

RECEIVED

Feb 18 2025

S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM ALLENDALE COUNTY  
Court of Common Pleas

The Honorable Robert J. Bonds, Circuit Court Judge

Appellate Case: 2024-001082

LaParis Flowers,

Petitioner,

vs.

State of South Carolina,

Respondent.

---

**Reply to State's Return to Petitioner's Petition for a Writ of Certiorari**

---

Elizabeth A. Franklin-Best  
Bar No. 72555  
Elizabeth Franklin-Best, P.C.  
3710 Landmark Drive, Suite 113  
Columbia, SC 29204  
(803) 445-1333

*Counsel for Petitioner*

**TABLE OF CONTENTS**

Table of Authorities.....2  
Arguments.....3  
Conclusion .....4

**TABLE OF AUTHORITIES**

**Cases:**

*Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007) .....4

*State v. Beaty*, 423 S.C. 26, 34, 813 S.E.2d 502, 506 (2018).....3

*Washington v. State*, \_\_ S.E.2d\_\_ (January 15, 2025), 2025 WL 97707.....3

Counsel respectfully submits this brief reply to the State's Return to Petitioner's Petition for a Writ of Certiorari. Petitioner received ineffective assistance of counsel at his trial and was prejudiced by his counsel's substandard performance. This Court should grant certiorari.

**I. The PCR court erred in finding trial counsel was not ineffective for failing to object to improper closing arguments by the State.**

The State, in its response, appears to focus on the prejudice prong of Strickland, that Petitioner cannot show that the closing arguments infected the trial to a constitutionally intolerable level. Counsel respectfully disagrees. In this case, Petitioner denied any involvement in the shooting, including providing a voluntary statement on December 7, 2014, informing law enforcement that he had been present at the location earlier that night but that he had left by the time of these events. Both sets of statements about not convicting an innocent man or related to the baseless "snitch code" were improper and Petitioner was prejudiced. He also provided an alibi defense (which counsel did not investigate). In other words, this was far from a case of overwhelming guilt which augments the prejudicial impact of the State's improper arguments. *See Washington v. State*, \_\_ S.E.2d \_\_ (January 15, 2025), 2025 WL 97707 (noting that counsel cannot assert trial strategy as a defense for failure to object to comments which constitute an error of law and are inherently prejudicial). This Court should grant certiorari.

**II. The PCR court erred in finding trial counsel was not ineffective for failing to object to improper "truth seeking" language used by the trial court and state at trial.**

Trial counsel did not offer any strategy for failing to object to this language, conceding that he was unaware of this Court's admonition in *State v. Beaty*, 423 S.C. 26, 34, 813 S.E.2d 502,

506 (2018). App. 806-808. This instruction dilutes the burden of proof that properly resides with the State and, in conjunction with the improper closing arguments by the State, rendered Petitioner's conviction unconstitutional. As the South Carolina Court of Appeals has very recently reiterated, counsel cannot assert trial strategy as defense for failure to object to comments which constitute an error of law and are inherently prejudicial. *Washington, supra*. Diluting the State's burden of proof in a criminal case is inherently prejudicial, especially in a case, such as this, where Petitioner had a defense to the charges. This Court should grant certiorari.

**III. The PCR court erred in finding trial counsel was not ineffective for failing to investigate and present an alibi defense at trial.**

Petitioner consistently maintained his innocence of these offenses, which trial counsel knew. App. 739. Even though trial counsel did not have his file at the time of the PCR hearing, he conceded the alibi (which was in his client's voluntary statement and in witness statements) was contained in discovery he received from the State. App. 794, 802-03. There is no possible way that trial counsel could have rendered effective assistance of counsel when he did not even explore this aspect of his client's case. And the prejudice could not be more pronounced since Kendall Nix, Jaqwavian Williams, and Kimberly Williams provided statements that exculpated Petitioner. App. 794, 799, 802-803. If effective assistance of counsel is to mean anything at all, it is to impose on counsel the duty to at least investigate his client's alibi defense. South Carolina appellate courts have long imposed a reasonable requirement for counsel to conduct independent investigations. *See Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). The PCR court erred in rejecting Petitioner's claim and this Court should grant certiorari.

**IV. The PCR court erred in finding trial counsel was not ineffective for failing to introduce the audio and video recorded statements of the complaining witnesses identifying Petitioner in order to provide context and clarity regarding the improper and highly suggestive tactics used in obtaining the statements.**

For the reasons argued in Petitioner's initial petition for a writ of certiorari, this Court should grant cert on this claim.

**V. The PCR court erred in finding trial counsel was not ineffective for failing to sufficiently object, on the record to the use of the jury instruction containing language that permitted malice to be inferred from the use of a deadly weapon.**

For the reasons argued in Petitioner's initial petition for a writ of certiorari this Court should grant cert on this claim.

#### **CONCLUSION**

This Court should grant certiorari.

Respectfully submitted,

/s/ Elizabeth Franklin-Best  
Elizabeth Franklin-Best, P.C.  
3710 Landmark Drive, Suite 113  
Columbia, South Carolina 29204  
(803) 445-1333  
[elizabeth@franklinbestlaw.com](mailto:elizabeth@franklinbestlaw.com)