

**IN THE SUPREME COURT OF SOUTH CAROLINA**

Tyrell Woods, Petitioner

v.

State of South Carolina, Respondent

**PETITION FOR WRIT OF CERTIORARI**

Pursuant to Rule 242, SCACR

Respectfully submitted by:

Tyrell Woods

Pro Se Petitioner

SCDC #344913

This petition seeks review of the South Carolina Court of Appeals' denial of certiorari following the denial of post-conviction relief.

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**S.C. SUPREME COURT**

## I. QUESTIONS PRESENTED FOR REVIEW

1. Whether the Court of Appeals erred in denying certiorari where trial counsel rendered constitutionally deficient assistance under the Sixth Amendment by failing to object to fingerprint evidence derived from a known standard (Item 64) that was deemed "no conclusion," which was introduced without proper forensic foundation and silently substituted with a second standard (Exhibit 42).
2. Whether the Court of Appeals misapprehended the constitutional harm resulting from the admission of lay opinion identification testimony by Detective James Lee in violation of Rule 701, SCRE.
3. Whether Petitioner was denied his right to due process and the opportunity to prepare an adequate defense when the State introduced a conspiracy indictment mid-trial without arraignment, proper notice, or service conduct expressly forbidden by *Cole v. Arkansas* and relevant South Carolina precedent.

## II. TABLE OF AUTHORITIES

Anders v. California, 386 U.S. 738 (1967)

Cole v. Arkansas, 333 U.S. 196 (1948)

Evitts v. Lucey, 469 U.S. 387 (1985)

Kimmelman v. Morrison, 477 U.S. 365 (1986)

Strickland v. Washington, 466 U.S. 668 (1984)

State v. Rich, 293 S.C. 172, 359 S.E.2d 281 (1987)

State v. Anderson, 413 S.C. 212, 776 S.E.2d 76 (2015)

State v. Baker, 411 S.C. 583, 769 S.E.2d 860 (2015)

United States v. Garcia, 413 F.3d 201 (2d Cir. 2005)

United States v. Reyes, 18 F.4th 1 (1st Cir. 2022)

United States v. Jackman, 48 F.3d (Cir. 1995)

United States v. Ware, 69 F.4th 830 (11th Cir. 2023)

United States v. Pierce, 136 F.3d 770 (11th Cir. 1998)

United States v. Freeman, 730 F.3d 590 (6th Cir. 2013)

United States v. Lapierre, 998 F.2d 1460 (9th Cir. 1993)

United States v. Beck, 418 F.3d 1008 (9th Cir. 2005)

### **III. BASIS FOR SUPREME COURT REVIEW**

This Court should grant certiorari because the denial by the Court of Appeals leaves serious constitutional errors unrebutted, including ineffective assistance of counsel, evidentiary violations under Rule 701, SCRE, and due process procedural breakdowns. Petitioner raises no new claims but seeks correction of clearly preserved and federally cognizable constitutional violations.

The questions presented implicate precedent from this Court and controlling federal authority. The fingerprint claim mirrors the factual and legal defects analyzed in *State v. Rich*, 293 S.C. 172, 359 S.E.2d 281 (1987), and is supported by *Kimmelman v. Morrison*, 477 U.S. 365 (1986). The improper identification testimony contradicts the strict requirements of Rule 701, SCRE, and due process under the Fourteenth Amendment. The failure to object to the surprise conspiracy charge deprived Petitioner of adequate notice and the opportunity to prepare a defense, as recognized in *Cole v. Arkansas*, 333 U.S. 196 (1948).

#### **IV. STATEMENT OF THE CASE**

Petitioner and his uncle, Marco Sanders, were convicted in May 2014 following a jury trial in Marion, South Carolina. His conviction stemmed from allegations of murder, attempted murder, armed robbery, first-degree burglary, possession of a weapon during the commission of a violent crime, and criminal conspiracy, despite a record that reflects glaring procedural violations and evidentiary deficiencies.

No eyewitness identified Petitioner at trial. The sole identification derived from Detective Lee's lay opinion testimony based on a single fleeting encounter with Petitioner when he was a minor of age 14, five years prior to the crime that Petitioner was the individual depicted in the surveillance footage. (App. 91)

In addition, the trial court allowed a criminal conspiracy charge to be added mid-trial without arraignment, proper notice, or service of indictment. (App. 154-155) Appellate counsel failed to raise the meritorious issue on appeal. (App. 1065)

To compound this, the fingerprint evidence relied on Item 64, allegedly Petitioner's known fingerprint standard already on file which was deemed inconclusive by SLED due to poor quality. (App. 1139) Rather than disclose this to the jury, the State introduced a new standard (State's Exhibit 42) obtained from Petitioner after a Schmerber hearing. (App. 773-77) The jury was never informed the original standard had failed. Trial counsel failed to object, move to suppress, or effectively cross-examine the forensic examiner regarding the unreliability and need for a substitution. This silent switch deprived the jury of necessary context and violated foundational evidentiary principles.

