

STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM GEORGETOWN COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

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**RECEIVED**

JUL - 5 2013

Appellate Case No. 2009-123871  
Circuit Court Case No. 2007-CP-22-0476 **S.C. Supreme Court**

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ROBERT TROY TAYLOR, #315084,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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**PETITION FOR REHEARING**

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**JEREMY A. THOMPSON**  
Attorney and Counselor at Law

Law Office of Jeremy A. Thompson, LLC  
P.O. Box 12891  
Columbia, SC 29211  
(803) 779-2555  
(803) 779-2556

**ATTORNEY FOR PETITIONER**

NOW COMES the Petitioner in the above-captioned action, acting by and through undersigned counsel, respectfully petitioning this Court to rehear his appeal and reconsider its decision in Taylor v. State, Op. No. 27272 (S.C. Sup. Ct. filed June 19, 2013) (Davis Adv. Sh. No. 27 at 23). In support of this petition, the Petitioner would assert that the following matters of fact and law were overlooked or misapprehended by the Court in its opinion:

This Court granted certiorari on the two claims the Petitioner presented in his certiorari petition: (1) whether plea counsel was ineffective for failing to advise the Petitioner of the recidivist consequences of his guilty plea; and (2) whether plea counsel was ineffective for failing to conduct a sufficient investigation into the criminal sexual conduct charge. This petition for rehearing is directed at the decision of this Court as to the first issue, and particularly at the discussion of the Petitioner's argument brought pursuant to Padilla v. Kentucky, 559 U.S. 356 (2010).

This Court begins its analysis of the recidivist consequences claim as follows:

Petitioner argues that the United States Supreme Court's decision in Padilla v. Kentucky, 130 S. Ct. 1473 (2010), forecloses this Court from considering the direct/collateral consequences distinction and consequently renders plea counsel's performance deficient in this case. On the other hand, the State argues that the Supreme Court never meant for Padilla to apply retroactively, but regardless, Padilla's application is limited to the consequence of deportation. ...

In our opinion, Petitioner's Padilla claim is a red herring, as Padilla has no application to Petitioner's plea.

Taylor at 31-33 (footnotes omitted). In a footnote, this Court does note that Padilla v. Kentucky, 559 U.S. 356 (2010), was found to not apply retroactively by the United States Supreme Court in Chaidez v. United States, 133 S.Ct. 1103 (2013). Taylor at 32 (footnote 8).<sup>1</sup>

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<sup>1</sup> The Petitioner would respectfully note that there is a typographical error in this footnote. The footnote reads "Chaidez v. United States, 133 S. Ct. 1103, 1007." While the initial citation to 133 S.Ct. 1103 is correct, the opinion

The Petitioner would respectfully petition this Court to revise the quoted portion of the opinion. In the Brief of Petitioner, the Petitioner argued that Padilla was only applicable to his case if it applied retroactively. See Brief of Petitioner at 14 (“The Petitioner respectfully asserts that if [the retroactivity question is] answered affirmatively, then Padilla is applicable in this case”). In accordance with Rules 208(b)(7) and 243(j), SCACR, the Petitioner subsequently notified this Court of Chaidez’s holding in a letter dated February 25, 2013,<sup>2</sup> and specifically noted that the “decision is pertinent because the Petitioner argued in the Brief that Padilla ... was retroactive, and the United States Supreme Court held in Chaidez that it was not.”

The Petitioner respectfully submits that the quoted portion of the opinion gives the impression that the Petitioner either did not make this Court aware of Chaidez during the pendency of the case or pushed his Padilla claim in spite of Chaidez. To the contrary, the Petitioner conceded in his Brief that Padilla had no application if it was found to not be retroactive, and the Petitioner notified this Court of the ruling in Chaidez. Therefore, the Petitioner would request that this Court revise the opinion to state that the Petitioner initially pursued a claim pursuant to Padilla but conceded that it had no applicability once Chaidez was decided.

