zelenka for all Appellate Defense extensions through October 31, 2022. That extended, emailed general consent was dated September 28, 2022.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension from October 12, 2022 until November 14, 2022. Counsel respectfully requests that the time limits for filing the initial brief of respondent and designation of matter be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Robert M. Dudek  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR  
RESPONDENT BOWEN GRAY TURNER

This 12<sup>th</sup> day of October, 2022.

RECEIVED

Oct 12 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Orangeburg County

R. Markley Dennis, Circuit Court Judge

The State,

Respondent,

V.

Bowen Gray Turner,

Respondent,

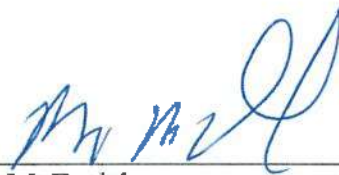
In Re: Victim C.B.,

Appellant.

APPELLATE CASE NO. 2022-000472

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy the motion for an extension of time in which to file the initial brief of respondent and designation of matter in the above-referenced case has been served upon Sarah Anne Ford, Esquire, Tamika D. Cannon, Esquire, Terri Hearn Bailey, Esquire, David Warren Miller, Esquire, and William M. Blich, Jr., Esquire, at their primary e-mail addresses listed in the Attorney Information System (AIS), this 12th day of October, 2022.



Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR  
RESPONDENT BOWEN GRAY TURNER



**From:** [Matthews, Lindsey](#)  
**To:** [SC - BLITCH WILLIAM](#); [sarah@scvan.org](mailto:sarah@scvan.org); [tamika@scvan.org](mailto:tamika@scvan.org); [terri@scvan.org](mailto:terri@scvan.org); [dmiller@alkencountysc.gov](mailto:dmiller@alkencountysc.gov)  
**Cc:** [Dudek, Robert](#); [SC - COLLINS CAROLINE](#)  
**Subject:** 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)  
**Date:** Wednesday, October 12, 2022 12:23:00 PM  
**Attachments:** [2022-000472 The State v. Bowen Gray Turner \(In re Victim C.B., Appellant\) - Motion for Third Extension.pdf](#)

---

Attached is a copy of a motion for third extension which will be filed with the Court of Appeals today in the above-referenced case.

Lindsey M. Matthews  
Administrative Assistant  
SC Commission on Indigent Defense  
Appellate Division  
1330 Lady Street, Suite 401  
P.O. Box 11589  
Columbia, SC 29201  
Phone: (803) 734-1330

COMPLIMENTS OF LUNA SHARK



Nicole McCune &lt;nmccune@scvan.org&gt;

**Fwd: Appellate Case No. 2022-000472**

1 message

Sarah Ford &lt;sarah@scvan.org&gt;

Thu, Nov 9, 2023 at 3:36 PM

To: Rebekah Hiatt &lt;rebekah@scvan.org&gt;, Nicole McCune &lt;nmccune@scvan.org&gt;

----- Forwarded message -----

From: Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Date: Wed, Nov 2, 2022 at 3:58 PM

Subject: RE: Appellate Case No. 2022-000472

To: Michelle Hughes &lt;michelle@scvan.org&gt;, Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Cc: dmiller@aikencountysc.gov &lt;dmiller@aikencountysc.gov&gt;, wblitch@scag.gov &lt;wblitch@scag.gov&gt;, cbhutto@williamsattys.com &lt;cbhutto@williamsattys.com&gt;, rdudek@sccid.sc.gov &lt;rdudek@sccid.sc.gov&gt;, Sarah Ford &lt;sarah@scvan.org&gt;, Terri Bailey &lt;terri@scvan.org&gt;, awilson@scag.gov &lt;awilson@scag.gov&gt;

Dear Counsel:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

From: Michelle Hughes &lt;michelle@scvan.org&gt;

Sent: Wednesday, November 2, 2022 3:53 PM

To: Court Of Appeals Filings &lt;ctappfilings@sccourts.org&gt;

Cc: dmiller@aikencountysc.gov; wblitch@scag.gov; cbhutto@williamsattys.com; rdudek@sccid.sc.gov; Sarah Ford &lt;sarah@scvan.org&gt;; Terri Bailey &lt;terri@scvan.org&gt;; awilson@scag.gov

Subject: Appellate Case No. 2022-000472

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Please find attached Appellant's request for extension in the matter of The State vs. Bowen Gray Turner (In re: Victim CB), Appellate Case No. 2022-000472.

By copy of this email I am serving opposing counsel.

Respectfully,

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Sarah A. Ford

Legal Director

-  [Redacted]
-  PO Box 212863, Columbia, SC 29221
-  www.scvanlegal.org



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 State v. Turner - Ext.pdf
217K



November 2, 2022

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Nov 02 2022

SC Court of Appeals

VIA ELECTRONIC FILING

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: The State vs. Bowen Gray Turner (In re: Victim C.B.)
Appellate Case No. 2022-000472

Dear Ms. Kitchings:

The Reply Brief is due in this matter on Monday, November 10. However, due to conflicting case demands on counsel, we respectfully request a ten day extension in which to serve and file this brief. No prior extension has been requested by Appellant in this matter. Notice of this request is being provided to opposing counsel.

