

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Richland County

Honorable Maite Murphy, Circuit Court Judge

---

WILLIAM ANTHONY WALLACE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001735

---

JOHNSON PETITION FOR WRIT OF CERTIORARI

---

ROBERT M. DUDEK  
Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

**RECEIVED**

**Apr 11 2025**

**S.C. SUPREME COURT**

**INDEX**

INDEX ..... i

ISSUE PRESENTED .....1

STATEMENT .....2

The charges .....2

The trial .....2

PCR .....6

ARGUMENT

The PCR court erred by denying relief where petitioner proved his trial lawyers were not sufficiently prepared which resulted in them not calling available witnesses to aid in his defense, not retaining a gunshot residue expert, and not rebutting the state’s case against him at trial .....9

CONCLUSION .....11

PETITION TO BE RELIEVED AS COUNSEL .....12

## **ISSUE PRESENTED**

Whether the PCR court erred by denying relief where petitioner proved his trial lawyers were not sufficiently prepared which resulted in them not calling available witnesses to aid in his defense, not retaining a gunshot residue expert, and not rebutting the state's case against him at trial?

## STATEMENT

### **The charges**

Petitioner was indicted at the July 17, 2013 term of the Richland County grand jury for two counts of murder, three counts of kidnapping, one count of attempted murder, and armed robbery. App. 1478-1489. Petitioner's case was called to trial before the Honorable Robert E. Hood on August 11, 2014, following pretrial hearings held on January 21, 2014, and July 21, 2014. App. 211. Stephen Krzyston, Lucas Hawks, and Kris Hines represented petitioner. The assistant solicitors were April Sampson, Daniel Coble, and Vance Eaton. App. 211.

### **The trial**

Raquel Weston was twenty-four years old at the time of trial. She was in school at the University of South Carolina, and she was also studying nursing at Midlands Technical College. App. 1141, ll. 8-23. Weston was living with Athell Johnson at the time he was robbed and murdered. Weston had two apartments -- one of them was on Garners Ferry Road where she lived with Johnson. Johnson was in a wheelchair because he was paralyzed from the waist down. Weston took care of Johnson. App. 1142, l. 9 – 1143, l. 18. However, Weston admitted she knew Johnson was a drug dealer. In fact, she often held large sums of money for him -- up to ten thousand dollars -- in a bookbag that she kept in the closet at their Garners Ferry apartment. Weston met decedent Jamal Pratt through Johnson. App. 1143, l. 19 – 1145, l. 25.

On June 28, 2012, Weston remembered going to her student apartment to rest because she was tired. She was asleep when Johnson called her around ten or ten thirty the next morning, and the call awakened her. App. 1147, l. 16 – 1148, l. 3. Weston said Johnson told her to come to their Garners Ferry apartment immediately and to "bring the money and hurry up." App.

1148, ll. 2-5. Weston recalled that she had approximately ten thousand dollars in drug money to bring with her that morning. App. 1149, l. 21 – 1151, l. 8.

When Weston got to the Garners Ferry apartment she opened the door with her key. She saw Johnson “[l]aying on the right side of the living room. His hands were tied up. His hands were tied behind his back.” While Weston was standing with the door open, she maintained that petitioner grabbed her and forced her inside. Weston knew petitioner because she had seen him around. App. 1151, l. 12 – 1152, l. 16. Weston claimed that petitioner and Johnson were together almost every day in the two months leading up to this day. App. 1152, l. 17 – 1153, l. 9.

Weston also remembered seeing DeAndre Diggs inside the apartment with a knife. Weston said petitioner told her to come back in the room with him. Petitioner allegedly told her that “Athell was going to die,” because “he violated me.” App. 1155, l. 4 – 1157, l. 24.

Weston remembered that Jamal Pratt, who was also inside the apartment, was “crying down the hallway.” Pratt was pleading: “Please, please don’t do this brother, please.” Johnson had a trash bag tied around his mouth, and Weston told the men: “Please don’t do this in front of me. Don’t do it in front of me.” Weston gave petitioner the money and her phone. Weston testified Diggs began burning Johnson on the leg with an iron. When Weston started screaming, Diggs “told me to be quiet . . .” Diggs then tied Weston up with a trash bag. App. 1155, l. 4 – 1157, l. 24.

