

Exhibit A

Sworn affidavit of Gina Kelly-Price

RECEIVED

NOV 20 2023

S.C. SUPREME COURT

To: To whom it may concern,

I, Gina, declare, verify and state under penalty of perjury that the below is made upon my own free will, is true and correct.

On October 2, 2020, my husband Randall D. Price came home around 9:30 pm stating that he had thought that he had hit a deer on Hwy 11. Where he had stopped looked and listened, but he did not see or hear anything. We went outside with a flashlight to look over the damage to his truck. Which his front passenger side fender was damaged. Although we did not see any blood, hair, or anything else, just could not get the emergency flashers turned off. My husband and I went back to where he thought he hit the deer. But, we did not see or hear anything. Once back home I then called our friend Boyd, who came over with his son Trey, who also looked over the truck not seeing anything, but who got the emergency flashers off. Boyd and his son left to go back to where Randy thought he had hit the deer. They called us back indicating they saw and heard nothing as well. Although, my husband was arrested the next morning for a hit and run. I was never asked by counsel Sumner about these facts or to testify to them, although I was interviewed by Matt Sims. Which I would have and am willing to now.

The affiant say no more.

Date: *May 1, 2022*

Signature: *Gina Kelly-Price*

FILED
2023 MAR 15 PM 4:40
CLERK OF COURT
SPARTANBURG COUNTY
MAY 15 2022

Exhibit B

Sworn affidavit of Boyd Plumley

To: To whom it may concern,

I, Boyd, declare, verify and state under penalty of perjury that the below is made upon my own free will, is true and correct.

On October 2, 2020, Randall D. Price's wife, Gina Price, called me, stating that Randy thought that he had hit a deer. He had damage to his front passenger side fender and couldn't get his emergency flashers off and asked me to come over to help. Once at the Prices' home, Randy, Gina, and I looked the truck over. We did not see any blood, hair, or anything else. But, I was able to get the emergency flashers off. My son and I went back to where Randy said he thought he had hit the deer, but we did not see or hear anything. Which I called Randy back letting him know. Although I was interviewed by Matt Sims I was never asked by Randy's counsel about these facts or to testify to them. Which I would have and am willing to now.

The affiant say no more.

Date: 5-9-22

Signature: *Boyd S Plumley*

2023 MAR 15 PM 4:40
CLERK OF COURT
SPARTANBURG COUNTY
AFFIDAVIT DIV.

FILED

Exhibit C

Sworn affidavit of Trey Plumley

To: To whom it may concern,

I, Trey, declare, verify and state under penalty of perjury that the below is made upon my own free will, is true and correct.

On October 2, 2020, Randall D. Price's wife, Gina Price, called my dad, stating that Randy thought that he had hit a deer. He had damage to his front passenger side fender and couldn't get his emergency flashers off and asked my dad to come over to help. Once at the Prices' home, Randy, Gina, Dad and I looked the truck over. We did not see any blood, hair, or anything else. But, my dad was able to get the emergency flashers off. My dad and I went back to where Randy said he thought he had hit the deer, but we did not see or hear anything. We called Randy back letting him know. I was never asked by Randy's counsel about these facts or to testify to them. Which I would have and am willing to now.

The affiant say no more.

Date: 5-9-22

Signature:



CLERK OF COURT
SPARTANBURG COUNTY
AFFIDAVIT DIV.

2022 MAR 15 PM 4:40

FILED

Exhibit B

Sworn affidavit of Gina Kelly-Price

I, Gina, declare, verify and state under penalty of perjury that the below is made upon my own free will, is true and correct.

On December 1, 2021, Attorney Steve Sumner allowed me to sit in on my husband Randy Price's meeting along with Attorney Scott Todd and Matt Sims. I remember this meeting because Randy signed a lot of papers. Attorney Sumner told Randy that he was going to ask the judge for 3 years, "1 ½ years in and 1 ½ years out monitored house arrest". Attorney Sumner told Randy to "throw himself on the sword" even after we discussed Randy examining the scene of the accident after turning around and both of us immediately going back out there to see what Randy had hit.

Date: *May 9, 2022*

Signature: *Gina Kelly-Price*

11/17/2023

Please time stamp and return this
Copy back to me in envelope provided.

Randall Pin

RANDALL D. PRICE # 386694
BIRCH 2, C-20-A
RIDGEVILLE S.C. 29472

Re: My pending Appeal Issues that I wanted preserved for further review.

Dear Commission on Indigent Defense, I am writing you to let you know that I want all of my issues brief so that they will be preserved for federal habeas corpus proceedings. I have already had problems with my trial Attorney because he kept some of my issues out side of the record, and no preserved them for review. I am trying to stop this from happening to me again. I have included a pro-se brief in support of my Appeal brief to include The issues that show ineffective assistance of trial counsel in my case.