Sincerely,

Tamika D. Cannon
Senior Staff Attorney

cc:

David Warren Miller, Esquire
William M. Blich, Jr., Esquire
Alan McCrory Wilson, Esquire
C. Bradley Hutto, Esquire
Robert Michael Dudek, Esquire
Sarah Anne Ford, Esquire
Terri Hearn Bailey, Esquire

South Carolina Victim Assistance Network

Main Office: P.O. Box 212863, Columbia, SC 29221 • Upstate Office: P.O. Box 170364, Spartanburg, SC 29301



Nicole McCune <nmccune@scvan.org>

Fwd: State v. Turner, In Re Victim CB. 2022-000472

1 message

Sarah Ford <sarah@scvan.org>

Thu, Nov 9, 2023 at 3:36 PM

To: Rebekah Hiatt <rebekah@scvan.org>, Nicole McCune <nmccune@scvan.org>

----- Forwarded message -----

From: Orr, Jacklyn <jorr@sccourts.org>

Date: Tue, Nov 8, 2022 at 10:39 AM

Subject: State v. Turner, In Re Victim CB. 2022-000472

To: sarah@scvan.org <sarah@scvan.org>, tamika@scvan.org <tamika@scvan.org>, terri@scvan.org <terri@scvan.org>, dmiller@aikencountysc.gov <dmiller@aikencountysc.gov>, cbhutto@williamsattys.com <cbhutto@williamsattys.com>, rdudek@sccid.sc.gov <rdudek@sccid.sc.gov>

Cc: sarahaford@gmail.com <sarahaford@gmail.com>, terri.bailey@icloud.com <terri.bailey@icloud.com>

Attached please find correspondence from the Court of Appeals.

Jacklyn Orr

Team Lead- Criminal

South Carolina Court of Appeals

1220 Senate Street

Columbia, SC 29201

Ph: (803) 734-1890

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--

Sarah A. Ford

Legal Director



PO Box 212863, Columbia, SC 29221

www.scvanlegal.org



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 In Re CB- Letter.pdf
80K

COMPLIMENTS OF LUNA SHARK



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 08, 2022

Ms. Sarah Anne Ford, Esquire
PO Box 212863
Columbia SC 29221

Ms. Tamika D. Cannon, Esquire
212 Talon Court
Taylors SC 29687

Ms. Terri Hearn Bailey, Esquire
301 N Kings Grant Dr
Columbia SC 29209

Re: The State v. Bowen G. Turner (In re: Victim C.B.)
Appellate Case No. 2022-000472

Dear Counsel:

The Court has received your motion for an extension of time in which to file the reply to the State's initial respondent's brief. The Court will act on your motion once the time for counsel for Mr. Turner's initial brief of respondent to be filed has passed, so that you may file the reply brief for both briefs at once, if you wish.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings".

CLERK

cc: David Warren Miller, Esquire
William M. Blich, Jr., Esquire
Alan McCrory Wilson, Esquire
C. Bradley Hutto, Esquire
Robert Michael Dudek, Esquire

COMPLIMENTS OF LUNA SHARK



Nicole McCune <nmccune@scvan.org>

Fwd: 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)

1 message

Sarah Ford <sarah@scvan.org>

Thu, Nov 9, 2023 at 3:37 PM

To: Nicole McCune <nmccune@scvan.org>, Rebekah Hiatt <rebekah@scvan.org>

----- Forwarded message -----

From: **Warren, Kaylynn** <kwarren@sccid.sc.gov>

Date: Mon, Nov 14, 2022 at 8:36 AM

Subject: 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)

To: William Blich <wblitch@scag.gov>

Cc: Dudek, Robert <RDudek@sccid.sc.gov>, Caroline Collins <CCollins@scag.gov>, sarah@scvan.org

<sarah@scvan.org>, tamika@scvan.org <tamika@scvan.org>, terri@scvan.org <terri@scvan.org>,

dmiller@aikencountysc.gov <dmiller@aikencountysc.gov>

Good Morning,

Please find attached for service in the above-referenced case the Fourth Motion for Extension and accompanying Certificate of Service which will be filed today, November 14, 2022, with the Court of Appeals via email filing.

Respectfully,

Kaylynn Warren

Kaylynn Warren

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

(803) 734-1330

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--

Sarah A. Ford

Legal Director

803-509-6550

PO Box 212863, Columbia, SC 29221

www.scvanlegal.org



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 2022-000472 The State v. Bowen Gray Turner (In re Victim C.B., Appellant)- Fourth Motion for Extension IBOR and COS.pdf
545K

COMPLIMENTS OF LUNA PARK

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County

Honorable R. Markley Dennis, Circuit Court Judge

The State,

Respondent,

V.