Weston said she was forced to ride with petitioner and Diggs to an undisclosed location. She recalled that they drove around Bluff Road outside of Columbia. They went into a wooded area after petitioner stopped the car. Weston claimed petitioner told her to get out of the car in the wooded area. App. 1160, l. 11 – 1161, l. 25.

Weston was not sure if petitioner had a gun at the time, but she said that Diggs was armed. Diggs told Weston to walk into the woods, and she started to run away but she tripped. Diggs shot at her. App. 1162, l. 4 – 1163, l. 3.

Weston remembered that she closed her eyes and laid in the woods. Later she saw a blue car coming down the road, and she was able to flag down the driver. She asked him: “Can you please take me to the hospital?” He asked Weston what had happened. “I said ‘somebody shot me. Can you take me to the hospital?’” App. 1163, ll. 6-18. Weston told the police that petitioner was involved and about Diggs being responsible for shooting her. App. 1163, l. 19 – 1165, l. 10.

Weston remembered that she identified Diggs from a photographic lineup, but she was unable to initial the form herself because she had been shot in her right hand. Nonetheless, Weston did testify that she picked Diggs out of the lineup. App. 1165, l. 8 – 1168, l. 24.

Petitioner’s cell phone provider was T-Mobile. They provided information to law enforcement that allowed the police to spot petitioner leaving the Burlington Coat Factory off of Bush River Road in Columbia. Petitioner was arrested there without resistance, and he cooperated with the police. App. 513, ll. 11-22; App. 1207, ll. 1-16. Petitioner denied any involvement in the shooting of Johnson, Pratt, or Weston.<sup>1</sup>

However, when law enforcement later confronted petitioner with cell tower records that law enforcement had obtained, without a warrant, from T-Mobile, petitioner agreed to speak with Major Stan Smith of the Richland County police department. App. 1209, l. 25 – 1211, l. 20.

---

<sup>1</sup> Johnson and Pratt both died that day, and they were the murder and kidnapping victims. Weston was also a kidnapping victim, and she was the attempted murder victim as well. Johnson was also the armed robbery victim. App. 1208, ll. 1-24; app. 1478-1489.

Major Smith testified petitioner told him that a man, Charlie G., pulled a gun on him that day and forced petitioner into the car. Charlie G. demanded that petitioner take him to Johnson's apartment. App. 986, l. 16 – 987, l. 16.

Charlie G. was said to be an adversary of victim Johnson. Petitioner said was forced to drive Charlie G. and another gunman to Johnson's apartment. Weston was outside of the apartment, and Charlie G. and the other gunman “[u]sed her as a way to get into the apartment while the third gunman stayed in the car with him [petitioner] holding the gun on him.” While petitioner was forced to stay in the car, he heard gunshots coming from inside the apartment. Petitioner told Smith he was not a participant, much less a willing participant in these crimes. App. 987, l. 1 – 989, l. 24. Smith testified petitioner's admissions were significant because petitioner had gone from denying involvement to “being at the scene. It's pretty significant...” App. 990, ll. 2-13.

On August 15, 2014, the jury convicted petitioner on all counts. App. 1350, l. 17 – 1351, l. 10. Judge Hood noted that “this is a mandatory life without parole case,” since the petitioner had a prior conviction for voluntary manslaughter and for assault and battery with intent to kill which were both most serious crimes. Judge Hood then imposed a sentence of life imprisonment without parole. App. 1360, l. 13 – 1361, l. 1.

Petitioner was represented on appeal by appellate defender Kathrine H. Hudgins. The legal issue on direct appeal was whether the trial judge erred in finding that the exigent circumstances exception to the search warrant requirement applied when he refused to suppress records obtained from a cell phone company without a search warrant or court order. The Court of Appeals affirmed petitioner's convictions in State v. Wallace, 2016-UP-344 (filed June 29,

2016). Appellate counsel Hudgins sought a petition for writ of certiorari from our Supreme Court. Our Supreme Court denied that petition for writ of certiorari on May 30, 2017.<sup>2</sup>

## PCR

Thereafter on July 28, 2017, petitioner filed an application for post-conviction relief. App. 1363-1372. Petitioner alleged, inter alia, that the solicitor committed Brady violations by failing to disclose exculpatory evidence and that his attorneys were deficient. App. 1370-1372. The state filed a return and partial motion to dismiss on July 5, 2018. App. 1373-1387.