Randall D Price

RANDALL D. PRICE

IN THE SUPREME COURT
[state of south carolina]

Randall D. Price # 386694)
Appellant.) C/A No: _____
-vs-) MOTION TO ADDRESS ALL ISSUES
STATE OF SOUTH CAROLINA)
Respondent.)
_____)

Now comes Petitioner, Randall D. Price, # 386694 by and through his court appointed Attorney, who ask this Honorable Court to require the Attorney's involved in this Appeal and any amendment thereof, to be maticulous in the preparation of all issues in this matter. Specifically, the Appellant requests that each and every Issue from the Post-Conviction Relief hearing be briefed and presented to this Honorable Court so that they may be preserved for future proceedings. The Appellant request this Motion pursuant to S.C. Code, § 17-27-80. Citing, Pruitt V. State, 423 S.E.2d 127 (1992); Bryson V. State, 493 S.E.2d 500 (1997). Wherefore, Appellent request the Motion be granted.

Sworn To Before Me, This 15th Day of November, 2023

Notary Public For South Carolina: [Signature]

My Commission Expires: 04-17-2031



2.

IN THE SUPREME COURT
[state of south carolina]

Randall D. Price # 386694)
Appellant.) C/A No: _____
-vs-) Pro-se Breif in Support
STATE OF SOUTH CAROLINA) of Appellate Brief.
Respondent.)
_____)

Now comes Petitioner, Randall D. Price, # 386694 Pro-se, who respectfully, files this Memorandum of Law in support of his Appellant Brief Pursuant to Anders v. California, to protect his Constitutional Rights to be free from the illegal conviction and sentence handed down by the Court of common pleas in the Seventh Juditial Circuit, County of Spartanburg South Carolina. The Petitioner has "standing" to Appeal because of the final order handed down by the Post-Conviction Releif Courts decision in this case see: Fulmer V. Cain, 380 S.C.466, 670 S.E.2d 652 also see: State v. Issac, 405 S.C. 177, 747 S.E.2d 677 and Brunson v. American Koyo Bearing,. The Petitioner's claims of ineffective assistance of counsel at the foundation of his criminal proceeding fell way below the standard of the professional norms used to judge the performance of any attorney practicing criminal

law today. The Applicant makes these claims based on the following facts and conclusions of law.

A. STATEMENT OF THE CASE

Petitioner was indicted by the Spartanburg Grand Jury During it's October 2020 term, the Spartanburg County Grand Jury indicted Applicant for traffic/hit and run with death Indictment No: (2020-GS-42-2595). Applicant was represented by Steve Sumner, Esquire. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office prosecuted the case. On December 8,2021, Applicant appeared before the Honorable Letitia Verdin, circuit court judge, and pled guilty as indicted without any negotiations or recommendations. Judge Verdin sentenced Applicant to twelve years' imprisonment. Applicant did not pursue a direct appeal.The Applicant filed an application for Post-conviction relief pursuant to S.C. Code Ann.§ 17-27-20. In his amended application the applicant alleged that he is being unlawfully held in custody

because of ineffective assistance of counsel in that: (1).

Ineffective assistance of counsel: (a) Failure to investigate all of the facts/issues. Applicant filed an Amended application on July 14, 2022, alleging: (1). Trial counsel was ineffective for having a pre-trial conference outside the presence of the Applicant; and (2). Trial counsel was ineffective for not allowing the Applicant to present mitigation evidence at the guilty plea. An evidentiary hearing was held on October 20, 2022 at the Spartanburg County Courthouse. Rodney W. Richey, Esquire represented Applicant. Assistant Attorney General Chelsey F. Marto represented the Respondent After all the testimonies were in and the records were reviewed, the court found that the Applicant did not meet his requisite burden of proof that he is entitled to post-conviction relief and dismissed his application with prejudice. The Applicant requested that his court appointed Attorney file a 59 (e) Motion to correct the misstated facts that was intentionally put on the record by the state, but was denied on October 6, 2023. The Applicant received notice on October 10, 2023. This Appeal follows.

QUESTIONS PRESENTED?

WAS TRIAL COUNSEL INEFFECTIVE FOR NOT INVESTIGATING ALL OF THE
FACTS/ISSUES OF THE CASE?

WAS TRIAL COUNSEL INEFFECTIVE FOR HAVING A PRE-TRIAL CONFERENCE
OUTSIDE THE PRESENCE OF THE APPLICANT?

WAS TRIAL COUNSEL INEFFECTIVE FOR NOT ALLOWING THE APPLICANT TO
PRESENT MITIGATING EVIDENCE AT THE GUILTY PLEA?

ARGUMENT IN SUPPORT OF PRO-SE BRIEF ISSUES (1) (2) (3)

