

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jun 17 2025**

S.C. SUPREME COURT

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Certiorari to the Court of Appeals  
Appeal from Greenville County  
Honorable Robin B. Stilwell, Circuit Court Judge

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Opinion No. 2025-UP-077 (S.C. Ct. App. Filed March 5, 2025)  
Lower Court Case No. 2016-CP-23-07610

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WILLIE M. WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000929

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REPLY TO RETURN TO PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF APPEALS

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INDEX

INDEX.....i

QUESTION PRESENTED.....1

ARGUMENTS IN REPLY

**The Court of Appeals erred in reversing the PCR court’s grant of relief by finding no prejudice resulting from trial counsel’s failure to object to the unwarranted mutual combat charge that prevented the jury from considering both self-defense and accident and the State’s evidence was not overwhelming.....2**

CONCLUSION.....6

**QUESTION PRESENTED**

1. Whether the Court of Appeals erred in reversing the PCR court's grant of relief by finding no prejudice resulting from trial counsel's failure to object to the unwarranted mutual combat charge that prevented the jury from considering both self-defense and accident and the State's evidence was not overwhelming?

## ARGUMENTS IN REPLY

- 1. The Court of Appeals erred in reversing the PCR court's grant of relief by finding no prejudice resulting from trial counsel's failure to object to the unwarranted mutual combat charge that prevented the jury from considering both self-defense and accident and the State's evidence was not overwhelming.**

The PCR court correctly found that Petitioner was prejudiced by trial counsels' deficient performance in failing to object to the mutual combat jury instruction when there was no evidence of mutual combat. The PCR court correctly found prejudice resulting from the unwarranted mutual combat instruction because it negated Williams' self-defense claim writing:

In Taylor the Court found that:

Although the court charged self-defense properly in Petitioner's case, that charge was negated by the court's unwarranted charge on mutual combat. We find that the court's mutual combat charge acted as a limitation on the petitioner's ability to claim self-defense, and prejudiced him by transferring the State's burden to disprove self-defense onto the Petitioner, forcing him to prove self-defense. Id. at 235.

The same is true in the case at bar. The mutual combat charge had the impact of negating the self-defense charge, and Mr. Williams was in fact prejudiced thereby.

Further, both trial counsel testified at the Post Conviction Relief hearing that they were not familiar with the holding in Taylor. This case was tried on May 13-14, 2013. Taylor had been the law of our state for over 10 years. A reasonable criminal defense attorney should have been knowledgeable concerning the application of Taylor. In addition, even if trial counsel were not familiar with Taylor, the evidence in this case does not support mutual combat. Giving due deference to the credibility issues, the evidence does not indicate that Mr. Wilson and Mr. Williams intended to engage in mutual combat. The evidence did not support mutual combat, and trial counsel should have objected to such a charge. Under this charge, the jury was unable to fairly consider the Defendant's claim of self-defense.

The Applicant has, therefore, met his burden of proof with respect to the Mutual Combat charge.

(App. pp. 912-913). The fact that Petitioner relied on a combination of self-defense and accident enhances the prejudice resulting from the unwarranted mutual combat charge as the charge negates

both. If Petitioner had engaged in mutual combat, he would not be without fault and would not be entitled to self-defense. If Petitioner was not acting lawfully in self-defense because of mutual combat, he would not be entitled to an accident defense. Petitioner, however, was not engaged in mutual combat. The unwarranted mutual combat instruction negated both self-defense and accident.

The Court of Appeals, however, found Petitioner failed to show prejudice writing:

We hold there is no reasonable probability the result of the trial would have been different had trial counsel objected to the trial court's mutual combat charge given the evidence presented. See Jackson v. State, 355 S.C. 568, 573, 586 S.E.2d 562, 565 (2003) (reversing the PCR court's grant of PCR, finding that although counsel was deficient for failing to request a self-defense charge, the instruction would not have affected the outcome of trial given the overwhelming evidence presented of Jackson's guilt). Williams testified he was served notice of a July 13, 2010 court hearing for an order of protection Kerns sought against him and for child support. He stated Kerns had told him she was afraid of him and had called the police because she said he was threatening her during an argument they had in May 2010. Booker recalled Williams leaving her and her aunt abruptly at a club in the early morning of July 10, 2010. On the recording of her 911 call, Kerns stated she believed Williams was on her front porch. Seconds later, a loud noise was heard and Kerns stopped responding to the 911 operator. Kerns was shot through the front window of her home. Taken together with Williams's testimony, the 911 call contradicted his version of events. Wilson and Son testified that Wilson was in Son's room when Williams entered Kerns's house and began shooting, contradicting Williams's testimony that Wilson approached him outside the house with a gun and that the shooting occurred while they fought. Williams also switched cars when he returned home, led police on a high-speed chase, and stabbed himself with a knife after an officer hit his car with a patrol car to force him to stop. Additionally, Officers found bullets of the same caliber as those used in the shooting in Williams's house in Laurens. Given the evidence presented during the trial, we hold there is no reasonable probability the outcome of the trial would have been different had the trial court not given the mutual combat charge. Accordingly, we reverse the PCR court's grant of PCR.

Williams v. State, No. 2025-UP-077, at 6-7.

The present case is distinguished from Jackson v. State, 355 S.C. 568, 573, 586 S.E.2d 562, 565 (2003), because the State's evidence in the present case was not overwhelming. None of the State's evidence discussed by the Court of Appeals above precludes a finding by the jury that Petitioner acted in self-defense and then the gun discharged accidentally. In contrast, in Jackson

the deceased was shot six times, once in the back. At least four of the gunshot wounds were made from a downward angle. Importantly, in the present case, Wilson, who had a superficial laceration noted to the right side of his head on the night of the shooting, testified that he never left the house but regained consciousness and checked on Kerns, the deceased, when the police arrived. (App. p. 296, lines 6 – p. 297, lines 1-15). The parties stipulated, however, that Wilson’s bloody handprint was found on the trunk of a car parked outside behind Kerns’ house. (State’s Exhibit #59).


The evidence in the present case was not overwhelming so as to preclude a finding of prejudice. As this Court wrote in Smalls, “However, for the evidence to be “overwhelming” such that it categorically precludes a finding of prejudice—as we found it did in *Rosemond* and *Harris*—the evidence must include something conclusive, such as a confession, DNA evidence demonstrating guilt, or a combination of physical and corroborating evidence so strong that the *Strickland* standard of ‘a reasonable probability ... the factfinder would have had a reasonable doubt’ cannot possibly be met.” 422 S.C. at 191, 810 S.E.2d at 845. The credibility of Petitioner’s explanation was an issue to be decided by the jury without the unwarranted mutual combat charge that prevented the jury from considering self-defense or accident.

The Court of Appeals failed to consider the specific impact of counsel’s error on Petitioner’s defenses of self-defense and accident and instead focused solely on the State’s evidence, that, as discussed above, was not overwhelming. The unwarranted mutual combat charge in the present case prevented the jury from considering self-defense and accident. The State’s evidence does not eliminate the reasonable probability that the result of the trial would have been different had trial counsel objected to the charge. See Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018); Simmons v. State, 331 S.C. 333, 503 S.E.2d 164 (1998). The PCR court correctly found that Petitioner met his burden of demonstrating prejudice as a result of counsels’

failure to object to the unwarranted mutual combat charge. The Court of Appeals erred in reversing the finding of prejudice by the PCR court that was supported by the record.

**CONCLUSION**

Based on the above arguments, this Court should grant the petition for writ of certiorari to allow further briefing on the issues.

  
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Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 17<sup>th</sup> day of June, 2025.