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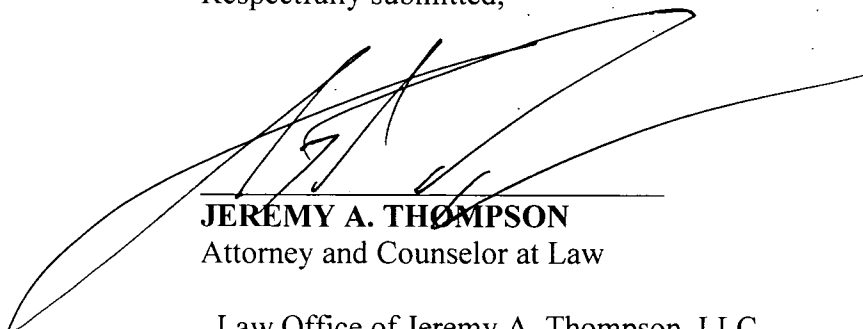
further references the specific page number of “1007.” The Petitioner believes that this Court intended to cite to the specific page number of “1107,” where the Supreme Court held that Padilla “does not” “appl[y] retroactively.”

<sup>2</sup> Chaidez was decided on February 20, 2013.

## CONCLUSION

The Petitioner would petition this Court to revise its opinion in two respects: (1) to correct the citation to Chaidez in footnote 8; and (2) to note that the Petitioner conceded that Padilla was not applicable if it was found to have retroactive effect by the United States Supreme Court.

Respectfully submitted,



**JEREMY A. THOMPSON**  
Attorney and Counselor at Law

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**ATTORNEY FOR PETITIONER**

This 5<sup>th</sup> day of July, 2013.

STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM GEORGETOWN COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

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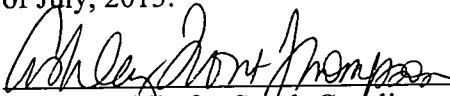
**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that one copy of the Petition for Rehearing in the above-entitled case has been served upon opposing counsel, Christina J. Catoe, Assistant Attorney General, Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211, by depositing in the U.S. mail with proper postage, this 5<sup>th</sup> day of July, 2013.

  
\_\_\_\_\_  
**JEREMY A. THOMPSON**  
ATTORNEY FOR THE PETITIONER

SWORN TO BEFORE me this 5<sup>th</sup> day  
of July, 2013.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 2/22/2018



LAW OFFICE OF  
**JEREMY A. THOMPSON**  
LLC

July 5, 2013

VIA HAND-DELIVERY

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**S.C. Supreme Court**

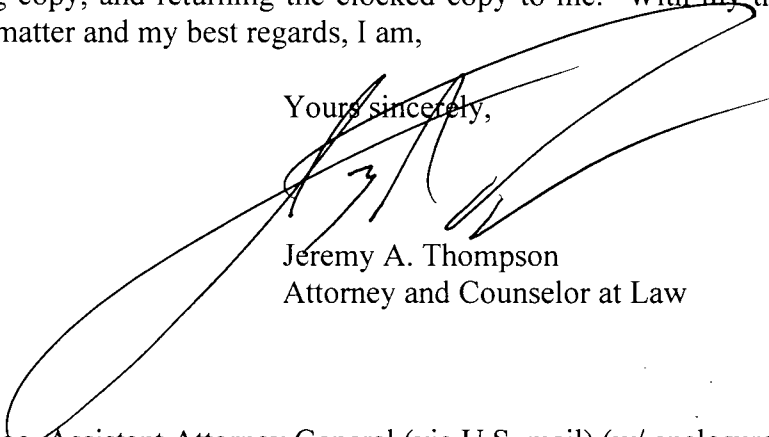
The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211-1330

RE: Robert Troy Taylor, #315084 v. State of South Carolina; 07-CP-22-0476  
Appellate Case Number: 2009-123871

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of my Petition for Rehearing in the above-captioned matter. I would appreciate your filing the original and six copies of the petition, clocking the remaining copy, and returning the clocked copy to me. With my thanks for your kind assistance in this matter and my best regards, I am,

Yours sincerely,

  
Jeremy A. Thompson  
Attorney and Counselor at Law

JAT/  
Enclosure

cc: Christina J. Catoe, Assistant Attorney General (via U.S. mail) (w/ enclosure)  
Robert Troy Taylor, #315084 (via U.S. mail) (w/ enclosure)  
Anthony Taylor (via U.S. mail) (w/ enclosure)  
Nancy Ritchey (via U.S. mail) (w/ enclosure)