Bowen Gray Turner,

Respondent,

In. Re: Victim C.B.,

Appellant

APPELLATE CASE NO. 2022-000472

MOTION FOR AN EXTENSION OF TIME IN WHICH
TO FILE THE INITIAL BRIEF OF RESPONDENT

Counsel for Bowen Gray Turner respectfully requests a **final extension of thirty (30) days, from November 14, 2022 until December 14, 2022**, in which to file the initial brief of respondent in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. In support of this request, counsel shows:

1. The initial brief of respondent in this case is due to be served and filed today, November 14, 2022. The Court has granted counsel three previous extensions.

2. Counsel for Bowen Gray Turner respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

3. Counsel, with co-counsel Kathrine Haggard Hudgins, filed the Motion for a Stay of Execution and for the Appointment of a Post-Conviction Relief Judge in the case of The State v. Jerome Jenkins, Jr. with the Supreme Court on Thursday, November 10, 2022. Counsel, with co-counsel David Alexander and Lara M. Caudy, filed the brief of petitioner in the death penalty case of Marion Alexander Lindsey v. The State with the Supreme Court on November 4, 2022. Counsel intends to file the Brief of Respondent in the case of The State v. Robert Xavier Geter with the Supreme Court on Monday, November 14, 2022. Counsel intends to file the Initial Brief of Appellant and Designation of Matter in the case of The State v. Donovan Brannon with this Court on Friday, November 18, 2022. Counsel filed the petition for writ of certiorari in the case of David M. Dixon v. The State with the Supreme Court on October 31, 2022. Counsel filed the initial brief of appellant and designation of matter in the case of The State v. Dionte J'Chon Habersham with this Court on October 18, 2022. Counsel, with co-counsel Kathrine H. Hudgins, filed the reply brief in the death penalty case of Jerome Jenkins, Jr., v. State, with the United States Supreme Court on October 17, 2022. Counsel filed the brief of petitioner in the case of The State v. Robert Xavier Geter with the Supreme Court on October 7, 2022. Counsel filed the brief of petitioner in the case of The State v. Gregg Pickrell with the Supreme Court on October 7, 2022. Counsel filed the initial brief of appellant and designation of matter in the case of The State v. Dae'Kwon Jaheem Simmons with this Court on September 26, 2022. Counsel presented the Case Law Update PowerPoint presentation

at the Annual Public Defender Conference, in North Myrtle Beach, South Carolina, on September 19-21, 2022.. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

4. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

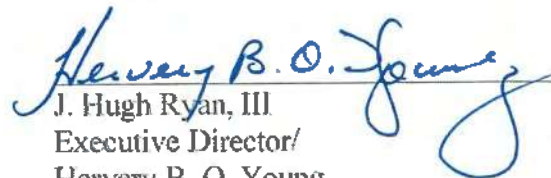
5. Opposing counsel, the Office of the Attorney General, has graciously consented to this extension request by way of the extended thirty-day general consent granted by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through November 30, 2022. That extended, emailed general consent was dated November 1, 2022.

WHEREFORE, the undersigned counsel would respectfully **request a final thirty-day extension from November 14, 2022 until December 14, 2022**, in which to file the initial brief of respondent in this case based upon the above exigent circumstances. Counsel requests that time limits for filing the brief be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender



J. Hugh Ryan, III
Executive Director/
Hervey B. O. Young
Deputy Director and General Counsel/
W. Lawrence Brown
Deputy General Counsel and Training Director

This 14th day of November, 2022.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Honorable R. Markley Dennis, Circuit Court Judge

The State,

Respondent,

V.

Bowen Gray Turner,

Respondent,

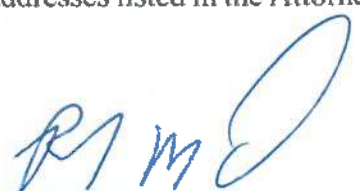
In Re: Victim C.B.,

Appellant

APPELLATE CASE NO. 2022-000472

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the final motion for an extension of time in which to serve and file the initial brief of respondent in the above-referenced case has been served upon Sarah Anne Ford, Esquire, Tamika D. Cannon, Esquire, Terri Hearn Bailey, Esquire, David Warren Miller, Esquire, and William M. Blicht, Jr., Esquire, at their primary e-mail addresses listed in the Attorney Information System (AIS), this 14th day of November, 2022.


Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT.



Nicole McCune <nmccune@scvan.org>

Fwd: State v. Turner In Re Victim C.B 2022-000472

1 message

Sarah Ford <sarah@scvan.org>

Thu, Nov 9, 2023 at 3:37 PM

To: Rebekah Hiatt <rebekah@scvan.org>, Nicole McCune <nmccune@scvan.org>

----- Forwarded message -----

From: Orr, Jacklyn <jorr@sccourts.org>

Date: Wed, Nov 16, 2022 at 3:20 PM

Subject: State v. Turner In Re Victim C.B 2022-000472

To: dmiller@aikencountysc.gov <dmiller@aikencountysc.gov>, SC - BLITCH WILLIAM <wblitch@scag.gov>, cbhutto@williamsattys.com <cbhutto@williamsattys.com>, rdudek@sccid.sc.gov <rdudek@sccid.sc.gov>, sarah@scvan.org <sarah@scvan.org>, tamika@scvan.org <tamika@scvan.org>, terri@scvan.org <terri@scvan.org>
Cc: sarahaford@gmail.com <sarahaford@gmail.com>, terri.bailey@icloud.com <terri.bailey@icloud.com>

Good Afternoon,

Attached please find correspondence from the Court of Appeals.

