State of South Carolina
In the Supreme Court

Certiorari to Richland County
Honorable Matie Murphy, Circuit court Judg

Horace E. Watts Petitioner

V

State of South Carolina Respondent

Appellate case NO. 2024 001122

Petition for writ of Certiorari

## ISSUES Presented

I'm Writing this petition for Writ Of Certiorari and believe for these issues present in this petition that the trial Courts and appellate Courts erred by allowing these issues and believe that it would be fundamentally Unfair and its miss character of Justice was prejudice and should be reversed and sent back to General Sessions.

(I) Ineffective assistance of Counsel

(A) PCR Courts erred in finding that trial Counsel was "affective" when adopting trial strategy mistaken Identity when defendant admitted being there and acting in Self-defense So this Strategy held No possible merits. This strategy also impeded my autonomy ability to purse my self-defense claim. This was a clear and obvious Constitutional (6th amendment) Violate. (McCoy VS Louisiana 584 U.S. 414 138S.Ct. 1550 210L.Ed. 2d821 May, 14 2018) This Violation and misconduct by Counsel Stopped defendant from Properly presenting his case also

It deprived him the opportunity to be heard by the courts. Counsel also advised me at trial that I dont need to testify because it would Contradict his Strategy of mistaken Identity. Trial Counsel also admitted that I wanted to assert Self-defense and we discussed this Strategy/Claim on more than one Occasion. This misconduct was fundamentally unfair and ultimely Caused me to be found Guilty of murder, Attemp. murder, and weapons charges.

(B) (McCoy vs Louisian 584 U.S. 414 138 S.Ct. 1550 210 L.Ed. 2d 821 May 14, 2018).
The Sixth amendment guarantees a defendant the right to choose the objective of his defense. (See mccoy vs Louisiana)
The Sixth amendment guarantees to each Criminal defendant "The assistance of Counsel for his defense". The defendant does not Surrender Control entirely to Counsel for the Sixth amendment in grant[Ing] to the accused personally the right to make his defense "speaks of the assistance" of Counsel and a assistant, however expert, is still an assistance. The lawyers province is trial management but Some decisions are reserved for the Client including whether to Plead guilty, waive the right to jury trial,

Testify in one's on behalf and forgo an appeal. Autonomy to decide the objective of the defense is to assert innocence belongs in this Reserved-for-the-Client Category. Due to this clear and obvious error by trial Counsel to assert mistaken Identity and not entertain my Self-defense Cliam and let me tell the jury about my imminent danger I faced when I along with CoD was approached by a angry mob ready and willing to engage us in a physical altercation (see exhibits A, C, D) this was a Critical error thats was prejudice and unlawful. This error caused me to be found guilty but if trial Counsel would have not violated my 6th amendment All proceeding including trial would've been different. If he would've entertained my self-defense claim and let me testify we could've got a jury instruction on Self-defense or lesser including offense voluntary manslaughter. (See Exhibits A, C, D).

(2) Prosecutorial Misconduct

(A) Prosecutors used malicious tactics and violated my Constitutional Rights (Due Process - 14th amendment, / Brady Violation) to obtain a conviction.

Prosecutors intentionally and withfully co-conspire with trial Counsel to withhold vital and Critical evidence that would've further my defense claim of "self-defense" (see Exhibits- E, F, G). This was a Strategic plan by both because they Knew that this Incident really was a self defense. (Brady vs Maryland 373 U.S. 83, 83 S.Ct. 1194 10 L.Ed.2d. 215) favorably evidence that the State failed to disclose to defendant would have made a different result "reasonably" "Probably" is a clear violation and the Conviction cannot Stand. This error was clear and obvious and because the net effect of the State-suppressed evidence favoring defendant raises a Reasonable probability that its disclosure would have Produced a different result at trial the Conviction cannot Stand and Defendant is entitled to a new trial See (Kyles vs. whitley 514 U.S. 419 115 S.Ct 1555 131 L.Ed 2d 490 April 19, 1995). A review of the Statements of eye witnesses was the essence of the states case- reveals that this disclosure of evidence not only would have resulted in a markedly weaker Case for the Prosecution and a markedly Stronger one for the defense but all would have substantially reduced or

destoryed the value of the states best witnesses.

