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**Jun 20 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Richland County

Honorable Daniel McLeod Coble, Circuit Court Judge

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KEYLAN J. DURHAM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001507

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BRIEF OF PETITIONER

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**TABLE OF CONTENTS**

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ..... ii

ISSUE PRESENTED.....1

STATEMENT.....2

STANDARD OF REVIEW .....4

ARGUMENT

The PCR court erred where it found Petitioner was not prejudiced despite counsel’s deficient performance, where counsel failed to object to the trial court’s instruction that the jury could infer malice from the use of deadly weapon, since the jury could have improperly concluded Petitioner was guilty of attempted murder solely because he struck Officer Brown with a car, a deadly weapon.....5

Relevant facts.....5

Discussion.....10

CONCLUSION.....17

## TABLE OF AUTHORITIES

### **Cases**

<i>Bailey v. State</i> , 392 S.C. 422, 709 S.E.2d 671 (2011) .....	13
<i>Battle v. State</i> , 382 S.C. 197, 675 S.E.2d 736 (2009).....	13, 16
<i>Hill v. State</i> , 350 S.C. 465, 567 S.E.2d 847 (2002) .....	13
<i>Johnson v. State</i> , 325 S.C. 182, 480 S.E.2d 733 (1997) .....	13
<i>Patrick v. State</i> , 349 S.C. 203, 562 S.E.2d 609 (2002).....	13
<i>Sandstrom v. Montana</i> , 442 U.S. 510 (1979) .....	11
<i>Sellner v. State</i> , 416 S.C. 606, 787 S.E.2d 525 (2016) .....	4
<i>Smalls v. State</i> , 422 S.C. 174, 810 S.E.2d 836 (2018).....	4, 13, 16
<i>State v. Belcher</i> , 385 S.C. 597, 685 S.E.2d 802 (2009).....	passim
<i>State v. Blurton</i> , 352 S.C. 203, 573 S.E.2d 802 (2002) .....	12
<i>State v. Brown</i> , 443 S.C. 196, 904 S.E.2d 448 (2024) .....	11
<i>State v. Burdette</i> , 427 S.C. 490, 832 S.E.2d 575 (2019) .....	9, 10, 11, 12
<i>State v. King</i> , 422 S.C. 47, 810 S.E.2d 18 (2017).....	12
<i>State v. Knoten</i> , 347 S.C. 296, 555 S.E.2d 391 (2001).....	12
<i>State v. Rothell</i> , 301 S.C. 168, 391 S.E.2d 228 (1990).....	12
<i>State v. Smith</i> , 430 S.C. 226, 845 S.E.2d 495 (2020) .....	11
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984) .....	12, 14, 16
<i>Thompson v. State</i> , 423 S.C. 235, 814 S.E.2d 487 (2018).....	14

### **Statutes**

S.C. Code Ann. § 16-3-29.....	12
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### **Constitutional Provisions**

U.S. CONST. amend. VI .....	12
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**ISSUE PRESENTED**

Whether the PCR court erred where it found Petitioner was not prejudiced despite counsel's deficient performance, where counsel failed to object to the trial court's instruction that the jury could infer malice from the use of deadly weapon, since the jury could have improperly concluded Petitioner was guilty of attempted murder solely because he struck Officer Brown with a car, a deadly weapon?

## STATEMENT

During the March 2016 term, a Richland County Grand Jury indicted Petitioner, Keylan Durham, for two counts of attempted murder, two counts of kidnapping, two counts of attempted armed robbery, carjacking, first-degree assault and battery, and possession of a weapon during the commission of a violent crime. Petitioner was also charged with an additional count of attempted murder. App. 871 – 888; App. 16, ll. 7-10. Petitioner was tried before the Honorable Clifton Newman and a jury, from April 11 – 14, 2016. Petitioner was represented by Tracy Pinnock, Rhodes Bailey, and Rebecca Williams. Luck Campbell, John Steadman, and J.J. Shellenburg prosecuted the case. App. 1.

