

The State of South Carolina  
In the Supreme Court

Appeal from Sixteenth Judicial Circuit

Lee S. Alford, Presiding Judge

CASE NO. 2013-CP-46-0601

Bobby Patterson,

Appellant,

v.

State of South Carolina,

Respondent.

---

Appellant Rule 243(c) explanation

---

Argument

Appellant submit that lower court determination is unreasonable and contrary to the S.C. Supreme Court decision in *Delaney v. Stutz*, 238 S.E.2d 674 (1972), "where the court stated "where a per application alleges specific instances of ineffect-

ive assistance of counsel, which allegations are not conclusively refuted by the record before the court, then a question of fact is raised which can only be resolved at an evidentiary hearing."

Appellant submit that the question of whether trial counsel failure to object to state prosecution use of perjury testimony,

raise a material question whether appellant was denied an opportunity to successfully argue before the appellate court an meritorious claim, and if not for trial counsel constitutional error, the result of appellant state trial would have been different, Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984),

Appellant submit that lower court determination is unreasonable, where lower court have ignore the fact that this per application is based on after discovery evidence,

prosecutor mis-conduct of using false testimony which could not have been discovered through due diligence, because evidence supporting

4  
due diligence because evidence supporting his underlying claims was withheld by trial counsel and state prosecutor, evidence that will be obtained during the discovery process, United States v. Bagley, 473 U.S. 667, 682 (1985).

### Conclusion

Appellant submit that the facts of his case demonstrates that there have been a constitutional error at trial, which constitute a denial of fundamental fairness, shocking to the universal sense of justice which requires the vacation of his conviction, Butler v. State, 302 S.C. 466, 397 S.E. 2d 82 (1990).

Respectfully submitted,  
x *Bobby Patterson*

I swear to and subscribe before me

the 22nd day of July, 2013

*Susan H. Frye*  
NOTARY PUBLIC

My Commission Expires  
March 5, 2018

my commission expires \_\_\_\_\_