

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Beaufort County

Honorable Roger M. Young, Circuit Court Judge

COURTNEY E. BROCK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000681

JOHNSON PETITION FOR WRIT OF CERTIORARI

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S.C. SUPREME COURT

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ISSUE PRESENTED

Whether the PCR court erred in concluding Petitioner received effective assistance of counsel where the key evidence against Petitioner—her palmprint on a piece of duct tape—was not adequately investigated and addressed by counsel, where counsel did not photograph the duct tape that had been used to do repairs at Petitioner’s residence, since counsel’s performance was unreasonable, and since Petitioner was prejudiced?

STATEMENT

Procedural history

On August 8, 2019, a Beaufort County Grand Jury indicted Courtney Brock, Petitioner, for murder. App. 701 – 702. Petitioner was tried before the Honorable Kristi F. Curtis and a jury, from October 21 – 24, 2019. App. 1. Matthew Walker represented Petitioner. Hunter Swanson and Samantha Molina prosecuted the case. App. 2. Petitioner as convicted as indicted, and she was sentenced to serve thirty years' imprisonment. App. 703; App. 574, ll. 2-4; App. 580, ll. 10-12.

After Petitioner's direct appeal was dismissed pursuant to *Anders v. California*, 386, U.S. 738 (1967), Petitioner timely filed an application for post-conviction relief on June 15, 2022. App. 583 – 589. On September 16, 2022, the State made its return and motion for a more definite statement. App. 590 – 599. Petitioner amended her application on May 1, 2023, and again on July 27, 2023. App. 600 – 604. On November 30, 2023, a hearing was held on the matter before the Honorable Roger Young. Petitioner was represented by Tommy Thomas. Danielle Dixon represented the State. App. 605. On April 11, 2024, the PCR court issued an order of dismissal. App. 690 – 699.

Relevant facts

On the morning of December 7, 2016, John Priester and the two sons of Brian Walls were seen walking away from a trailer on Falls Road in Burton where Teresa Seigler (Decedent) lived. A little while later, Decedent's trailer was on fire. App. 174, l. 6 – 175, l. 24; App. 271, ll. 20-22; Tr. 218, ll. 19-24. Firefighters responded at approximately 11:00 a.m. and found Decedent's body on the bed, rolled up in bedding which had been sealed with duct tape. Decedent's hands

and feet were bound with duct tape. A gas can sat at the entrance to the bedroom. App. 107, l. 1 – 110, l. 1; App. 115, l. 19 – 118, l. 2.

Around 11:00 p.m., law enforcement in Chesterfield County found a stolen Toyota Camry parked in front of an abandoned house. Brian Walls was in the driver's seat. Petitioner was in the passenger's seat. (A woman in Beaufort, D.P., alleged that on December 6, 2016, Walls raped her and stole her Camry. Beaufort County authorities contacted Chesterfield County authorities and asked them to look for the car.) Walls and Petitioner were taken into custody. Walls was charged with the sexual assault of D.P. App. 181, l. 9 – 185, l. 25; App. 196, l. 4 – 196, l. 19; App. 237, l. 17 – 239, l. 9.

Several backpacks were found in the car. A backpack in the trunk contained a roll of duct tape, electrical tape, rope, belts, and men's clothing. A backpack in the passenger compartment contained a makeup bag, women's clothing, balled-up tape, several bottles of pills prescribed to Decedent, and Decedent's Visa debit card. A pocketbook in the front passenger seat contained Decedent's cell phone and several of Decedent's empty pill bottles, including morphine and clonazepam bottles. John Priester's social security card was in a wallet next to the front passenger's seat. App. 197, l. 3 – 211, l. 11.

Decedent had a fractured rib and bruises on her body. A pathologist who autopsied Decedent stated it was difficult to say how long she had been dead. The pathologist did not find any fatal injuries, but testified the death could be consistent with smothering. App. 271, l. 20 – 275, l. 24.