An evidentiary hearing was convened on January 11, 2024, before the Honorable Maite Murphy. Kimberly Y. Brooks represented petitioner. D. Russell Barlow, II, was the assistant attorney general. App. 1388.

Petitioner testified that his trial attorneys were not prepared for trial. They were unprepared to cross-examine the state's witnesses, they should have objected to certain testimony, and they failed to present the testimony of witness Brandon Mack and petitioner's brother. Petitioner testified the witnesses not called would have clarified that petitioner was not telling his brother to destroy evidence and they could have presented a defense to counter the state's case. App. 1393, l. 19 – 1398, l. 8.

Petitioner also testified that his attorneys did not go over his discovery with him or he would have been able to assist them by showing certain allegations in the statements were not true. In addition, petitioner complained that his attorneys did adequately challenge the

---

<sup>2</sup> The Court of Appeals in affirming petitioner's convictions, noted our Supreme Court had not directly addressed this legal issue, and cited United States v. Graham, 824 F.3d 421 (4<sup>th</sup> Cir. 2016) which held that the government did not violate the Fourth Amendment by obtaining historical cell-site information from a cell phone provider without a warrant. However, after our Supreme Court denied certiorari from the opinion of the Court of Appeals in this case on May 30, 2017, in Carpenter v. United States, 585 U.S. 296 (2018), the United States Supreme Court made clear that the government's acquisition of the defendant's cell site records was a search within the meaning of the Fourth Amendment.

identification from the photo lineups in his case where investigator Scott McDonald signed and initialed the alleged identification of victim Raquel Weston. App. 1398, l. 6 – 1399, l. 9.

Petitioner also testified that his attorneys were deficient in failing to get a GSR expert to testify that he was negative for gunshot residue following the murders and to emphasize that fact to the jury. App. 1399, l. 10 – 1402, l. 3.

The state chose not to cross-examine petitioner, and it called defense counsel Stephen Krzyston as a witness. Krzyston testified that the defense team chose not to present an expert in GSR because petitioner tested negative for gunshot residue and that was not in dispute. App. 1410, ll. 9-16. Krzyston also testified he did not recall petitioner's brother being a possible witness in this case. App. 1412, ll. 4-18.

Defense counsel Kris Hines was called by the state at the PCR hearing, and she testified that she was a more senior attorney with the public defender's office. She became involved in petitioner's case before trial to assist the more inexperienced attorneys. She testified that her focus at trial was on the firearms evidence and not the gunshot residue evidence. App. 1415, l. 20 – 1416, l. 3.

Defense counsel Lucas Hawks was similarly called by the state, and he testified that he did not remember discussions about calling the witnesses petitioner said should have during his trial. Hawks said that putting up a witness would have changed their apparent strategy of wanting to have last argument by not putting up a case. App. 1418, l. 4 – 1419, l. 7.

Assistant solicitor April Sampson was the last state's witness during the PCR hearing. Sampson testified that the investigator helped the victim initial the photographic lineup identification because the victim had been shot in her right wrist and could not write. She maintained the identification by the victim was not tainted. Sampson said the gunshot residue

evidence was not important because more than six hours had passed before petitioner's hands were swabbed. Sampson also said all discovery was timely turned over to petitioner's defense attorneys prior to trial. App. 1424, l. 2 – 1426, l. 6.

An order of dismissal was filed on September 12, 2024. App. 1430–1477. The order stated that petitioner's trial attorneys were credible and persuasive. App. 1445. The order also stated that petitioner had failed to show that his defense attorneys were ineffective for failing to call available witnesses, particularly since those witnesses were not called to testify during his PCR hearing. App. 1445 – 1448.

In addition, the order noted that a challenge was made to the exigency exception to the search warrant or court order requirement at trial by petitioner's defense team. The order concluded that petitioner's attorneys were not deficient because that legal challenge was unsuccessful. App. 1451 – 1456.

This petition for writ of certiorari follows.

## ARGUMENT

The PCR court erred by denying relief where petitioner proved his trial lawyers were not sufficiently prepared which resulted in them not calling available witnesses to aid in his defense, not retaining a gunshot residue expert, and not rebutting the state's case against him at trial.

A criminal defense attorney has a duty to investigate. Petitioner understands this duty is limited to "a reasonable investigation." See Ard v. Catoe, 372 S.C. 318, 642 S.E.2d 590 (2007) *citing* Thompson v. Wainwright, 787 F.2d 1447, 1450 (11<sup>th</sup> Circuit 1986).

