

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to York County

Honorable J. Mark Hayes, Circuit Court Judge

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JACKIE RAY CHILDERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001721

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JOHNSON PETITION FOR WRIT OF CERTIORARI

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South Carolina Commission on Indigent Defense  
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ATTORNEY FOR PETITIONER

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**Apr 04 2025**

S.C. SUPREME COURT

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Trial counsel erred in failing to investigate into facts that would have supported a motion to dismiss the state’s murder charge that arose from a “homicide by heart attack” theory because there was insufficient evidence establishing that petitioner proximately caused death where intervening and superseding factors eliminated criminal liability on his behalf. ....3

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## **ISSUE PRESENTED**

Trial counsel erred in failing to investigate into facts that would have supported a motion to dismiss the state's murder charge that arose from a "homicide by heart attack" theory because there was insufficient evidence establishing that petitioner proximately caused death where intervening and superseding factors eliminated criminal liability on his behalf.

## STATEMENT

Petitioner Jackie Ray Childers entered Alford<sup>1</sup> pleas to first-degree burglary, possession of a weapon during the commission of a violent crime, armed robbery, kidnapping, criminal conspiracy, and voluntary manslaughter<sup>2</sup> during the February 2022 term of the York County General Sessions Court before Judge Daniel D. Hall. Petitioner was sentenced to imprisonment for an aggregate thirty-year term. App. 1-28. Attorney Geoff Dunn represented petitioner at the plea proceeding, and Assistant Solicitor Matthew Shelton prosecuted the case. Petitioner appealed, but his appeal was dismissed under Rule 203(d)(1)(B)(iv) SCACR.

On September 2, 2022, petitioner filed a PCR application with the York County Office of the Clerk of Court. App. 30-41. The respondent filed a return on January 30, 2024. App. 42-53. A PCR hearing was convened on February 26, 2024, at the York County Courthouse before Judge J. Mark Hayes. App. 55-106. Petitioner was present at the hearing and represented by Shawana Burris, Esquire, and Assistant Attorney General Zachary Jones appeared on behalf of the state.

On September 24, 2024, Judge Hayes signed an Order of Dismissal denying PCR relief to petitioner in the case. App. 110-127.

Petitioner appealed the Order of Dismissal. This petition follows.

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<sup>1</sup> North Carolina v. Alford, 400 U.S. 25(1970).

<sup>2</sup> Petitioner was indicted on the offense of murder in indictment 2021-GS-46-03401, but he pled guilty to voluntary manslaughter as a lesser charge pursuant to a plea agreement reached in the case.

## ARGUMENT

Trial counsel erred in failing to investigate into facts that would have supported a motion to dismiss the state's murder charge that arose from a "homicide by heart attack" theory because there was insufficient evidence establishing that petitioner proximately caused death where intervening and superseding factors eliminated criminal liability on his behalf.

At the plea proceeding, the solicitor apprised the plea judge of the facts in the case. Apparently, petitioner and Travis Baxter entered the home of Billy and Sarah Childers on December 25, 2020, and took items from their home. Billy and Sarah Childers were tied up during the incident. Later, Sarah Childers was taken to the hospital where she died from a heart attack. The state's theory was that "Sarah Childers died from a homicide by heart attack brought on by the extreme stress and trauma of the incident." App. 16, l.13 - p. 20, l.25. Thereafter, petitioner was charged with murder in the case.

At the PCR hearing, the solicitor who was assigned to petitioner's case testified and confirmed that this was a "homicide by heart attack" case. App. 99, l. 20 – p. 100, l. 15.

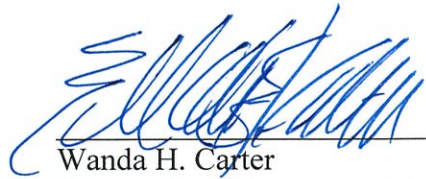
Trial counsel testified at the PCR hearing and explained that since petitioner did not physically strike, injure, or attack the decedent, then a novel issue of whether the deceased could be literally scared to death became a question in the case. Trial counsel stated that he spoke with two pathologists who advised that a traumatic event could lead to a cardiac death. App. 78, l. 3 - p. 80, l. 11. Trial counsel added that he knew that the deceased had been hospitalized for "two weeks or three weeks," after the incident, and that the decedent was an elderly person who was "predisposed" to this type of illness. App. 79, lines 3-21. Trial counsel did not file a motion to dismiss the murder charge on grounds that intervening and superseding causes likely interrupted any proximate causation contribution from petitioner in connection with this death.

A defendant's act may be regarded as the proximate cause if it is a contributing cause (mediately or immediately) of the death of the deceased. State v. Burton, 302 S.C. 494, 397 S.E.2d 90 (1990); State v. Jenkins, 276 S.C. 209, 277 S.E.2d 147 (1981). However, intervening causes may interrupt the chain of causation from the event until the death. State v. Martin, 391 S.C. 508, 706 S.E.2d 40 (2011); State v. Burton, supra; and State v. Patterson, 367 S.C. 219, 625 S.E.2d 239 (2006).

In the case at bar, counsel erred in failing to move to dismiss the murder charge filed against petitioner on proximate cause superseding and intervening grounds because the death in question occurred weeks after the incident at issue, and because it appeared as though the decedent was obviously predisposed to cardiac maladies independent of any reaction to the actions that transpired in the case. Trial counsel's omission in this regard constituted deficient legal representation in violation of the Sixth Amendment and Hill v. Lockhart, 474 U.S. 52 (1985), such that but for the error a reasonable likelihood exists that the outcome of the case would have been different.

### **CONCLUSION**

Based on the foregoing argument, counsel for petitioner would request that this Court grant this petition and allow full briefing on the issue raised above.

  
\_\_\_\_\_  
Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 4th day of April, 2025.

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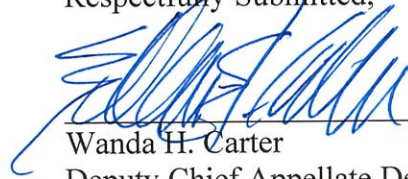
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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for Jackie Ray Childers states that:

1. She is Deputy Chief 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 J. Mark Hayes, which was held on Feb. 26, 2024, 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 Jackie Ray Childers.

Respectfully Submitted,

  
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Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 4th day of April, 2025.

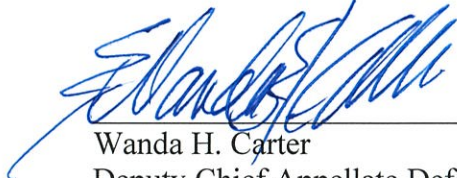
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CERTIFICATE OF COUNSEL

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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ATTORNEY FOR PETITIONER

This 4<sup>th</sup> day of April, 2025.