Petitioner was tried for an August 4, 2014, incident. Those offenses were: carjacking, two counts of attempted armed robbery, two counts of kidnapping, possession of a weapon during the commission of a violent crime, and one count of first-degree assault and battery (against Marck Drastich). App. 288, l. 24 – 289, l. 14; App. 871 – 876; App. 881 – 888. Petitioner was simultaneously tried for an August 6, 2014, incident. Those offenses were: one count of attempted murder (against Officer Marcus Brown), a second count of attempted murder (against Officer Keith Thrower), and a third count of attempted murder (against Officer Justin Britt). App. 877 – 880; App. 20, ll. 10-17; App. 757, ll. 3-20.

As to the August 6, 2014, incident, Petitioner was convicted of one count of attempted murder (against Officer Marcus Brown). Petitioner was found *not* guilty of a second count of attempted murder (against Officer Keith Thrower), and on the third count of attempted murder, he was convicted of the lesser-included offense of first-degree assault and battery (against Officer Justin Britt). As to the August 4, 2014, incident, Petitioner was found guilty of two counts of kidnapping, two counts of attempted armed robbery, carjacking, first-degree assault

and battery (as to Marck Drastich) and possession of a weapon during the commission of a violent crime. App. 757, ll. 3-21. He was, respectively, sentenced to serve concurrent terms of imprisonment of twenty-four years, ten years, twenty-two years, twenty-two years, twenty years, twenty years, twenty years, ten years, and five years. App. 782, l. 11 – 785, l. 11; App. 889 – 896.

On February 26, 2019, after exhausting his remedies on direct appeal, Petitioner filed an application for post-conviction relief (PCR). App. 788 – 796. On or about April 12, 2019, Petitioner filed an amended application. App. 797 – 798. On July 15, 2019, the State made its return. App. 799 – 807. A hearing was held on the matter before the Honorable Daniel Coble on May 9, 2023. Michael Lifsey represented Petitioner. D. Russell Barlow, II, represented the State. App. 808. On September 12, 2023, the PCR court issued an order of dismissal. App. 847.

On September 21, 2023, Petitioner served his notice of intent to appeal. Petitioner filed a petition for writ of certiorari. The State made its return. The Supreme Court transferred the case to this Court on August 7, 2024, pursuant to Rule 243(1), SCACR. This Court granted the petition for writ of certiorari.

This brief of petitioner follows.

## **STANDARD OF REVIEW**

The standard of review in PCR cases depends on the specific issue raised on appeal. *Smalls v. State*, 422 S.C. 174, 180-181, 810 S.E.2d 836, 839–40 (2018). The reviewing court must defer to a PCR court’s findings of fact and will uphold them if there is evidence in the record to support them. *Id.* (citing *Sellner v. State*, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016)). However, the appellate court reviews questions of law de novo, with no deference to the PCR court. *Id.*

## ARGUMENT

The PCR court erred where it found Petitioner was not prejudiced despite counsel's deficient performance, where counsel failed to object to the trial court's instruction that the jury could infer malice from the use of deadly weapon, since the jury could have improperly concluded Petitioner was guilty of attempted murder solely because he struck Officer Brown with a car, a deadly weapon.

The PCR court correctly concluded counsel's performance was deficient, since counsel did not object to an erroneous jury instruction, and this failure was admittedly not strategic. However, the PCR court's determination that Petitioner did not show prejudice was error. Petitioner was prejudiced because there was a reasonable likelihood the improper instruction relieved the State of its burden of proof on malice.

### ***Relevant facts***

Petitioner was convicted of one count of attempted murder (against Officer Marcus Brown) in the August 6, 2014, incident. This count is the subject of the ineffective assistance of counsel claim in this brief. It was on this charge that Petitioner was ultimately sentenced to the most time (twenty-four years). Petitioner's other convictions are not affected by this argument.

Petitioner was wanted for the August 4, 2014, carjacking of Marck Drastich and Lashonda Edwards. On August 6, 2014, a group of law enforcement officers went to Petitioner's girlfriend's home at Brook Pines Apartments to try to apprehend him. App. 288, l. 24 – 291, l. 15; App. 256, l. 16 – 257, l. 20.

