

Chapter 46. Rehearing, Remittitur, And Certiorari (Page 1)  
§ 46:4 Petition For Writ of Certiorari (from Court form  
17, SCACR).....

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas  
JUDGE GRIFFIN, Circuit Court Judge

Case No.

Date: 9-10-24

Danielle Dixon  
Assistant Attorney General

V.

Mr. Emary W. Roberts Jr.  
Appellant

Clerk of Court  
Patricia Howard  
Please Clock, Stamp  
And Return Copy To  
Mr. Roberts, Please,  
Thank You Kindly.

PETITION FOR WRIT OF CERTIORARI

Mr. Emary W. Roberts Jr. (Pro Se)  
Attorney For Petitioner  
Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, SC 29669

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Assistant Attorney General  
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Columbia, South Carolina SEP 12 2024  
29211-1549 S.C. SUPREME COURT

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## Questions Presented

1.) Did PCR court err when it failed to render its findings of fact and conclusions of law regarding movants ineffective assistance of counsel allegations... that counsel was "ineffective assistance of counsel" when trial counsel failed to object and cite controlling precedent regarding "introduction of lab reports (testimonial hearsay) and read into the record by SLED Agent Justin Wingo", despite the declarants unavailability for trial to be cross-examined, in violation of the Confrontation Clause? (Pages 703-713)

(PCR Brief 4 - Page 2) (Page 703, lines 6-12; page 710, lines 15-23; Page 713, lines 4-12)

2.) Did PCR court err when it failed to render its findings of fact and conclusions of law concerning "ineffective assistance of counsel claim... that defendant's right to "effective assistance of counsel pursuant to the Sixth Amendment of the United States Constitution" and "his right to due process of law pursuant to the Fourteenth Amendment of the United States Constitution" was violated when trial counsel "consistently" refused to object to [reports] and [out-of-court] statements by unavailable lab technicians?

(PCR Brief 4 - Page 3)

3.) Whether PCR court erred when it failed to render its findings of fact and conclusions of law regarding Mr. Roberts right under South Carolina State Constitution pursuant to Art. I, § 11 (Art. 1, § 11) to challenge whether he was indicted by a legally established and constituted grand jury, that was violated when he was denied his substantive right to "present a defense", and his procedural right to obtain "impeachment documents" pursuant to § 14-7-

- 1720(A) and (D) and Rule 5, SCRPC?

4.) Whether PCR court err when it failed to render its findings of fact and conclusions of law under the standard of Williams, 529 U.S. at 393, when trial counsels ineffectiveness [did] deprive the defendant of a substantive right (Right to present a full and complete defense) and procedural right (§14-7-1720(A) and (D) and Rule 5, SCRPC), to which the law entitles him?

### Statement of the Case

Mr. Roberts contends that "Remand is required on appeal from denial of post conviction relief where post-conviction court dismissed movant's ineffective assistance of counsel Allegations (PCR Brief 4-Page 2)(Question 5); (PCR Brief 4-Page 3)(Question 8), without making findings of fact on specific Allegations raised, violating statute and precluding Appellate review. Code 1976, § 17-27-80; U.S.C.A. Const. Amend. 6.

Mr. Roberts seeks certiorari from the denial of post-conviction relief (PCR), alleging that the PCR court failed to make the required findings of fact concerning his claims of ineffective assistance of counsel; also its findings of fact under the standard of Williams, 529 U.S. at 393; and defendants right under the State Constitution pursuant to Art. 1. § 11.

## Argument

The court (PCR) shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment. § 17-27-80; McCray V. State, (S.C. 1991) 305 S.C. 329, 408 S.E. 2d 241.

PCR court did not make specific findings of fact and conclusions of law regarding Mr. Roberts claim of a violation of due process of law pursuant to the 14th Amend. and violation of his 6th Amend. right to "Confrontation" (PCR Brief 4-Page 2) (PCR Brief 4-Page 3).

PCR court also failed to render its findings of fact and conclusions of law in regards to Mr. Roberts claims of violation of Art. 1, § 11 under State Constitution to challenge whether he was indicted by a legally established and constituted grand jury, where he was infringed the right to do so because denial of "discovery" in the form of "impanelment documents" infringed his right to present a full and complete defense and his procedural right pursuant to § 14-7-1720(A) and (D), and Rule 5, SCRCP.

PCR court failed to render its findings of fact and conclusions of law when under the standard of Williams, 529 U.S. at 393, trial counsels ineffectiveness [did] deprive the defendant of a substantive right (Right to present a full and complete defense) and procedural right (§ 14-7-1720(A) and (D) and Rule 5, SCRCP, to which the law entitles him.

## Conclusion

Mr. Roberts, seeks certiorari from the denial of post-conviction relief (PCR), alleging that the PCR court failed to make the required finds of fact and conclusions of law regarding his claims of ineffective assistance of counsel, precluding Mr. Roberts right to appellate review on said claims.

(Page 8)

I, attest upon the penalty of perjury that the enclosed facts are true and accurate. Further  
Affiant Says Not. ~~Emergy W. Roberts Jr.~~

Sworn To on September-03-2024  
Tamaia Canwell

**My Commission Expires  
October 6, 2033**

Certificate of Counsel

I, Mr. Emory W. Roberts Jr. do certify, in writing, by my signature, that I attest as being true or as accurate and true, All facts stated herein and claims asserted.

Mr. Emory W. Roberts Jr.

Mr. Emory W. Roberts Jr. 373393

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S.C. SUPREME COURT

Patricia A. Howard, Clerk of Court

Supreme Court of South Carolina

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COMMISSARY