(B) Solicitor also violated Rule 602 "Lack of personal Knowledge" rule by calling witnesses to give testimony that I killed someone when their prior statements stated "they never saw me shoot a gun" or "shoot anybody" See (exhibits H, I, J, K, L). Rule 602 states "A witness may not testify to a matter of law unless evidence is introduced sufficent to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal may, but need not, consist of the witness' own testimony. At trial witnesses testified or were able to testify to me being the person that murdered this victim. The testimony was 3 years later and after stating in their original statement "they didn't see me shoot they know I was there." with malicious intent the Solicitor coheared the witnesses to help her secure a conviction. These taetics along with trial Counsel failure to properly "assist" me in asserting my defense and Presenting my self-defense claim to the Court was "a clear error prejudice and violated my constitutional rights. Solicitor

With held valueable, vitial and Critical Statements, Police notes, and forensic ballistic evidence that proved I acted in self-defense and defendant and CoD were not the only ones shooting at this incident location (See exhibits E-G). A Police CI of the lead investigator gave them a call and stated that this incident was Comitted in self-defense. Also forensic and ballistics were done on several casings from the scene along with bullet fragments from cars and the house at this location and all came back inconclusive and was determined that these casings and or fragments Could've been been fired from one or multiple firearms/barrels (see exhibits E-G). Also in case notes by officer G. Smith from CPD he found 16 spent casings that was Supposedly fired by defendant and CoD but he also found 6 addictional casings by this location (See Exhibit E pg 3). These 6 Casings were not noted to be a part of the original 16 Spent Casings (See Exhibit E pg 5-6). These Casing were never collected or put into evidence or mentioned at trial. This was a clear and obvious strategy to withold this valueable discovery because it would have furthered my self-defense Claim and this would have changed

The outcome of this proceeding. This Clear and obvious violation of Suppression of favorable evidence from defendant cant be over looked because it would have change the out come of the trial.

(C) Solicitor also comitted extrinsic fraud by withholding this Critical to my self-defense claim. (See exhibits E pg 1-6, F, G). This Extrinsic fraud deprived the defendant the opportunity from being heard and properly presenting his case to the Courts. It would be fundamentally unfair by the Courts if they do not entertain this extrinsic fraud claim.

(3) Actual Innocence on Attempted Murder / guilty of lesser included offense not murder.

(A) on February 9th, 2017 defendant was found guilty of attempted murder by a jury. Felony attempted murder is not a recognized offense in South Carolina as a result, the trial Courts instruction to the jury on a unrecognized charge regarding the requirement and consequences

Of felony Attempted murder was erroneous. (Michael Juan smith vs state 430 S.C. 226 845 S.E 2d 495 2020 WL 3271524) "One Cannot attempt to Kill another with implied malice because there is NO such Criminal offense as an attempt to achieve an unintended result." Of Course, erroneous Jury Instructions are Sbbject to harmless error analysis. Here, however the felony attempted murder cannot be harmless for (2) reasons. (1) Attempted murder is not a recognizable offense in South Carolina (Michael Juan Smith vs State 430 S.C. 226 845 S.E 2d 495 2020 WL 3271524) (2) victim clearly states He know who Shot him with Ceotanity and positively Identified CoD as person who shot him. (See exhibit M). Defendant should have been tried or convicted or even charged with a non-recognizable when the evidence was clear and obvious and pointed to CoD as person who shot him. Here this is a clear and obvious unharmless erroneous Jury instruction and a Clear error by the trial Judge and Court.

(C) Defendant was deprived the opportunity to assert his self-defense Claim where defendant "admits he acted in self-defense." If trial Counsel wasn't Confused

The misinterpretation of the law as to if the defendant was or wasn't at fault on bring on on the "difficulty" trial counsel would've put defendant on the Stand so the jury could hear how the defendant and CoD was imminent danger when he acted in self-defense when he was rushed by a anger mob that clearly states they were ready and willing to engage defendant and CoD in a physical altercation with the pair. (See Exhibits (A) pg 1-2, D). With this testimony and evidence defendant "Probably" would have got the right jury instruction on a lesser included offense "Voluntary manslaughter" Not murder.

Horace Watts

Horace Watts 10-27-24

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