A number of officers from different law enforcement entities were present. Several police officers witnessed what happened next. So did two disinterested witnesses, Dereka Brown and Marcus Harvey, residents of the complex who were out on their balcony nearby. In

sum, Petitioner's car parked. The police tried to block him in. Petitioner briefly got out and then reentered his car. Petitioner reversed the car at an angle to try to get away, and the bumper hit Officer Marcus Brown's arm and leg; the mirror hit his arm. Officer Brown began shooting. Petitioner's car continued to reverse at high speed before hitting a tree, coming back down off the tree, and continuing in reverse until hitting a telephone pole. Petitioner was shot in the arm. He crawled into the back seat. Petitioner and the passenger were removed from the car. App. 297, ll. 1-12; App. 292, l. 2 – 295, l. 6; App. 548, ll. 3-10.

Officer Keith Thrower said he was almost hit by Petitioner's car after it "launched off" of the tree but before it hit the telephone pole. App. 327, l. 3 – 329, l. 8. Officer Justin Britt also said Petitioner's car came at him twice, both before and after it "bounce[d] off the tree." Thrower and Britt both fired shots at the car. Neither man was struck by Petitioner's car. App. 450, l. 17 – 453, l. 25; App. 327, ll. 7-15. However, Officer Brown had injuries to his hand, shoulder, and arm from being hit by the car. App. 296, ll. 5-19.

Officer Marcus Brown testified his partner parked their car behind Petitioner "catercornered" to try to block him in. App. 292, ll. 2-11. "As I got out of the vehicle, I said police. As I was getting out of the car to run toward the vehicle, then I stopped when I saw those lights. I said police. As he looked in the mirror, put it in gear, gun the motor and came back at me, then I tried to jump out of the way." App. 297, ll. 1-5.

Q And you mentioned you tried to jump out of the way as best you could, but what part of the car struck you?

A The actual—the rear bumper actually hit my right leg and spun me around to my back was up against the—the car I was in. And then the side of the vehicle as he was trying to angle his car out to, I guess, avoid our vehicle, The front bumper and mirror hit my left arm.

Q And if you had not gotten out of the way would that car have hit you straight on?

A Oh, yes, it would have definitely ran straight over me.

App. 297, ll. 6-16.

Dereka Brown was a disinterested witness out on her balcony. Dereka Brown testified as follows.

Q Tell me what you saw.

A Well, when they pulled in and first they pull in, I guess, they was trying to set him up. He was – once he pulled in and he parked, they told him to get out the vehicle. He got out, but he got back in.

...

A He got in—I mean, he got out and he got back in, And he backed out and they just spin back.

Q And did you see the officer get out of his vehicle?

A He got out of his vehicle and stood up beside the vehicle when they backed up. The person stood in front of him and they got back in.

...

**Q When you saw the vehicle back up was the officer standing in the way of the vehicle?**

**A He was on the side.**

Q And then what did he do after that?

**A He backed up out of control, he shot.**

Q And what do you mean out of control, how was that person driving?

A He was wild, they just backed up.

Q And did you see it hit the tree?

A Yeah.

Q Then what happened once it hit the tree?

A He hit the tree. He spin out again, hit the brown vehicle. Then he hit the light pole. After that, they open—the other officers came toward the car and open the door and someone fell out.

App. 503, l. 12 – 505, l. 24 (emphasis added).

Marcus Harvey, the second disinterested witness, was on the balcony with Dereka Brown. According to Marcus Harvey: “The police told him to get out put his hands up. He threw the car in reverse and almost hit the police, that’s when the police fired his rounds. He hit the tree. And while he was still firing rounds, he hit the pole. And then after that he pulled the dude out of the backseat. App. 508, l. 16 – 509, l. 19. Harvey said the driver was “a little reckless.” App. 510, ll. 8-11.