An expert in latent print analysis testified a print on the duct tape from the bedding matched Petitioner's right palm. The print was on the sticky side of the tape. The analyst opined that Petitioner's print was left on the smooth side of the tape, but when the tape overlapped, the

print was transferred to the sticky side. John Priester's print was on the duct tape that was on Decedent's wrists. App. 291, ll. 20-24; App. 300, l. 22 – 309, l. 17; App. 314, ll. 14-23. An expert in DNA analysis testified a piece of balled-up duct tape likely had a mixture of Petitioner's DNA and Brian Walls's DNA on it. App. 333, l. 9 – 334, l. 7.

Amanda Reddish, a recovering drug addict, tied the State's case together. Reddish testified Petitioner, Petitioner's boyfriend Brandon, and their baby lived together on Bon Aire Circle. Then, they moved—in with Brian Walls on Falls Road. Walls lived on Falls Road with his girlfriend and children, along with John Priester and Priester's girlfriend. Reddish stated she used to hang out at Walls's trailer. According to Reddish, everyone drank and used drugs there, including her. Decedent lived two houses away. Decedent allowed the people who lived at Walls's place to shower at her house, and she gave them food. App. 144, l. 7 – 151, l. 3; App. 386, ll. 16-19.

Reddish claimed she gave Decedent a ride home from Walmart on December 3, 2016, and noticed Decedent had a bag of prescription medications. Decedent had health problems and went to a pain clinic. She took a lot of medication. According to Reddish, when she took in Decedent's groceries, Walls came by and quietly asked her if Decedent had gotten her medications. Reddish said yes, and Walls asked Reddish to “grab them.” Reddish claimed she refused and left. App. 220, ll. 1-20; App. 151, l. 7 – 153, l. 13.

According to Reddish, she was back at Walls's place on December 4, 2016, and everyone was using drugs and drinking. App. 154, l. 4-24. Reddish claimed she was supposed to give Walls's son a ride to court on December 6, 2016, and woke up to Petitioner and Walls calling her and texting her from Walls's phone. Reddish claimed Walls and Petitioner told her if she gave Walls's son a ride, they would give her pills. However, according to Reddish, when she went by

Walls's trailer, there was no one there except for Brandon and the baby. App. 155, l. 23 – 157, l. 22.

Petitioner denied any involvement with Decedent's death. She stated she was not there when Decedent was killed or when the body was wrapped up. App. 354, l. 20 – 355, l. 17. Petitioner testified she and Brandon had been living back and forth between the Bon Aire trailer and the Falls Road trailer. There were holes in the walls and floors of the trailers, and she did not want her baby to get hurt. App. 358, l. 8 – 359, l. 17; App. 389, ll. 9-17.

Petitioner testified that on December 4, 2016, she used duct tape to repair holes in the trailer floor at the place on Bon Aire. She had the tape stretched out so she could cut it. Petitioner rolled the tape up when she was done using it. She later noticed the tape was missing. App. 386, l. 16 – 389, l. 5. Petitioner's Aunt testified she saw Petitioner with a roll of duct tape at the Falls Road address on December 4th. App. 444, l. 14 – 446, l. 451, l. 19. Petitioner's boyfriend testified he had seen Petitioner use duct tape for repairs previously, at both addresses, and she had the tape stretched out. App. 457, l. 18 – 458, l. 4. Petitioner's mother testified she saw duct tape at the Bon Aire address on the 4th, and Petitioner had the tape stretched out. App. 470, l. 8 – 471, l. 21.

Petitioner testified that on the night of December 6th, she went to a motel room with Walls, Walls's sons, Priester, and D.P. She put her clothes in the trunk of D.P.'s car before they drove there. Petitioner had been using drugs all day. Walls and D.P. went into the bathroom together, and then left. Walls came back in and said he dropped D.P. off and she was letting them use her car. They drove around. Walls threw things out of the car. Walls dropped off Priester and his sons around dawn on December 7th. Walls and Petitioner went to Chesterfield, where Walls tried to sell pills. They were apprehended by the police. App. 370, l. 9 – 384, l. 25;

App. 421, ll. 7-10. Petitioner, Walls, and Priester were charged with murder. Walls's sons, along with Priester, were charged with arson. Walls was tried and convicted of Decedent's murder prior to Petitioner's trial. App. 91, l. 23 – 92, l. 1; App. 217, ll. 3-5; App. 233, l. 17 – 235, l. 7; App. 237, ll. 13-16. The State argued Petitioner was guilty under the theory that the "hand of one is the hand of all." App. 556, l. 25 – 557, l. 5.

