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2.) The PCR Judge erred in refusing to find that the Alford plea to voluntary manslaughter was rendered involuntary due to Investigative and Prosecutorial misconduct, where the Petitioner at the time of alleged offense was a minor of age (15), who was Intentionally kept ignorant by all parties who illegally waived his Juvenile Proceedings waiver was clearly not properly done as a "Valid" "WAIVER", a clear violation of State vs. Quattlebaum, 338 S.C. 411, 527 S.E.2d 105 (2000)

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4.) The PCR Judge erred in refusing to find that the Alford plea to voluntary manslaughter was rendered Involuntary by plea/PCR Counsel's failure to have all Alibi witnesses subpoena for Petitioner's PCR hearing in a violation of Bannister vs. State, 333 S.C. 298, 509 S.E. 2d 807 (1998) And State vs. Underwood, 309 S.C. 560, 475 S.E. 2d 20 (1992);

And Martinez vs. Ryan, 566 U.S. 1, 132 S. Ct. 1309, 182 L.Ed. 2d 272 (2012) Ineffective P.C.R. Counsel/Collateral Counsel.

5.) The PCR Judge erred in refusing to GRANT a Continuance to obtain substitute counsel and/or subpoena witnesses for Petitioner's hearing to prove his requested Alibi Defense witnesses.

6.) The PCR Judge erred in refusing to GRANT PCR for "ineffective Assistance of Counsel for failure to discuss potential defenses with Petitioner.

7.) The PCR Judge erred in refusing to GRANT PCR for ineffective Assistance of counsel for counsel's failure to provide and review discovery with Petitioner.

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9.) The PCR Judge ERRED By Accepting Petitioner's Guilty Plea when Petitioner stressed to the Court He was Actually innocent in a violation of Boykin vs. ALABAMA, 395 U.S. 238, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969); Hill vs. Lockhart, 474 U.S. 52, 106 S. Ct. 366, 88 L. Ed. 2d 203 (1985) Williams vs. Taylor, 529 U.S. 362, 120 S. Ct. 1495, 146 L. Ed. 2d 389 (2000) NORTH CAROLINA vs. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).... 47

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ISSUES PRESENTED

- 1.) Did the PCR Judge err in refusing to GRANT Petitioner relief on P.C.R. for Petitioner being misled By officers of the Court sworn in By the S.C. BAR?
- 2.) Did the PCR Judge err in refusing to GRANT Petitioner relief on P.C.R. due to Prosecutorial misconduct?
- 3.) Did the PCR Judge err in refusing to GRANT Petitioner relief due to Due Process violations; FRAUD; and obstruction of Justice?
- 4.) Did the PCR Judge err in refusing to GRANT Petitioner relief of PCR Counsel's ineffectiveness; Pursuant to MARTINEZ vs. RYAN, on failing to subpoena Alibi witness for the PCR?
- 5.) Did the PCR Judge err in refusing to GRANT a Continuance to obtain substitute Counsel AND/OR subpoena witnesses for Petitioner's Hearing to prove his requested Alibi Defense?
- 6.) Did the PCR Judge err in refusing to GRANT "PCR" for ineffective Assistance of Counsel for failure to discuss potential Defenses?
- 7.) Did the PCR Judge err in refusing to GRANT relief for Counsel's failure to Provide AND/OR review discovery with Petitioner?
- 8.) Petitioner OBJECTS to Appellate Defender Kathrine H. Hudgins Being relieved as Counsel due to her Gagging meritorious issues which arose during the PCR PROCESS making her ineffective Appellate Counsel?

9.) Did the PCR Judge err in Accepting Petitioner's Guilty Plea when Petitioner stressed to the Court that he was Actually Innocent And that he was (15) years old at the time of the alleged crime and that he did not commit it?

STATEMENT

In May of 2022, the Cherokee County Grand Jury indicted Petitioner, Donald MARTIN III, for murder, indictment # 2022-GS-11-0506. (App. pp. 41-42). On October 13, 2022, Petitioner appeared before the Honorable Keith Kelly and entered a plea, pursuant to North Carolina vs. Alford, 400 U.S. 25 (1970), to voluntary manslaughter. Jacqueline A. Moss represented petitioner at the plea. Joel A. Kozak prosecuted the case. At the time of the incident in August of 2017, Petitioner was fifteen (15) years old. (App. p. 27, lines 18-19). Plea counsel testified at the PCR hearing that, "His-his-one of his former defense attorneys waived - he waived the hearing from Family Court which put the case in General Sessions Court." (App. p. 98, lines 11-13). Judge Kelly sentenced Petitioner to twenty-five (25) years in prison. (App. p. 43). Petitioner did not appeal his sentence or conviction. On February 9, 2023, Petitioner filed an application for post-conviction relief (PCR). (App. pp. 45-51). In May of 2023, the state filed a return, partial motion to dismiss, and motion for more definite statement. (App. pp. 52-61). On November 19, 2024, an evidentiary hearing was held before the Honorable Perry H. Gravely. Rodney W. Richey represented petitioner at the PCR hearing. Shayla J. Flores represented the state. In a written order signed January 2, 2025, Judge Gravely denied relief and dismissed the application. (App. pp. 104-137). A timely notice of intent to appeal was served on January 20, 2025. Appellate Defender Kathrine H. Hudgins filed a Johnson petition for writ of certiorari dated June 19, 2025. Petitioner received notice to file a (45) Day Pro-se Petition on June 30, 2025. This Appeal follows:

ARGUMENTS

1.) The PCR Judge erred in refusing to find that the Alford Plea to voluntary manslaughter was rendered involuntary due to ineffective Assistance of Counsel by petitioner being misled by members sworn in by the S.C. BAR.