Investigator John Moore, who interrogated Petitioner, was asked whether he questioned Petitioner about “why he was trying to get away,” and Moore stated: “I think he was just paranoid and he’s trying to get away from the police at that point.”<sup>1</sup> App. 572, ll. 13-15; App. 574, ll. 1-3.

In closing arguments, defense counsel argued Petitioner did not have the requisite intent for attempted murder. “He pulled out to run, not kill somebody. That is one step away from murder, putting a car in reverse to run away is not one step away from murder. It’s not trying to kill somebody. His intent was to run away and that’s what y’all’s question is . . . his thinking was he was going to run.” App. 728, l. 8 – 729, l. 4. The Court instructed the jury that: “Malice may also be inferred when the deed is done with a deadly weapon.” App. 744, ll. 13-14. Defense counsel did not object. App. 755, ll. 17-20.

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<sup>1</sup> During sentencing, it came out that at the time of the crimes, Petitioner was using a “mixture” of “street drugs.” He was given “anti-hallucination drugs” by medical staff at the jail. App. 779, l. 16 – 782, l. 3.

During her testimony at the PCR hearing, defense counsel agreed that the defense's theory of the case was that "the police provoked some of this[.]" App. 842, l. 21 – 843, l. 8. "You know, they responded to the scene with twenty-plus different law enforcement, jumped in front of a moving car, and then claimed that their lives had been threatened when they were the ones that jumped in front of the moving car." App. 843, ll. 3-7. Trial counsel testified that she was aware of *State v. Belcher*, 385 S.C. 597, 685 S.E.2d 802 (2009), *overruled by State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019), which held that the jury should not be instructed it could infer malice from the use of a deadly weapon when there were circumstances that could reduce, excuse, justify, or mitigate the offense. As seen, this case was tried in 2016, but the trial court erroneously instructed the jury it could infer malice from a deadly weapon. Counsel said she "missed" the objection: "I just missed it." App. 843, l. 9 – 845, l. 1; App. 838, ll. 3-13. In summation, PCR counsel argued trial counsel provided ineffective assistance of counsel when she failed to object to the erroneous jury instruction. App. 844, l. 21 – 845, l. 1.

The PCR court's order of dismissal stated that the PCR court found trial counsel's testimony at the hearing to be credible. App. 857. The order addressed the allegation that counsel was "ineffective of failing to object to the trial court's jury instruction that it could infer malice from the use of a deadly weapon." App. 863. The order stated that the PCR court found counsel's performance *was* deficient, since counsel "did not articulate a valid strategy in not objecting to the jury charge. Thus, this Court finds Trial Counsel was deficient for not objecting to the jury charge." App. 865. "This Court finds that Trial Counsel erred in failing to argue that the lower court should not have given the inference of malice instruction regarding a deadly weapon when evidence was presented that could reduce, excuse, justify or mitigate the homicide." App. 864.

However, the order stated that, “this Court cannot find that Applicant suffered any prejudice from the erroneous jury charge . . . Applicant was charged with three counts of attempted murder, and the jury only found Applicant guilty of one count of attempted murder.” App. 865. “Importantly, the jury convicted Applicant of the lesser included assault and battery—1<sup>st</sup> on one of the attempted murder charges and acquitted Applicant on the other attempted murder charge.” App. 865. “This Court highlights the jury’s conviction of the lesser included assault and battery—1<sup>st</sup> because malice is not an element of this charge. This Court finds there is not a reasonable likelihood that the jury applied the improper instruction in a way that violates the constitution.” App. 865 (emphasis in original).

The order also cited to Officer Brown’s testimony that the driver looked in the mirror before putting the car in gear and “coming straight back for me.” App. 866. The order continued, “Moreover, the implied malice from the use of a deadly weapon was not the only implied malice evidence presented at the trial.” App. 866. “[M]alice, in this case, was not proven solely or necessarily from the use of a deadly weapon—because a vehicle is not necessarily a deadly weapon—rather, malice is implied from the Applicant’s actions when he made the decision to put the vehicle in reverse and gun it in the direction of Brown.” App. 867.