Any parties not included in this email will receive the attached correspondence via US Mail.

Do not respond to this email. Send all correspondence to ctappfilings@sccourts.org.*Jacklyn Orr*

Team Lead- Criminal

South Carolina Court of Appeals

1220 Senate Street

Columbia, SC 29201

Ph: (803) 734-1890

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COMPLIMENTS OF LUNA PARK

2023 South Street
Columbia, SC 29204

The South Carolina Court of Appeals

The State, Respondent,

v.

Bowen Gray Turner, Respondent.

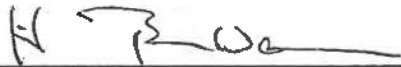
In re: Victim C.B., Appellant.

Appellate Case No. 2022-000472

ORDER

Respondent requests an extension to serve and file the initial brief of respondent and designation of matter and alleges there are extraordinary circumstances justifying this extension. The extension is granted until December 14, 2022. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01), any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

FOR THE COURT

 J.

Columbia, South Carolina

cc:

David Warren Miller, Esquire
William M. Blicht, Jr., Esquire
Alan McCrory Wilson, Esquire
C. Bradley Hutto, Esquire
Robert Michael Dudek, Esquire

FILED
Nov 16 2022

Sarah Anne Ford, Esquire
Tamika D. Cannon, Esquire
Terri Hearn Bailey, Esquire

COMPLIMENTS OF LUNA SHARK



Nicole McCune <nmccune@scvan.org>

Fwd: The State vs. Bowen Gray Turner (In re: Victim C.B.) Appellate Case No. 2022-000472

1 message

Sarah Ford <sarah@scvan.org>
To: Rebekah Hiatt <rebekah@scvan.org>, Nicole McCune <nmccune@scvan.org>

Thu, Nov 9, 2023 at 3:38 PM

----- Forwarded message -----

From: **Michelle Hughes** <michelle@scvan.org>
Date: Wed, Jan 11, 2023 at 1:55 PM
Subject: The State vs. Bowen Gray Turner (In re: Victim C.B.) Appellate Case No. 2022-000472
To: <ctappfilings@sccourts.org>
Cc: <dmiller@aikencountysc.gov>, <wblitch@scag.gov>, <cbhutto@williamsattys.com>, <rdudek@sccid.sc.gov>, Sarah Ford <sarah@scvan.org>, Terri Bailey <terri@scvan.org>, <awilson@scag.gov>

Please find attached Appellant's request for extension in the matter of The State vs. Bowen Gray Turner (In re: Victim CB), Appellate Case No. 2022-000472.

By copy of this email I am serving opposing counsel.

Respectfully,

Michelle Hughes

Victim Access Coordinator

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COMPLIMENTS OF LUNA SHARK



January 11, 2023

VIA ELECTRONIC FILING

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: The State vs. Bowen Gray Turner (In re: Victim C.B.)
Appellate Case No. 2022-000472

Dear Ms. Kitchings:

The Reply Brief is due in this matter on Friday, January 13, 2023. However, due to time constraints caused by our office closure during the winter holiday and the increased volume of cases in January, we respectfully request a ten day extension in which to serve and file this brief. Notice of this request is being provided to opposing counsel.

Sincerely,

Tamika D. Cannon
Senior Staff Attorney

cc:

David Warren Miller, Esquire
William M. Blich, Jr., Esquire
Alan McCrory Wilson, Esquire
C. Bradley Hutto, Esquire
Robert Michael Dudek, Esquire
Sarah Anne Ford, Esquire
Terri Hearn Bailey, Esquire



Nicole McCune <nmccune@scvan.org>

Fwd: State vs. Bowen Gray Turner (In re: Victim C.B.) Appellate Case No. 2022-000472

1 message

Sarah Ford <sarah@scvan.org>

Thu, Nov 9, 2023 at 3:38 PM

To: Nicole McCune <nmccune@scvan.org>, Rebekah Hiatt <rebekah@scvan.org>

----- Forwarded message -----

From: **Michelle Hughes** <michelle@scvan.org>

Date: Mon, Jan 23, 2023 at 12:37 PM

Subject: State vs. Bowen Gray Turner (In re: Victim C.B.) Appellate Case No. 2022-000472

To: <ctappfillings@sccourts.org>

Cc: <dmliller@aikencountysc.gov>, <awilson@scag.gov>, <wblicht@scag.gov>, <rdudek@sccid.sc.gov>, <cbhutto@williamsattys.com>, Sarah Ford <sarah@scvan.org>, Tamika Cannon <tamika@scvan.org>, Terri Bailey <teri@scvan.org>

Please find attached Reply Brief of Appellant in the matter of The State vs. Bowen Gray Turner (In re: Victim CB), Appellate Case No. 2022-000472.