Petitioner appealed. His appellate counsel filed an appellate brief with a motion to be relieved pursuant to *Anders v. California*, 386 U.S. 738 (1967). (App. 841-854) Petitioner filed for post-conviction relief, citing ineffective assistance of trial and appellate counsel, on March 8, 2017, which was denied after an evidentiary hearing. (App. 874-892) A petition for writ of certiorari was filed to this Court and transferred to the Court of Appeals under Rule 243, SCACR. The Court of Appeals denied the certiorari petition without opinion on May 7, 2025. Petitioner now seeks review by this Court.

## V. ARGUMENTS

### **Argument I. The Court of Appeals Erred in Upholding the Admission of Improper Lay Opinion Identification Testimony by Detective Lee in Violation of Rule 701, SCRE**

Detective Lee's testimony of Petitioner was without foundation and in direct violation of Rule 701, SCRE, which requires lay opinion testimony to be: (1) rationally based on the witness's perception; (2) helpful to a clear understanding of the testimony or the determination of a fact at issue; and (3) not based on scientific, technical, or other specialized knowledge. "These requirements are conjunctive; failure to meet a single prong renders the testimony inadmissible." See *United States v. Garcia*, 413 F.3d 201, 211 (2d Cir. 2005); *United States v. Reyes*, F.4th 1, 21 (1st Cir. 2022).

Detective Lee had only seen Petitioner once, five years prior to the crime. His only fleeting encounter with Petitioner occurred when Petitioner was a 14-year-old minor. (App. 91) Detective Lee testified that he did not rely on any distinguishing features such as tattoos, scars, or other unique identifiers as a basis for his identification. (App. 92) His identification relied on general characteristics and weapons. When asked what else he focused on besides weapons, he testified, "That was it." (App. 94) Furthermore, Detective Lee's encounter with Petitioner occurred in an office setting at the Marion County Sheriff's Office. He had never seen Petitioner walk or observed him in the community. (App. 103) The surveillance footage was brief, depicting the perpetrators walking outdoors and relying overwhelmingly on physique. (State's Exhibit 1)

Detective Lee's testimony lacked the personal knowledge and temporal proximity requisite for reliability. Petitioner was nearly 20 years old at the time of the crime and no longer resembled his 14-year-old self. This was not a contemporaneous identification, nor one based on any meaningful or recent perception. It amounted to an improper narrative opinion bolstered by the color of law enforcement authority.

Numerous courts have held that admissible lay opinion identification requires substantial, sustained contact or recent familiarity. See *United States v. Jackman*, 48 F.3d 1 (1st Cir. 1995); *United States v. Ware*, 69 F.4th 830 (11th Cir. 2023); *United States v. Pierce*, 136 F.3d 770 (11th Cir. 1998); *United States v. Freeman*, 730 F.3d 590 (6th Cir. 2013). In *United States v. Lapierre*, 998 F.2d 1460 (9th Cir. 1993), the court held such testimony inadmissible where officers were permitted to give lay opinion identifications from surveillance footage. Similarly, in *United States v. Beck*, 418 F.3d 1008 (9th Cir. 2005), the court cautioned against allowing such identifications that sway the jury through the perceived authority of law enforcement.

**Argument II. The Court of Appeals Misapprehended the Due Process Violation Arising from the Mid-Trial Introduction of a Conspiracy Charge Without Arraignment, Proper Notice, or Warrant**

The State introduced a new conspiracy charge mid-trial against Petitioner without proper notice, warrant, or arraignment. This blindsided the defense, altered the trial's trajectory, and deprived Petitioner of the opportunity to investigate, prepare, or confront the new allegations each of which is a due process right under the Fourteenth Amendment.

The United States Supreme Court has long held that a conviction under an uncharged legal theory violates due process. See *Cole v. Arkansas*, 333 U.S. 196 (1948). Similarly, in *Evitts v. Lucey*, 469 U.S. 387 (1985), the Court reaffirmed that meaningful appellate review of trial error is part of the constitutional right to due process.

The trial court never ruled on defense counsel's objection to the surprise conspiracy charge. (App. 662) The prosecution proceeded to present the charge to the jury without procedural safeguards, and appellate counsel failed to raise this pivotal issue on appeal.

This failure undermines the adversarial process and the State's procedural norms. In *State v. Baker*, 411 S.C. 583, 769 S.E.2d 860 (2015), the Court emphasized the necessity of procedural compliance when amending charges. There, failure to provide timely notice prejudiced a defendant's ability to defend against the State's case, especially where new charges introduce new elements or factual disputes.

Here, the conspiracy charge was not merely an amplification it introduced an entirely new legal theory. Petitioner was never indicted, served, or arraigned on the charge. The defense received no discovery or bill of particulars. The mid-trial charge violated Petitioner's rights to notice and to prepare a defense.

Had appellate counsel challenged this, there is a reasonable probability the conviction would have been overturned under *Cole* and *Baker*. Failure to raise the issue constitutes ineffective assistance. See *Evitts v. Lucey*, 469 U.S. 387 (1985). The PCR court's disregard of this claim misapprehends controlling law.