### ***Discussion***

It was long the practice for trial courts “to charge juries in any murder prosecution that the jury may infer malice from the use of a deadly weapon.” *State v. Belcher*, 385 S.C. 597, 600, 685 S.E.2d 802, 803 (2009), *overruled by State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019). However, in 2009, the South Carolina Supreme Court held that “a jury charge instructing that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina where evidence is presented that would reduce, mitigate, excuse or justify the

homicide.” *Belcher*, 385 S.C. at 600, 685 S.E.2d at 803–04. This was because “malice includes the absence of justification, excuse and mitigation.” *Id.* at 609, 685 S.E.2d at 808 (citation omitted). “The absence of justification, excuse or mitigation cannot be inferred from the use of a deadly weapon standing alone.” *Id.* “[W]e hold that the “use of a deadly weapon” implied malice instruction has no place in a murder (or assault and battery with intent to kill) prosecution where evidence is presented that would reduce, mitigate, excuse or justify the killing (or the alleged assault and battery with intent to kill).” *Id.* at 610, 685 S.E.2d at 809 (footnote omitted). “[W]e are firmly convinced that instructing a jury that ‘malice may be inferred by the use of a deadly weapon’ is confusing and prejudicial where evidence is presented that would reduce, mitigate, excuse or justify the homicide.” *Id.* at 611, 685 S.E.2d at 809. *See also Sandstrom v. Montana*, 442 U.S. 510, 517 (1979) (analyzing whether a jury instruction violated the Due Process Clause because of improper burden shifting by asking whether “a reasonable jury could well have interpreted” the instruction to relieve the State of its burden of proof).<sup>2</sup>

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<sup>2</sup> Three years after Petitioner’s trial, the South Carolina Supreme Court held that “regardless of the evidence presented at trial, a trial court shall no longer instruct a jury that malice may be inferred from the use of a deadly weapon.” *State v. Burdette*, 427 S.C. 490, 493, 832 S.E.2d 575, 577 (2019). “A jury instruction that malice may be inferred from the use of a deadly weapon is an improper court-sponsored emphasis of a fact in evidence—that the deed was done with a deadly weapon—and it should no longer be permitted.” *Id.* at 503, 832 S.E.2d 582. The Court has continued to explain that inferred malice instructions involve the trial court improperly commenting on the facts of the case. *See State v. Brown*, 443 S.C. 196, 199, 904 S.E.2d 448, 450 (2024) (discussing a “lengthy line of cases in which we have invalidated . . . inferred malice jury instructions and other instructions involving the trial court’s improper commentary on the facts of a case”); *State v. Smith*, 430 S.C. 226, 233, 845 S.E.2d 495, 498 (2020) (“By requesting the felony attempted-murder charge after Smith had already conceded guilt to the predicate felonies, the State essentially eliminated its own burden to prove all of the elements of attempted murder beyond a reasonable doubt, specifically that Smith acted with malice aforethought. For a constitutional error of this magnitude, ‘We need go no further than saying we cannot conclude the error was harmless beyond a reasonable doubt.’”) (quoting *Belcher*, 385 S.C. at 611, 685 S.E.2d at 809).

Subsequent to *Belcher*, through the passage of the Omnibus Crime Reduction and Sentencing Reform Act of 2010, the General Assembly repealed the offense of assault and battery with intent to kill (ABWIK), and created the new offense of attempted murder. *State v. King*, 422 S.C. 47, 63, 810 S.E.2d 18, 26 (2017). S.C. Code Ann. § 16-3-29 provides that, “A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder.” *Belcher* therefore applied to the offense of attempted murder.

Three years after Petitioner’s trial, the South Carolina Supreme Court held that “regardless of the evidence presented at trial, a trial court shall no longer instruct a jury that malice may be inferred from the use of a deadly weapon.” *State v. Burdette*, 427 S.C. 490, 493, 832 S.E.2d 575, 577 (2019). “A jury instruction that malice may be inferred from the use of a deadly weapon is an improper court-sponsored emphasis of a fact in evidence—that the deed was done with a deadly weapon—and it should no longer be permitted.” *Id.* at 503, 832 S.E.2d 582.