By copy of this email I am serving opposing counsel.

Michelle Hughes

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COMPLIMENTS OF LUNA SHARK

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

R. Markley Dennis, Jr., General Sessions Judge

Case No. 2022-000472

The State,

Respondent,

v.

Bowen Gray Turner,

Respondent,

In re: Victim C.B.,

Appellant.

REPLY BRIEF OF APPELLANT

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SCOPE OF REPLY ARGUMENT

This case concerns a crime victim's explicit constitutional rights to present and to be heard, S.C. Const. Art. I, § 24(A)(3), (5), and this Court's duty to ensure that constitutional rights have meaning.

Respondents' attempts to reframe the issues are unavailing. Victim is properly before this Court seeking appellate review of a violation of her constitutional rights—regardless of whether the Court elects to treat the avenue used as an “appeal” or a petition for a writ of mandamus. *See* Notice of Appeal, p. 3. The prejudice suffered by Victim occurred when the trial court denied her right to procedural justice by denying her request to be heard *before* acceptance of the guilty plea. *See* S.C. Const. art. I, § 24(A) (stating the purpose of the enumerated rights is “[t]o preserve and protect victims' rights to justice and due process”).

The relevant underlying facts are not in dispute: Victim did everything possible to assert her rights in a timely manner. The Court is asked to determine whether “the Constitution itself gives [] right[s] which the [courts] may deny by failing or refusing to provide a remedy”—*i.e.*, whether the constitutional provisions at issue are merely “a hollow mockery instead of a safeguard for the rights of [victims].” *Chick Springs Water Co. v. State Highway Dep't*, 159 S.C. 481, 157 S.E. 842, 850 (1931), *overruled on other grounds by McCall by Andrews v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985). If the answer to either inquiry is “no,” this Court must address Victim's constitutional rights to present and to be heard and conclude that trial courts must adopt procedural changes to ensure that South Carolina victims are afforded a meaningful opportunity to exercise their rights.

ARGUMENT

I. The right to present is not disputed

The South Carolina Constitution contains the “Victims' Bill of Rights” which states in pertinent part:

To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to: . . .
. (3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present.

S.C. Const. art. I, § 24; S.C. Code Ann. § 16-3-1510 (Supp.2005). This constitutionally protected right to present provides an opportunity for victims to inform the court of their position at the presentation stage of the guilty plea, prior to the Court’s acceptance of the recommended plea. This extra information should be helpful to the courts in their exercise of responsibility to determine that the recommended plea is proper. It does not affect the Solicitor’s discretion to negotiate freely with defendants.

The initial briefs of Respondents do not address the widespread failure of the Circuit Courts to comply with the Victim’s constitutional right to present before the recommended plea is accepted. The State’s tacit admission that a victim has a constitutional right to present at a meaningful stage of the plea process is not an oversight. See Initial Brief of State, Footnote 1, p. 5. The State also accedes in that footnote to Victim’s proposition that victims have a right to present *before* the plea is accepted or rejected. Respondent Turner also agrees that victims have a right to present, as defined in Appellant’s Initial Brief. For example, Respondent Turner frames the issue on appeal as to whether the “Victim’s constitutional right to present and be heard were violated by the trial court.”

Having acceded to the point that a victim has a constitutional right to present, the State’s memorandum and that of Respondent Turner address the mechanism for bringing the issue

before this court: whether a direct appeal or a writ of mandamus is the best vehicle for seeking judicial review of this widespread practice.

II. This appeal was properly filed as a constructive writ of mandamus

Appellant initiated this case with the filing of a Notice of Appeal/Notice of Request for Appellate Review. The Notice explained that the Appellant Victim sought direct judicial review or, in the alternative, “the issuance of a writ of mandamus to require compliance with and enforcement of the Victim’s rights, pursuant to S.C. Const. art. I, § 24(A)(3).” Notice of Appeal, p. 3. Because the Notice of Appeal included a request for mandamus as well as a request for direct review, both avenues were fully preserved.

Victim and Respondent State are in agreement that a writ of mandamus is a mechanism to have a violation of victim’s rights reviewed. State’s Br. 6. Accordingly, under the State’s own analysis, this matter is properly filed for review by the simultaneous filing of a Notice of Appeal/Notice of Request for Appellate Review, which incorporated a request for a writ of mandamus.

Respondents point to the Victims’ Bill of Rights, S.C. Const. Art. I, § 24(B), for their argument that a writ of mandamus is a victim’s only recourse. However, this section, which prohibits civil actions to enforce victim rights, does not say that a mandamus is the exclusive avenue for judicial review and does not even mention appeals. It only says that since there is no right to bring a civil action, a writ of mandamus *may* be appropriate:

Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of

these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt. S.C. Const. art. I, § 24.

Victims rarely seek review of circuit court actions and the mechanism for review is not well established. With this in mind, Victim styled the request for review as a Notice of Appeal/Notice of Request for Appellate Review and included a request for a Writ of Mandamus. Notice of Appeal, p. 3. For this reason, it should be construed as a notice of appeal or, in the alternative, a constructive petition for a writ of mandamus. Victim submits that this filing provides adequate notice of the relief she is seeking.