### **Argument III. The Court of Appeals Overlooked the Foundational Collapse of the Fingerprint Evidence and Misapprehended the Constitutional Magnitude of Trial Counsel's Failures—A Violation of Both Strickland and South Carolina Law**

The Court of Appeals failed to properly consider the unreliability and inadmissibility of the State's sole forensic evidence: the fingerprint comparison testimony offered by Agent Thomas Darnell. The evidence was not merely weak it was inadmissible under both South Carolina evidentiary law and federal constitutional standards. Trial counsel's failure to object, move to suppress, investigate, or effectively cross-examine the expert denied Petitioner effective assistance of counsel and allowed the inadmissible evidence to form the sole physical link between Petitioner and the crime.

The State's own documentation from the SLED Forensic Laboratory shows that Item 64, alleged to be Petitioner's known fingerprint standard on file, returned a "No Conclusion" result "due to the quality of Item 64" when compared with Item 3.1. (App. 1139) This prompted SLED to request additional prints, which the State obtained pursuant to Schmerber. (App. 773-77)

This new standard was identified as Item 106, "major case prints bearing the name Woods, Tyrell received from S/A Scott Hardee," in the SLED Forensic Lab report. (App. 1161) This new standard was then used to draw comparisons from Item 3.1, where SLED rendered a positive match. (App. 1161) This clearly establishes the unreliability of Item 64.

The SLED report further reflects that Item 64 was the standard originally used to compare prints from multiple items of evidence, including the duct tape retrieved from the victim. (App. 1148-1150) Nonetheless, it was State's Exhibit 42 the new standard that was introduced at trial as if it were the sole standard used. (App. 621)

Agent Darnell testified that State's Exhibit 42 was the standard he used to compare the prints. (App. 621, 628-631) In fact, this was not true. The forensic comparison had already failed using Item 64, and the jury was never informed of this. No explanation, no chain of custody, and no methodology were presented to justify the switch. This silent substitution deprived the defense of any ability to challenge the reliability of the results.

This violates clearly established South Carolina evidentiary law. In *State v. Rich*, 293 S.C. 172, 359 S.E.2d 281 (1987), this Court held that hearsay does not absolve the offering party from foundational authentication. In *State v. Anderson*, 413 S.C. 212, 776 S.E.2d 76 (2015), the Court emphasized that expert testimony based on unverified evidence must be excluded.

Trial counsel never consulted a fingerprint expert, never requested forensic analysis comparing Item 64 and Exhibit 42, and never effectively cross-examined Agent Darnell. Such failures are constitutionally ineffective under *Strickland v. Washington*, 466 U.S. 668 (1984), and fall squarely within the scope of *Kimmelman v. Morrison*, 477 U.S. 365 (1986), where the Court held that counsel's failure to challenge faulty forensic evidence violated the Sixth Amendment.

The Court of Appeals' failure to acknowledge this collapse in foundational reliability and trial counsel's utter failure to challenge it constitutes reversible constitutional error. The State's reliance on a fabricated chain of inference from a known unreliable standard (Item 64) to a replacement (State's Exhibit 42) created an illusion of forensic certainty and allowed critical evidence to enter trial without adversarial testing.

Because the fingerprint testimony was the only forensic link between Petitioner and the crime scene, its admission without proper foundation was not harmless but structural. No eyewitness placed Petitioner at the scene. No co-defendant testified. The entire conviction rested on this unchallenged evidence.

## **VI. CONCLUSION**

The Constitution does not permit a conviction built on forensic misdirection, unqualified identification testimony, and a charge never presented in the original indictment. Yet that is precisely what occurred here. The jury was never told that the original fingerprint standard failed. It was shown a replacement set of prints with no disclosure or forensic context.

The only identification came from a law enforcement officer who had only one fleeting encounter with Petitioner when he was a 14-year-old minor, five years prior to the crime, and who testified without meeting the foundational requirements of Rule 701, SCRE.

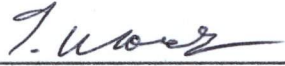
And in the middle of trial, Petitioner was confronted with a conspiracy charge for which he had never been indicted, notified, or arraigned stripped of his right to prepare a defense.

These are not isolated or technical errors. They are structural failures that fundamentally altered the nature of the trial, violated core tenets of due process, and rendered the adversarial process meaningless. The denial of certiorari by the Court of Appeals without explanation has left these violations unremedied and un rebutted. This is precisely the kind of judicial abdication that Rule 242 was designed to correct.

Petitioner seeks constitutional review of preserved, documented violations that strike at the heart of the Sixth and Fourteenth Amendments. To deny review here would be to silently endorse trial by ambush, forensic substitution without scrutiny, and identification based on memory stretched beyond legal reliability.

For these reasons, Petitioner respectfully asks that this Honorable Court grant certiorari, review the record in full, and intervene to restore the integrity of a conviction rendered unconstitutional. Reverse the decision of the Court of Appeals and vacate the conviction or, in the alternative, remand the case for a new trial or evidentiary hearing consistent with the constitutional violations presented. Petitioner further requests any other relief this Court deems just and proper to preserve the integrity of the judicial process and ensure due process under the law.

Respectfully submitted,



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