“The law to be charged must be determined from the evidence presented at trial.” *State v. Knoten*, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). “It is error to give instructions which may confuse or mislead the jury.” *State v. Rothell*, 301 S.C. 168, 169–70, 391 S.E.2d 228, 229 (1990). *See also State v. Blurton*, 352 S.C. 203, 208, 573 S.E.2d 802, 804 (2002) (same).

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. U.S. CONST. amend. VI; *Strickland v. Washington*, 466 U.S. 668, 686 (1984). The United States Supreme Court has established a two-pronged test to evaluate allegations of ineffective assistance of counsel. A petitioner must prove “that counsel’s performance was deficient” and fell below reasonable professional norms, and the deficient performance prejudiced the petitioner. *Id.* at 687. “To show prejudice, the applicant must show

that, but for counsel's errors, there is a reasonable probability the result of the trial would have been different." *Patrick v. State*, 349 S.C. 203, 207, 562 S.E.2d 609, 611 (2002). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). In determining whether an applicant has proven prejudice, the strength of the State's case is one significant factor to be considered, along with the specific impact of counsel's error and other relevant considerations. *Smalls v. State*, 422 S.C. 174, 190, 810 S.E.2d 836, 844 (2018).

"In determining whether a defendant was prejudiced by improper jury instructions, the court must find that, viewing the charge in its entirety and not in isolation, there is a reasonable likelihood that the jury applied the improper instruction in way that violates the Constitution." *Battle v. State*, 382 S.C. 197, 203, 675 S.E.2d 736, 739 (2009). *See Hill v. State*, 350 S.C. 465, 472-73, 567 S.E.2d 847, 851 (2002) (Hill's guilt of ABIK was so conclusively proven at trial that there is no reasonable probability that the trial judge's faulty ABHAN instruction would have affected the result); *Bailey v. State*, 392 S.C. 422, 437, 709 S.E.2d 671, 679 (2011) (Bailey was prejudiced by trial counsel's failure to object to erroneous jury instructions as this deficiency undermined confidence in the outcome of his trial).

The PCR court correctly found that counsel's performance was deficient. As seen, the defense's strategy was that law enforcement "provoked" Petitioner's conduct. App. 842, l. 21 - 843, l. 8. In closing arguments, defense counsel argued Petitioner did not have the requisite intent for attempted murder, and only intended to get away. App. 728, l. 8 - 729, l. 4. The testimony of Dereka Brown, Marcus Harvey, and Investigator Moore supported this argument. Petitioner was tried in 2016 and there was evidence that would reduce, mitigate, excuse or justify the conduct that comprised Petitioner's actions. *Belcher* applied, and counsel admitted she

“missed” the objection. *Belcher*, 385 S.C. at 610, 685 S.E.2d at 809. Thus, Counsel’s performance fell below reasonable professional norms. *Strickland*, 466 U.S. at 687.

However, the PCR court erroneously concluded Petitioner was not prejudiced. Notably, a law enforcement witness, Investigator Moore, testified that based on his interrogation of Petitioner, he thought Petitioner “was just paranoid and he’s trying to get away from the police[.]” App. 574, ll. 1-3. Also notable was the testimony of Dereka Brown that Petitioner’s car “backed up out of control” before it hit Officer Brown. She also said Officer Brown was “on the side” of Petitioner’s car, not “standing in the way” of it. App. 505, ll. 10-17. Dereka Brown had no dog in the fight. Similarly, Marcus Harvey, another disinterested witness, characterized Petitioner’s driving as “a little reckless.” The evidence of malice was weak—there was a reasonable likelihood the improper instruction reduced the State’s burden of proof. Petitioner was prejudiced. *See Belcher*, 385 S.C. at 611, 685 S.E.2d at 809 (“[W]e are firmly convinced that instructing a jury that ‘malice may be inferred by the use of a deadly weapon’ is confusing and *prejudicial* where evidence is presented that would reduce, mitigate, excuse or justify the homicide.”) (emphasis added).

