

Nathaniel A. Hunter, Pro Se Petitioner

August 20, 2024

**RECEIVED**

OCT 18 2024

The Honorable Patricia A. Howard  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

S.C. SUPREME COURT

Re: Nathaniel A. Hunter #372378 v.

State of South Carolina 2023-001611

Dear Ms. Howard:

Please find enclosed Petitioner's Pro Se Response to Counsel Ashley McMahan's Johnson Petition along with a certificate of service. Also, please find enclosed Petitioner's Schmerber Hearing Transcript, Investigator Thomas Griffith's notes, and a letter from Petitioner to Counsel McMahan dated July 22, 2024, and possibly an affidavit from Dr. Robert Bennett if the Supreme Court grants Petitioner's Motion for Discovery and Funding. Pro Se Petitioner has requested Counsel McMahan to raise meritorious issues in her Petition for Writ of Certiorari pursuant to Bray v. State, 366 S.C. 137, 620 S.E.2d 743 (2005) holding, (counsel on appeal from denial on Post-Conviction-Relief is required to brief arguable issues, despite counsel's belief that the appeal is frivolous, to safeguard the right to appeal) and Hill v. Lockhart 474 U.S. 52, 106 S.Ct. 366 (1985) stating, ("defendant represented by counsel and rely on advice of counsel, prejudice depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases").

Also, see Gray v. Greer 778 F.2d 350 (1985) holding, (Appellate Counsel failed a significant and obvious issue only when ignored issues are clearly stronger than those presented, will the presumption of ineffective assistance of counsel be overcome). Strickland established the standard for effective assistance of counsel that can be used as a basis for establishing a standard for effective assistance of appellate counsel. If an issue which was not raised may have resulted in a reversal of the conviction or order for a new trial, the failure was prejudicial. When a claim of ineffective assistance of counsel is based on failure to raise viable issues, the district court must examine the trial court record to determine whether appellate counsel failed to present significant and obvious issues on

appeal. Significant issues that could have been raised should then be compared to those which were raised. Petitioner is guaranteed adequate representation by appellate counsel in collateral review proceedings pursuant to the Strickland v. Washington standard 466 U.S. 687. There are several meritorious issues that Ms. McMahan should have raised that were more meritorious than the claim she raised.

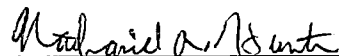
Counsel McMahan must have misread my PCR transcript for the following issue she raised in her Johnson Petition for Writ of Certiorari:

“The PCR court erred in finding trial counsel was effective when counsel failed to call Pauline Jones to show that the Petitioner did not have ownership of the nylon cap at the time of the incident.”

In Ms. McMahan’s argument in support of this issue, Counsel McMahan stated that my mother Pauline Jones had taken a bag of clothes to Goodwill for me, and she also stated that my mother took the clothes to the Salvation Army. That was incorrect based upon the fact that my mother testified that she saw me putting clothes in two or three trash bags. Petitioner’s mother stated that she witnessed Petitioner putting two or three trash bags into Petitioner’s car. PCR transcript page 21, lines 11-25 and page 22, lines 1-20. I respectfully request that this Court orders Counsel McMahan to correct this mistake because she is not responding to my letter. Everything that is in this Pro Se Response has been sent to Ashley McMahan, including the meritorious issues that I requested her to raise for my Writ of Certiorari Appeal.

Ashley A. McMahan, Esquire  
Zachary W. Jones, Assistant Attorney General

Sincerely,



Nathaniel A. Hunter #372378

Pro Se Petitioner

CC:Ashley A. McMahan, Esquire  
Zachary W. Jones, Assistant Attorney General

Nathaniel A. Hunter #372378  
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Received

OCT 15 2024

Tyger River Mailroom

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