The purpose of conducting a reasonable investigation is to make sure the adversarial testing process works in every criminal case. See Strickland v. Washington, 466 U.S. 668, 690 (1984). At a minimum, counsel has a duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case. See Ard v. State, *supra*.

In this case, petitioner complained that his defense team did not retain a gunshot residue (GSR) expert. That GSR expert could have stressed to the jury that the results of petitioner's GSR test were negative and explained this meant petitioner did not shoot a gun or was not in very close proximity of a gun when it was fired before his hands were swabbed for GSR. This expert testimony would have strongly aided his defense that petitioner was a kidnap victim himself and that he was not an aider or abettor nor the shooter in this case.

In Ard v. State, this Court held that defense counsel was ineffective in his investigation of, and his failure to challenge, the gunshot residue evidence. The same should have been found in this case since petitioner's attorneys were deficient, and petitioner was prejudiced because his defense team did not retain a gunshot residue expert to testify as outlined above.

Further, it was undisputed in this case that petitioner's GSR test was negative, and therefore petitioner not presenting a GSR expert at the post-conviction hearing was not fatal to

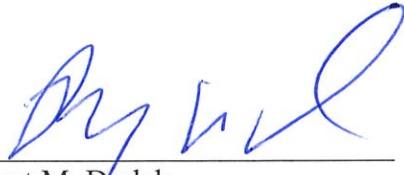
his claim. Cf. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). In Council v. State, 387 S.C. 159, 670 S.E.2d 356 (2008), this Court held that counsel's failure to adequately investigate and present evidence was deficient performance which prejudiced Council.

Defense counsel was also alleged to be ineffective for failure to call petitioner's brother and another witness to rebut the state's evidence that petitioner was a principal in the robbery, kidnapping, and murders in this case. Petitioner alleged that his attorneys' lack of preparation time resulted in an unreasonable investigation into the facts of this case. Petitioner was prejudiced because his defense team was unable to rebut the state's case against him. See United States v. Chronic, 466 U.S. 648 (1984). Again, counsel's decision not to call a witness or investigate must be reasonable. See Davis v. State, 326 S.C. 283, 486 S.E.2d 747 (1987).

In Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998), this Court held that defense counsel was ineffective for failing to call a triage nurse as a defense witness where her notes indicated a lack of penetration of the victim. As in Pauling, the testimony of appellant's brother and the other witness was not necessary at the post-conviction hearing because the trial record shows that petitioner needed these witnesses to rebut the state's case that petitioner was the principal in this crime from the start and that petitioner planned the armed robbery and kidnapping which resulted in the murders. The PCR court here erred by finding the defense team was not deficient and that those deficiencies resulted in prejudice to petitioner. See Ard v. Catoe, 372 S.C. 318, 642 S.E.2d 590 (2007); Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998); Strickland v. Washington, 466 U.S. 668, 690 (1984).

**CONCLUSION**

Based on the foregoing arguments, the petition for writ of certiorari should be granted to allow full briefing on this issue.



---

Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 11th day of April, 2025.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Richland County

Honorable Maite Murphy, Circuit Court Judge

\_\_\_\_\_  
WILLIAM A. WALLACE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

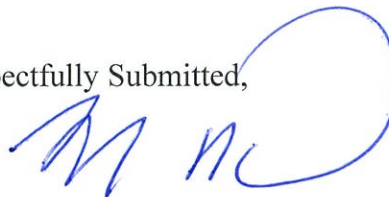
\_\_\_\_\_  
PETITION TO BE RELIEVED AS COUNSEL  
\_\_\_\_\_

Counsel for William Anthony Wallace states:

1. He is Chief 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 Maite Murphy, which was held on Jan. 11, 2024, 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 William Anthony Wallace.

Respectfully Submitted,



\_\_\_\_\_  
Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 11th day of April, 2025.

RECEIVED

Apr 11 2025

S.C. SUPREME COURT

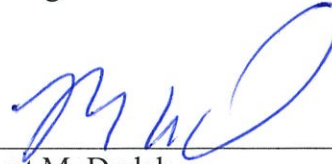
**RECEIVED**

**Apr 11 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."



---

Robert M. Dudek  
Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

This 11th day of April, 2025.