Petitioner's palm print on the duct tape used to close up the bedding around Decedent's body was a key piece of evidence against her at trial. Her trial counsel did not make reasonable efforts to explain and mitigate this evidence. Although Petitioner provided an innocent explanation for how her print got there, the State argued the explanation was "bizarre" and implausible. App. 520, l. 25 – 521, l. 20. Similarly, the State argued that although witnesses stated they had seen Petitioner use duct tape to repair the trailers, they were not credible since they were all family members of Petitioner's. App. 556, ll. 11-18.

At the PCR hearing, Petitioner testified that she told trial counsel about using duct tape to fix the trailers. However, her counsel did not introduce any pictures of the taped-up holes at trial. App. 643, l. 11 – 644, l. 11. Petitioner stated counsel should have done so because, "It would show that I was actually doing things, not just making up some story . . . They would see all of the holes, and you would basically see these two trailers held together by this duct tape that I was putting everywhere." App. 644, l. 22 – 645, l. 2. Although Petitioner's print on the duct tape was a critical piece of evidence, trial counsel offered no explanation for his failure to take and introduce photographs of the duct-taped places in the trailers. Trial counsel admitted he knew the living conditions in the trailers were "a lot of squalor." App. 674, ll. 5-12. However, trial counsel stated that when he drove through the neighborhood *close in time to trial*, "some of those places weren't even there anymore." App. 667, ll. 15-21.

In its order of dismissal, the PCR court addressed Petitioner's allegation that counsel was deficient for failing to adequately address the duct tape evidence. App. 694 – 696. The order cited Petitioner's testimony that counsel did not investigate or take pictures of the trailer and the duct tape. It cited counsel's testimony that he called witnesses to corroborate Petitioner's testimony that she used duct tape for repairs. App. 695. The order stated trial counsel's strategy was reasonable and not deficient. The order stated Petitioner had not shown what more counsel could have done to prepare for trial, and that Petitioner did not introduce any photographs of the duct tape at the PCR hearing. The order stated Petitioner did not prove deficiency or prejudice. App. 696.

This petition for writ of certiorari follows.

ARGUMENT

The PCR court erred in concluding Petitioner received effective assistance of counsel where the key evidence against Petitioner—her palmprint on a piece of duct tape—was not adequately investigated and addressed by counsel, where counsel did not photograph the duct tape that had been used to do repairs at Petitioner’s residence, since counsel’s performance was unreasonable, and since Petitioner was prejudiced.

Counsel should have timely conducted an independent investigation given his conversations with Petitioner about the duct tape. Counsel admitted that by the time he did attempt to investigate, which was shortly before trial, the trailers were no longer there. If counsel had conducted a timely and thorough investigation he could have entered photographs which showed the trailers had been repaired with duct tape. This was deficient performance. Petitioner was prejudiced in this circumstantial case.

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. U.S. CONST. amend. VI; *Strickland v. Washington*, 466 U.S. 668, 686 (1984). The United States Supreme Court has established a two-pronged test to evaluate allegations of ineffective assistance of counsel. A petitioner must prove “that counsel’s performance was deficient” and fell below reasonable professional norms, and the deficient performance prejudiced the petitioner. *Id.* at 687. “To show prejudice, the applicant must show that, but for counsel’s errors, there is a reasonable probability the result of the trial would have been different.” *Patrick v. State*, 349 S.C. 203, 207, 562 S.E.2d 609, 611 (2002). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial.” *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997); *see Strickland*, 466 U.S. at 694 (same). In determining whether an applicant has proven prejudice, the strength of the State’s

case is one significant factor to be considered, along with the specific impact of counsel's error and other relevant considerations. *Smalls v. State*, 422 S.C. 174, 190, 810 S.E.2d 836, 844 (2018).

“Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case.” *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (citing *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596-97 (2007)). “[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014) (quoting *Strickland*, 466 U.S. at 691). “So long as a defendant’s attorney conducts a reasonable investigation, including interviewing potential witnesses when it is reasonable to do so, his performance will not be deficient.” *Edwards*, 392 S.C. at 457, 710 S.E.2d at 65. “[I]nquiry into counsel’s conversations with the defendant may be critical to a proper assessment of counsel’s investigation decisions . . .” *Strickland*, 466 U.S. at 691. “Counsel’s actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant. In particular, what investigation decisions are reasonable depends critically on such information.” *Id.*

The PCR court erred in denying Petitioner relief. The print on the duct tape was the key evidence against Petitioner. Counsel admitted he only went to the scene “closer [in time] to trial,” at which point “some of those places weren’t even there anymore.” App. 667, ll. 15-21. Counsel should have timely investigated so that he could photograph the repairs before the trailers were moved or destroyed. Counsel’s performance was unreasonable and deficient, since

Petitioner had told counsel her explanation about the duct tape. *Edwards*, 392 S.C. at 457, 710 S.E.2d at 65; *Strickland*, 466 U.S. at 691.

The PCR court erred by concluding Petitioner had not proven prejudice since she did not introduce such photographs at her PCR hearing. Petitioner should not be foreclosed from relief simply because she was unable to produce such pictures at her PCR hearing given the lapse of time and the fact that the trailers are now gone. The trailers were admittedly in a state of “squalor.” The State argued in closing that Petitioner’s explanation about the duct tape was implausible, and that corroboration by her family members about the tape was not credible. App. 520, l. 25 – 521, l. 20; App. 556, ll. 11-18. Petitioner has made the requisite showing of prejudice. *C.f. Ard v. Catoe*, 372 S.C. at 332, 642 S.E.2d at 597 (“The State’s heavy reliance on defense counsel’s failure to challenge this gunshot residue evidence highlights both the deficiency by counsel and the resulting prejudice.”). Absent counsel’s deficiency, there is a reasonable probability the jury would have had a reasonable doubt about Petitioner’s guilt. *Strickland*, 466 U.S. at 687; *Smalls*, 422 S.C. at 190, 810 S.E.2d at 844.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests this Court grant the petition for writ of certiorari to allow full briefing on this issue.


Joanna K. Delany
Appellate Defender
ATTORNEY FOR PETITIONER

This 3rd day of December, 2024.

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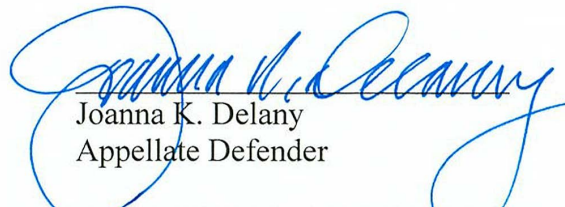
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Courtney Elizabeth Brock states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. She has reviewed the record of petitioner's post-conviction relief hearing before Judge Roger M. Young, which was held on Nov. 30, 2023, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed an arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Courtney Elizabeth Brock.

Respectfully Submitted,



Joanna K. Delany
Appellate Defender
ATTORNEY FOR PETITIONER

This 3rd day of December, 2024.

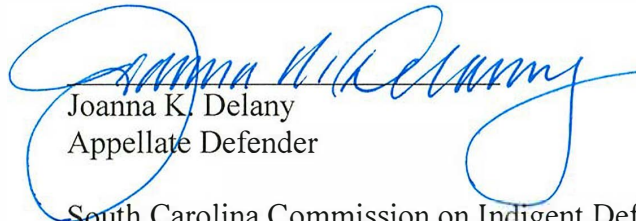
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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of her ability this Johnson Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”



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This 3rd day of December, 2024.