See: Boykin vs. ALABAMA, supra

Petitioner's guilty plea is involuntary and unknowingly entered into the record. Applicant's "INVALID WAIVER" at the time of age (15), Family Court Proceedings were clearly violated to the point that petitioner was incomposited and did not have a complete understanding of the consequences of the plea and/or charges against him, stressing he innocent.

2.) The PCR Judge erred in refusing to find that the Alford Plea to voluntary manslaughter was rendered involuntary due to investigative and prosecutorial misconduct, where the petitioner at the time of alleged offense was a minor of age (15), who was intentionally kept ignorant by all parties who illegally waived his Juvenile Proceedings waiver was clearly not properly done as a "Valid WAIVER", a clear violation of State vs. Quattlebaum, supra.

It's clearly prosecutorial vindictiveness, prosecutor acted with genuine animus toward the petitioner. Petitioner was incarcerated since he was (15) years old and held for (5) Five years; He went through (5) Attorneys

and S.C. Attorney General, Alan Wilson was Brought in to prosecute this case. Petitioner has always maintained his innocence and that he was not at the scene of crime; nor in the same County. That he was in Orangeburg and had an Alibi Defense, see: State vs. Quattlebaum, supra.

3.) The PCR Judge erred in refusing to find that the Alford plea to voluntary manslaughter was rendered involuntary due to Due Process violations and obstruction of Justice, and "Fraud upon the Court By officers of the Court", By not presenting all truths against Petitioner in a violation of Chewning vs. Ford Motor Company Inc, supra.

Petitioner submits that he was denied Due Process and Equal Protection and state Agencies / Law Enforcement and Prosecution failed to present all truths and clearly was "Fraud upon the Court"; By officers of the Court. see: Chewning vs. Ford Motor Company Inc, supra

4.) The PCR Judge erred in refusing to find that the Alford plea to voluntary manslaughter was rendered involuntary by plea/^{PCR}Counsel's failure to have all Alibi witnesses subpoena for petitioner's PCR hearing in a violation of Bannister vs. State, supra; State vs. Underwood; Martinez vs. Ryan, supra Ineffective PCR Counsel / Collateral Counsel.

Petitioner's PCR Counsel was Ineffective for

failing to subpoena Alibi witness for PCR Evidentiary Hearing. See: TR. T. pg. 99 lines 6 - pg. 102 lines 14, Records clear prove MARTINEZ vs. RYAN, supra; State vs. UNDERWOOD, supra; BANNISTER vs. STATE, Law clear can't win PCR if don't put witnesses on stand.

5.) The PCR Judge erred in refusing to Grant a Continuance to obtain substitute Counsel and/or subpoena witnesses for Petitioner's hearing to prove his requested Alibi Defense witnesses.

This is an Abuse of Discretion, can reverse PCR decision.
See: TR. T. pg. 99 lines 6 - pg. 102 lines 14

Record clear after PCR Counsel failed to subpoena Alibi Defense witnesses for PCR Hearing. PCR Judge failed to Grant a Continuance to get the Alibi witnesses in court at a later date, clear Abuse of Discretion.

6.) The PCR Judge erred in refusing to Grant PCR for ineffective Assistance of Counsel for failure to discuss potential defenses with Petitioner. Plea counsel failed to follow SCACR Rule 407 Rule 1.4 communication with petitioner; Rule 3.1 meritorious claims and contentions; Rule 1.3. Diligence; The 5th; 6th; 14th Amendments to the U.S. Constitution, and to Due Process and Equal Protection, Record clear that Petitioner never saw plea counsel much, Candor toward tribunal.

7.) The PCR Judge erred in refusing to Grant PCR for ineffective Assistance of Counsel for Counsel's failure to provide and review Discovery with petitioner. see: STRICKLAND vs. WASHINGTON

All (6) Attorneys that petitioner had all failed to provide the Petitioner with a whole complete Discovery.

8.) Petitioner objects to Appellate Defender Kathrine H. Hudgins Being relieved as Counsel due to her Gagging Meritorious issues which arose during the post-conviction relief process making her ineffective Appellate Counsel.

Ineffective Assistance of Appellate Counsel. Johnson vs. State, supra

Petitioner objects to Appellate Defender Kathrine H. Hudgins Being relieved as Counsel due to she gagged issues that has "merit"; There's (8) eight other issues that's Briefed that she needs to be ordered to go back and make legal arguments on.

9.) The PCR Judge erred By accepting Petitioner's Guilty Plea when Petitioner stressed to the Court he was Actually Innocent in a violation of Boykin vs. Alabama, supra; Hill vs. Lockhart supra; Williams vs. Taylor, supra; North Carolina vs. Alford, supra

see: Boykin vs. Alabama, supra; Hill vs. Lockhart, supra;
Williams vs. Taylor, supra, North Carolina vs. Alford, supra

See: Tr. T. pg. 173-175 of petitioner's testimony at the PCR. about his Alibi Defense; And about his Actual Innocence, Tr. T. pg. 65-85, proof that petitioner stressed of his innocence. The Law is clear Judges are not to Accept Guilty pleas where the petitioner/Defendant says they are Actually innocent of all charges that they are taking a plea to; And/or does he understand the charges against him. 7.

CONCLUSION

Based on the above arguments, this Court should Deny Appellate Counsel motion to be relieved and this Court should Grant the petition for writ of Certiorari to Order Appellate Counsel to go Back and Brief the issues presented that clearly Arguable issues with "MERIT"; and/or to allow further Briefing on all the Gagged issues.

Respectfully Submitted,

15/ Donald Martin III 389230

Donald MARTIN, III, #389230

Petitioner Pro-se