The PCR court’s conclusion that Petitioner was not prejudiced because the jury would have relied on the testimony of Officer Brown that he saw Petitioner look in the mirror before putting the car in gear and “coming straight back for me,” was error. The PCR court essentially assigned credibility to one witness over several others based on its reading of a cold record. These witnesses were not before the PCR court. *See Thompson v. State*, 423 S.C. 235, 247, 814 S.E.2d 487, 493 (2018) (“While we defer to the PCR court’s credibility findings as to witnesses who testified before the PCR court, we do not defer to the PCR court’s credibility findings as to witnesses who did not testify before the PCR court. The PCR court reviewing the trial transcript

is in no better position than we are to determine the credibility of trial witnesses or otherwise assess the strength of the State's case[.]”). That was not the proper prejudice analysis, which is laid out *supra*.

The PCR court's similar conclusion that there was no prejudice because malice was not solely proven from the use of a deadly weapon but was instead “implied from the Applicant's actions when he made the decision to put the vehicle in reverse and gun it in the direction of Brown,” suffers from the same infirmity. This finding assigned credibility to Officer Brown's testimony while disregarding the testimony of Investigator Moore, Dereka Brown, and Marcus Harvey. It was for the jury, not the PCR court, to assess the credibility of the trial witnesses and determine whose testimony it believed.

The PCR court's order of dismissal also concluded that Petitioner was not prejudiced since he was only convicted of first-degree assault and battery as to Officer Britt. However, Officer Britt was not struck by the car. The jury was improperly told it could “infer[] malice when the deed is done with a deadly weapon”: it may have concluded there was malice as to Officer Brown because Brown was struck by the deadly weapon (the car) but there was no malice as to Officer Britt because Britt was not struck by the car. The jury's conviction on the lesser offense as to Officer Britt highlights the prejudice of the improper instruction rather than demonstrating a lack thereof.

There was a reasonable probability the erroneous instruction impermissibly lessened the State's burden of proof. *See Belcher*, 385 S.C. at 611, 685 S.E.2d at 809. (“we are firmly convinced that instructing a jury that ‘malice may be inferred by the use of a deadly weapon’ is confusing and *prejudicial* where evidence is presented that would reduce, mitigate, excuse or justify the homicide”) (emphasis added). But for counsel's error, there was a reasonable

probability the result of the trial would have been different. Petitioner has shown error and prejudice. *Battle*, 382 S.C. at 203, 675 S.E.2d at 739; *Smalls*, 422 S.C. at 190, 810 S.E.2d at 844; *Strickland*, 466 U.S. at 687.

**CONCLUSION**

Based on the foregoing argument, Petitioner respectfully requests this Court reverse the denial of PCR and remand for a new trial on the offense.

  
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ATTORNEY FOR PETITIONER

This 20th day of June, 2025.

**RECEIVED**

**Jun 20 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Richland County

Honorable Daniel McLeod Coble, Circuit Court Judge

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KEYLAN J. DURHAM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001507

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Brief of Petitioner in the above-referenced case has been served upon D. Russell Barlow, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Keylan J. Durham, #347264, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 20th day of June, 2025.



Joanna K. Delany  
Appellate Defender

ATTORNEY FOR PETITIONER

**From:** [Mcinnis, Sara](#)  
**To:** [Russ Barlow](#)  
**Cc:** [Summer Etheredge](#); [Delany, Joanna](#)  
**Subject:** 2023-001507 Keylan J. Durham v. State Brief of Petitioner  
**Date:** Friday, June 20, 2025 12:09:00 PM  
**Attachments:** AG Cover Letter - BOP.pdf  
2023-001507 Keylan J. Durham v. State Brief of Petitioner.pdf

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Good Afternoon Mr. Barlow,

Attached for service in the above-referenced case is the brief of petitioner, which will be filed with the Court of Appeals today, June 20, 2025, via email filing.

Respectfully,

**Sara McInnis**  
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