In another mandamus case, the Supreme Court found that the action was more properly a request for injunctive relief and, despite the caption, “it is the substance of the requested relief that matters” and not the form in which the petition for relief is framed [et al.]. *Sanford v. South Carolina State Ethics Com’n*, 385 S.C. 483, 496, 685 S.C.2d 600 (2009), *Clarified by Sanford v. South Carolina State Ethics Com’n*, 386 S.C. 274, S.C., Dec. 02, 2009. Likewise, in the instant case, the substance of the Notice of Appeal should be what controls, not the form.

III. The proper timing of a petition for a writ of mandamus is at issue

This case addresses the proper timing for a victim to seek a writ of mandamus. The State claims that a victim seeking redress must seek a writ of mandamus from the South Carolina Supreme Court *before* a right was actually violated. Initial Brief of State, p. 5. Following that approach would force victims to assume the trial judge would not uphold the victim’s constitutional rights, or instead face the risk of having waived the option. This approach would also inundate the Supreme Court with petitions.

This case demonstrates the extreme impracticality of the State’s suggestion that victims be required to seek a writ of mandamus before the recommended guilty plea is presented. Victim actually filed a Petition for Writ of Mandamus two days after learning that a hearing to revoke

Respondent's bond was scheduled. The petition was filed in the manner that Respondent State suggests is proper and requested that the Second Circuit Solicitor's Office and the South Carolina Law Enforcement Division be required to enforce the bond order and place Defendant into custody for nearly fifty (50) bond violations. Petition for Writ of Mandamus. Victim's counsel learned of the guilty plea offer by email from the Assistant Solicitor on April 5, 2022. Victim filed both the Petition for Writ of Mandamus and the Petition for Rule to Show Cause on the following day, April 6, 2022. Victim filed the Motion to Enforce Victims' Rights and to be Heard Prior to Guilty Plea on April 8, 2022. Although Victim promptly filed the Petition for Writ one day after learning of the guilty plea offer, and two days before the guilty plea hearing, the trial judge denied that motion as untimely filed. Transcript at p. 6, l. 7-11. This process exemplifies the challenges that victims would face if this court required that a writ to address victims' rights violations be filed before a violation happens.

Further, Victim was disadvantaged in filing a writ before the guilty plea hearing because it was scheduled as a bond revocation hearing. Motion to Revoke Bond. Victims were informed that a plea offer had been made and a bond revocation would take place; however, they were not notified that a guilty plea hearing would be held instead. The brief period of time between the offer and guilty plea hearing is typical in criminal cases. This short period of time practically guarantees that crime victims, the overwhelming majority of whom are not represented by counsel, are unable to file a petition for a writ of mandamus before the guilty plea hearing is held. This is an impossible proposition, leaving no remedy for the widespread violations of any victim's constitutional right to present.

Lastly, the State reasons that there is no ability to redress a violation of victims' rights after the guilty plea hearing unless a writ was sought during the trial court hearing. If the court

accepts that approach, then victims would be forever foreclosed from any form of redress for a violation of their right to present because sentencing typically occurs, as in this case, immediately after the presentation stage when the guilty plea is accepted.

IV. Review is necessary to safeguard constitutional rights

Victim is not seeking to veto a guilty plea; she is asking for an opportunity to present: she is seeking to be heard before the Court accepts a recommended plea. The issue at stake is the preservation and upholding of crime victims' constitutional right to present, not veto. This is contrary to Respondent Turner's claim that "our system would completely break down if victims were given a veto power- - including a right to appeal or intervene in an appeal -- any time a prosecutor agrees to allow defendant to plead guilty rather than go to trial." Respondent Turner's Initial Brief, p. 10.

In the hierarchy of our state laws, the South Carolina Constitution is supreme. Appellate review of the trial court's denial of a constitutional right is necessary to safeguard that right. South Carolina courts have frequently found that procedural protections must be afforded to safeguard these rights even when they are not explicitly provided by statute. For example, courts have held that procedural protections are necessary even when not explicitly set out, such as in the right to poll a jury — it is "not in itself a constitutional right but a procedural protection of the defendant's constitutional right to a unanimous verdict." *State v. Pare*, 253 Conn. 611, 755 A.2d 180, 188 (2000). *State v. Wright*, 432 S.C. 365, 369, 852 S.E.2d 468, 470 (Ct. App. 2020), reh'g denied (Jan. 13, 2021), cert. granted (June 28, 2022).

The impossibility of obtaining a writ is further heightened by the "four (4) day rule" which the circuit court mandated as the minimum for consideration. Again, motions move fast

in circuit courts, and there is rarely four days between the denial of a motion to be heard and the entry of the guilty plea.

