

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Newberry County

Honorable B. Alex Hyman, Circuit Court Judge

CLIFTON CURTIS BOOZER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000920

JOHNSON PETITION FOR WRIT OF CERTIORARI

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

RECEIVED

Jan 21 2025

S.C. SUPREME COURT

INDEX

INDEX..... i

ISSUE PRESENTED.....1

STATEMENT.....2

ARGUMENT

The PCR court erred in finding that the witnesses presented at the
PCR hearing would have corroborated petitioner’s self-defense
claim and that trial counsel was ineffective in failing to present
these witnesses.....3

CONCLUSION.....6

PETITION TO BE RELIEVED AS COUNSEL.....7

ISSUE PRESENTED

Did the PCR court err in finding that the witnesses presented at the PCR hearing would have corroborated petitioner's self-defense claim and that trial counsel was ineffective in failing to present these witnesses?

STATEMENT

Petitioner was indicted in Newberry County for murder and on August 6, 2018, was tried before the Honorable Frank R. Addy and a jury. App. 1. Dale Scott and Taylor Daniel represented the State. App. 1. Charles Verner represented petitioner. App. 1. The jury convicted petitioner of murder. App. 876. Judge Addy sentenced petitioner to life imprisonment. App. 890.

After petitioner's conviction was affirmed, he filed a PCR application on August 26, 2021. App. 893. On November 27, 2023, the Honorable B. Alex Hyman held a hearing. App. 913. Ashley A. McMahan represented petitioner and Zachary William Jones represented the State. App. 913. On May 28, 2024, Judge Hyman denied petitioner's PCR application and this petition follows. App. 984.

ARGUMENT

The PCR court erred in finding that the witnesses presented at the PCR hearing would have corroborated petitioner's self-defense claim and that trial counsel was ineffective in failing to present these witnesses.

The trial judge charged petitioner's jury on self-defense. App. 867-69. However, the judge did not charge the jury on prior difficulties or the right to act on appearances. App. 867-69. Had trial counsel investigated petitioner's case and called the witnesses who testified at the PCR hearing, petitioner would have been entitled to those specific self-defense charges and the result of his trial would have been different.

The attorney general admitted at the PCR hearing that petitioner's relationship with his on-again-off-again girlfriend, Clatie Stribble, was "toxic." App. 981. On the morning of May 3, 2017, petitioner called 911 and admitted he had killed Stribble. App. 132-33. He later explained to the police in a recorded interview that he went to Stribble's house intending to reconcile. App. 354, 361. After having sex, they got into an argument and Stribble attacked him with a knife. Petitioner eventually had to choke Stribble because she was reaching for another knife. Stribble died as a result of strangulation. App. 408.

Petitioner called six witnesses at the PCR hearing who could have told the jury about Stribble's violent and abusive behavior. App. 934-66. Malcolm Jones testified about a specific incident of violence that happened in 2015. App. 962-66. Jones and petitioner ran into each other at a gas station. App. 962-66. They had not seen each other for a while and Jones introduced petitioner to his child and the child's mother. App. 962-66.

Stribble aggressively pulled the car up in a screeching halt at the gas station. App. 962-66. She immediately accused petitioner of meeting another woman—Jones' friend. App. 962-

66. Jones described her violence toward petitioner: “She pushed him. She kept pushing. She got in his face and kept pushing.” App. 964. Petitioner ended up leaving with Stribble. App. 964.

Valencia Wise is petitioner’s cousin. App. 935. In January 2016, Wise was with petitioner at a family birthday party. App. 935. Stribble came to the party and wanted to fight Wise, accusing her of being romantically intertwined with petitioner. App. 935. She was not. App. 936. Stribble also caused scenes at family dinners. App. 936-37. Demarquis Boozer saw Stribble throw petitioner out of the house and throw his clothes on the side of the road. App. 938-39 She tried to control his life. App. 940-41.

Latasha Robinson remembered Stribble blowing her horn outside Robinson’s house all night long because petitioner, her brother, was staying there. App. 944-45. She also threatened to drive her car through another woman’s house on a separate occasion. App. 945. Stribble locked petitioner’s stuff inside a house and would not let him in. App. 947. The police were called. App. 947. Stribble told Robinson that if Stribble could not have petitioner, then no one could. App. 951. Tyson Jones remembered Stribble beating and kicking his car. App. 953. She threw tea and clorox on petitioner’s clothes if he tried to leave the house without her. App. 954-56.

The PCR court denied relief. App. 989-93. The court held the witnesses at the PCR hearing had “little relevance to whether Applicant’s slaying of Victim satisfied the elements of self-defense. App. 991. The court mistakenly reasoned that the conduct needed to be witnessed the day of the incident. App. 991. The court also minimized Stribble’s violence, calling her pushing of petitioner in the face “relatively harmless.” App. 991.


When crafting a self-defense charge, the trial judge must give a full and complete charge that covers the facts of the case and the failure to do so is reversible error. State v. Fuller, 297 S.C. 440, 377 S.E.2d 328 (1989). “A person has the right to act on appearances, even if the person’s belief is ultimately mistaken.” State v. Dickey, 394 S.C. 491, 501, 716 S.E.2d 97, 102 (2011). Prior difficulties are relevant to a defendant’s reasonable apprehension of bodily harm. State v. Nichols, 325 S.C. 111, 117-18, 481 S.E.2d 118, 121-22 (1997).

The testimony of the witnesses at the PCR hearing would have entitled petitioner to these two specific self-defense jury charges. All of the witnesses testified about Stribble’s controlling and violent nature. Malcolm Jones testified about a specific instance of violence against petitioner—the repeated pushing of him in the face at the gas station.

Failing to give these charges is reversible error. State v. Day, 341 S.C. 410, 418, 535 S.E.2d 431, 435 (2000). Had trial counsel performed an adequate investigation and called the witnesses who testified at the PCR hearing, petitioner would have had a basis to request these specific charges. Because failure to give these charges amounts to reversible error, then failing to procure the factual basis for these charges proves deficient performance and prejudice. This Court should grant certiorari and reverse.

CONCLUSION

For the foregoing reasons, this Court should grant certiorari and reverse petitioner's conviction.



David Alexander
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 21st day of January, 2025.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Jan 21 2025

S.C. SUPREME COURT

Certiorari to Newberry County

Honorable B. Alex Hyman, Circuit Court Judge

CLIFTON CURTIS BOOZER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

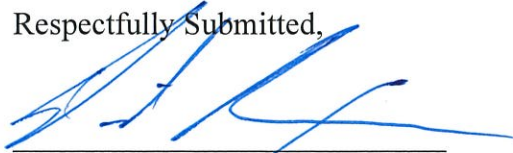
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Clifton Curtis Boozer states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. He has reviewed the record of petitioner's post-conviction relief hearing before Judge B. Alex Hyman, which was held on Nov. 27, 2023, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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 him as counsel for Clifton Curtis Boozer.

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 21st day of January, 2025.

RECEIVED

Jan 21 2025

CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of his 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."



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

This 21st day of January, 2025.