The Petitioner is alleging that he is being held in custody unlawfully because of ineffective assistance of counsel in that counsel failed to investigate all of the facts and issues of his case. Counsel was ineffective for not investigating the facts of his client's case diligently, Mr. Sumner was well aware of the fact that the Petitioner had (3) witness ready to testify on his behalf. One witness who was picked up and taken to the alleged scene of the accident would have testified that the Petitioner came back and looked around to see what he had hit, but found nothing. The other two witnesses testified at the pcr hearing that they went back to look for proof of an accident but found nothing. Mr. Sumner knew this and he should have insisted on going to trial. This prejudiced the Petitioner because the outcome would have been different. See: Hill V. Lockhart, 474 U.S. 52, 59 (1985). also see: Strickland v. Washington, 466 U.S. 668, 686 (1984). Here counsels conduct undermined the proper functioning of the adversarial process so that it cannot be relied upon as having produced a just result. Counsel's performance was deficient and fell outside of the zone of "reasonableness under

prevailing professional norms." See: Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). This is a sixth (6) Amendment violation that resulted in "Ineffective Assistance of Counsel." No rational fact finder would have found the Petitioner Guilty of hit and run with death because he stopped, and this eliminated that element of the crime. Mr. Sumner knew that the state had the black box information, and intended to use it against his client to show that he was traveling at a high rate of speed when the accident occurred. Mr. Sumner could have obtained conflicting evidence from that black box that would have negated the element of failure to stop that was in the indictment thus, rendering counsel ineffective. This is what it was an accident, with no criminal intent at all. See indictment No: (2020-GS-42-2595) the aggravating circumstance here was the failure to stop. No rational trier of facts would have found the Applicant guilty of hit and run resulting in death. The information from the same black box would have negated the states case at bar. Counsel had an obligation to his client to render the best defense that he could give at the most crucial time in this case. The court sentenced the Applicant to 12yrs. Confindment in the South Carolina Dept. of Corrections, which should have never happened

in the first place. The state could not have made a case out of an accident had counsel investigated all the facts of the case at bar. The Applicant would have insisted on going to trial, but was told that he did not have a legal defense by his trial Attorney See: Hill v. Lockhart, 474 U.S. 52.59 (1985). The Applicant has made a colorful showing, and that he is entitled to relief on the grounds of ineffective Assistance of Counsel pursuant to Strickland. The Fourteenth Amendment (14). of the United States Constitution Gaurantees the right to Effective Assistance of Counsel, " A Constitutional Requirements of Substantial equality and fair process can only be attained where counsel acts in role of active advocate in behalf of client. U.S.C.A. Const. Amend. (6) (14)." "Furthermore" how could the Post-Conviction Court make a decision on the totality of the evidence when the evidence was never presented to the courts, because of ineffective assistance of trial counsel. Mitigating evidence testimony could not have hurt the Applicant because it was an accident that should never have happened, had the Greenville County Sheriffs Office done their jobs in the first place.

CONCLUSION

For the following reasons and conclusions of law, this instant Case should be vacated with prejudice, or reversed and remanded Back down to the lower courts for a new trial in front of a Different lower court judge.

The Appellant forever Prays.

IN THE SUPREME COURT
[state of south carolina]

RANDALL D. PRICE #386694)
 APPELLANT,)
)
)
)
VS)
)
)
STATE OF SOUTH CAROLINA)
 RESPONDENT.)

)

Case No: _____

AFFIDAVIT OF RANDALL D. PRICE

I, RANDALL D. PRICE, DO HEREBY SWEAR, ATTEST, DEPOSE AND SAY
THE TRUTH TO THE FOLLOWING:

1.) That I, Randall D. Price, stopped to see what I had hit that
night and did not see anything.

2.) That I, Randall D. Price would have insisted on going to trial
if my Attorney Mr. Steve Sumner Esq. had told me that I had a
valid leagal defense.

3.) That I, Randall D. Price, had Three witnessess ready to
testify on my behalf that I went back to the accident scene to
see if I could find what I hit.

4.) That the Greenville County Sheriff's Office stopped the victim
and did not remove him from the highway even though he was under
the influence of meth, and drinking. He was operating the

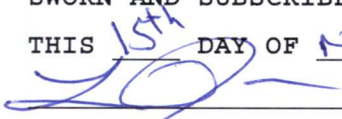


moped without lights, and was told not to go back on the road that is the reason he was stopped in the first place.

5.) That I, Randall D. Price, did not knowingly make an intelligent plea because of the ineffectiveness of my trial counsel's advise, which was false because I had a valid legal defense.

6.) Mr. Sumner told me that I would get 25yrs if I did not plead guilty and that's all he kept saying, he never said anything about the elements of the crime, or what the state had to prove.

SWORN AND SUBSCRIBED TO BEFORE ME
THIS 15th DAY OF November, 2023



NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 04-12-2031

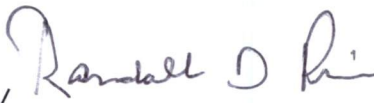
S/ 
Randall D. Price, # 386694



Exhibit A

Sworn affidavit of Gina Kelly-Price

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The affiant say no more.

Date: *May 1, 2022*

Signature: *Gina Kelly Price*

Exhibit B

Sworn affidavit of Boyd Plumley

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I, Boyd, declare, verify and state under penalty of perjury that the below is made upon my own free will, is true and correct.

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Date: 5-9-22

Signature: *Boyd S Plumley*

Exhibit C

Sworn affidavit of Trey Plumley

To: To whom it may concern,

I, Trey, declare, verify and state under penalty of perjury that the below is made upon my own free will, is true and correct.

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Date: 5-9-22


Signature: 

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Date: *May 9, 2022*

Signature: *Gina Kelly-Price*