The Respondents rely on dictum from *Reed v. Becka* that a “victim . . . possesses *no* rights in the appellate process. Nothing in our Constitution or statutes provides the ‘victim’ standing to appeal the trial court’s order...” *Reed v. Becka*, 333 S.C. 676, 683, 511 S.E.2d 396, 400 (Ct. App. 1999). The decision in *Becka* was limited to the victim’s rights to discuss the case with the Solicitor and to “be informed of any offers to plea bargain with the defendant.” S.C.Code Ann. § 16-3-1530(C)(10), (12) (1985). Even so, *Becka* does not forestall the possibility that other rights could be affected in future cases; as to those, the court continued that, “This Court is desirous of protecting the rights of victims as mandated by the statutory law and by the South Carolina Constitution. Nothing short of full and complete enforceability of these rights should receive this Court’s imprimatur.” *Reed v. Becka*, 333 S.C. 676, 683, 511 S.E.2d 396, 400 (Ct. App. 1999). Further, *Becka* did not forestall the ability of a victim to seek appellate review through a writ of mandamus as sought in this case by Appellant Victim.

V. Victim was prejudiced by the trial court’s refusal to allow her to present before the guilty plea was accepted

Respondent Turner argues that the court’s decision to deny Victim the right to present at the guilty plea presentation stage did not cause prejudice because she was heard during the sentencing stage, and the length of probation granted to Respondent Turner was extended as a result. Initial Brief of Respondent Turner, p. 12. The trial court increased the period of sex offender conditions of probation from the two years recommended by the State to five years, after allowing the victims to address the court. Transcript p. 33, l. 17. However, the legal error had already occurred when the trial court accepted the plea and denied Appellant Victim the right

to present. The adjustment of the sentence after acceptance of the guilty plea is a tainted outcome following that error.

At the point the guilty plea was accepted by the trial court, Victim was prejudiced because the State allowed the Respondent to enter a guilty plea to Assault and Battery - First Degree and not to Criminal Sexual Conduct - First Degree, as originally charged. Sentencing was then limited to the penalty range of the lesser offense to which Respondent entered the guilty plea. The prosecutor's recitation of facts to the trial court supported the charge of Criminal Sexual Conduct - First Degree, not a mere Assault and Battery - First Degree. The prosecutor relayed the following facts to the trial court:

The victim reported that Turner pulled her behind a truck that was off to the side of the house, pushed her to the ground, pulled her shirt down and exposed her bra. Turner then pulled her pants and underwear off and forced himself sexually on the victim. Transcript p. 12, l. 16-21.

These facts support the elements of the crime of Criminal Sexual Conduct - First Degree. The inclusion of sex offender supervision and sex offender counseling in the offer reflect that this was a criminal sexual assault. The Assault and Battery - First Degree plea, under the facts of this case, was a fictitious plea. Victim's counsel stated at trial "Your Honor, these victims – and in one of the motions that I presented to Your Honor indicates some of the injuries that these victims sustained. Your Honor, this was not an assault and battery." Transcript p. 17, l. 20-24. The trial judge himself acknowledged ". . . [a]nd the legislature, and I'm not faulting the legislature, I'm just simply making the observation, have determined that assault and battery charges, and I think all of them with the exception of assault and battery of a high and aggravated nature are nonviolent. I don't understand that. Never have." Transcript p. 31, l. 1-7.

After the trial court accepted the fictitious plea, the court was restricted in terms of changes that could be made to the plea. If the court had allowed Appellant Victim to present

before accepting the guilty plea, the court may have learned further information warranting the court's rejection of the guilty plea. Victim was denied the opportunity to present her position to the court and to open the possibility that the guilty plea should have been rejected or modified. The denial harmed Victim by depriving her of other potential outcomes had the trial court rejected the fictitious plea. If the guilty plea had been rejected following Appellant being heard, there would have been numerous other potential outcomes, such as an appropriate sentence for Criminal Sexual Conduct - First Degree.

Contrary to Respondent's claim that there was no prejudice to Victim because the trial judge increased Respondent's term of probation from two years to five years after hearing from the Victim's representative, Victim was prejudiced by the reduction of the crime to Assault and Battery - First Degree, allowing for a sentence of probation.

Appellant Victim was prejudiced because these outcomes were foreclosed when the trial court accepted the guilty plea without giving Appellant the opportunity to present.

Other crime victims in South Carolina are likely to be prejudiced and have their constitutional rights violated if the issues of proper form, whether by appeal or writ, and timing to seek review, are not addressed by this Court.

CONCLUSION

Based on the above arguments and Appellant's Initial Brief, this Court should find that the trial court erred by not allowing victims in South Carolina to present before a guilty plea is accepted or rejected.

Respectfully submitted:

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COMPLIMENTS OF LUNA SHARK

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

R. Markley Dennis, Jr., General Sessions Judge

Case No. 2022-000472

The State,

Respondent,

v.

Bowen Gray Turner,

Respondent,

In re: Victim C.B.,

Appellant.

**APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
OF APPEAL**

Appellant proposes the following to be included in the Record of Appeal:

1. Transcript of Record from April 8, 2022 Hearing
2. Order Granting Bond dated August 5, 2019
3. Order Granting Bond Reconsideration dated March 16, 2020
4. Sentencing Sheet for Bowen Gray Turner dated April 8, 2022
5. Petition for Writ of Mandamus dated April 6, 2022
6. Petition for Rule to Show Cause dated April 6, 2022
7. Motion to Enforce Victims' Rights and to be Heard Prior to Guilty Plea dated April 8, 2022
8. Motion to Revoke Bond dated March 25, 2022
9. Warrant for Arrest of Bowen Turner

We certify that this designation contains no matter which is irrelevant to this appeal.

s/ Sarah A. Ford
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

R. Markley Dennis, Jr., General Sessions Judge

Case No. 2022-000472

The State,

Respondent,

v.

Bowen Gray Turner,

Respondent,

In re: Victim C.B.,

Appellant.

PROOF OF SERVICE

I certify that I have served the Reply Brief of Appellant and Appellant's Designation of Matter by emailing a copy of it on January 20, 2023, to the South Carolina Court of Appeals at ctappfilings@sccourts.org; to Deputy Solicitor for Aiken County, David Miller at DMiller@aikencountysc.gov; to Alan Wilson of the S.C. Attorney General's Office at awilson@scag.gov; to William Blich of the S.C. Attorney General's Office at wblitch@scag.gov; to Robert Dudek of the S.C. Commission on Indigent Defense at rdudek@sccid.sc.gov; and to and by emailing a copy of it on January 20, 2023, to Respondent Bowen Gray Turner's attorney of record, Bradley Hutto at cbhutto@williamsattys.com.

Michelle D. Hughes

Michelle D. Hughes
Victim Access Coordinator
South Carolina Victim Assistance Network
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Nicole McCune <nmccune@scvan.org>

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1 message

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To: Nicole McCune <nmccune@scvan.org>, Rebekah Hiatt <rebekah@scvan.org>

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Subject: In Re Victim CB, 2022-000472

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Cc: SC - COLLINS CAROLINE <CCollins@scag.gov>

Good Afternoon,

Attached please find correspondence from the Court of Appeals.

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Jacklyn Orr

Team Lead- Criminal

South Carolina Court of Appeals

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## The South Carolina Court of Appeals

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January 24, 2023

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Columbia SC 29209

Re: The State v. Bowen G. Turner (In re: Victim C.B.)  
Appellate Case No. 2022-000472

Dear Counsel:

Our records reflect the time is approaching to file the record on appeal and final briefs. The Supreme Court issued an order reducing the number of copies required in appellate matters. *See Re: Reduced Number of Copies Required in Appellate Matters* (S.C. Sup. Ct. Order dated August 25, 2021). As permitted by the order, the Court of Appeals has determined a need exists for one additional bound copy of the record on appeal and all final briefs. The additional copies must comply with any binding or cover color requirements specified by Rule 267 of the South Carolina Appellate Court Rules (SCACR).

Accordingly, each party must file an original record on appeal and/or final brief, in either electronic or unbound paper form, as well as **one** bound paper copy, at the time the record on appeal and final briefs are due to be served and filed in accordance with the SCACR.

Additionally, please review the following guidelines as you prepare your record on appeal and final briefs:

1. Pursuant to Rules 209, 210, and 267, SCACR, the record on appeal must include the following:
  - a. The correct case title (provided below) and caption as set forth in Rules 210(d) and 267, SCACR.
  - b. The name and contact information for all counsel representing the parties to the appeal. Please do not include names of counsel that have not previously made an appearance in this case.
  - c. A certificate of counsel, pursuant to Rule 210(g), SCACR.
  - d. A proof of service of the record on appeal, if one has not already been filed with this Court.
  - e. All matters designated by the parties pursuant to Rule 209, SCACR, in compliance with Rule 210(c) and (e), SCACR.
  - f. The binding for the copies of the record on appeal must be in compliance with Rule 267(d), SCACR.

2. Pursuant to Rules 211 and 267, SCACR, all final briefs must include the following:
  - a. The correct case title (provided below) and caption as set forth in Rules 210(d) and 267, SCACR.
  - b. The name and contact information for counsel filing the brief. If you are filing your final brief pro se, you must include your name and contact information on the cover of the brief.
  - c. The signature of the person filing the brief should be on the conclusion page.
  - d. A certificate of counsel for the final brief, pursuant to Rule 211, SCACR.
  - e. A proof of service of the final brief. Mail receipts will not be accepted in lieu of proper proof of service.
  - f. The binding for the copies of all final briefs must be in compliance with Rule 267(d), SCACR.

According to our records, the correct caption for this appeal should read as follows on the record on appeal and all final briefs:

**The State, Respondent,**

v.

**Bowen Gray Turner, Respondent.**

**In re: Victim C.B., Appellant.**

We request large parcels such as bound paper copies of final briefs and the record on appeal be sent directly to the Court via the street address: **1220 Senate Street, Columbia, S.C. 29201**. Thank you for your attention. If you have any questions, please do not hesitate to contact this office.

Very truly yours,



CLERK

cc: Alan McCrory Wilson, Esquire