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Aug 28 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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Certiorari from Greenville County

The Honorable G.D. Morgan, Jr., Trial Judge

The Honorable Perry H. Gravely, Post-Conviction Relief Judge

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Appellate Case No. 2021-001436

RONNIE C. SWOFFORD,

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

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**PETITION FOR REHEARING**

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On August 13, 2025, this Court reversed and remanded Petitioner's case for a new trial in an unpublished opinion. *Swofford v. State*, Unpublished Op. No. 2025-UP-294 (S.C. Ct. App. Filed February 5, 2025).

In reversing, this Court rejected the PCR court's ruling on both *Strickland* prongs. This Court found that the PCR court erred in finding trial counsel was not deficient because he did not articulate a reasonable trial strategy for his failure to object to the State's characterizations of the stain on the wall of the victim's home as "fresh" blood. *Swofford*, at 6. This Court further found that Petitioner was prejudiced by the failure to object because it "significantly undermined Petitioner's defense," and that the prejudicial effect of the failure to object was heightened by the impeachment of the defense witnesses. *Swofford*, at 7.

Pursuant to Rule 221(a), SCACR, Respondent respectfully petitions this Court for rehearing because this Court appears to have overlooked the relevant standard for evaluating

deficiency and applied a prejudice analysis that overlooks the circumstances of the evidence in this case contrary to *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052 (1984).

To be clear, the defense theory – and Petitioner himself – did not deny that his blood or DNA was at the scene, but an explanation was offered to why it would be there. Petitioner’s defense was that he had been in the victim’s home a few days prior to the incident and that the victim accidentally shot him. Petitioner reasoned and conceded at trial that he would not be surprised his blood was found at the scene considering the prior accidental shooting. His defense rested on the assertion that the substance identified on the wall of the crime scene - that was initially purported to be blood to the naked eye - was not fresh and supported his version of events. At trial, it was confirmed that the substance was not blood at all.

This Court identifies the evidence against Petitioner to be the victim’s identification of him and the presence of Petitioner’s DNA at the scene; however, this Court merely notes hesitancy in the victim’s initial identification. The evidence, however, must be viewed as collective rather than in isolate. The victim did make an identification and important to the analysis here, the victim’s description of the shooting was consistent with the trajectory analysis that correlated with the location of the cartridge casings and the bullet hole on the wall that were identified at the crime scene. Further yet, the location of the wound on Petitioner’s arm is consistent with the victim’s description and the trajectory analysis.

The State’s reference to the “fresh” blood in closing argument cannot reasonably have damaged Petitioner’s defense more so than his own version of events that he testified to along with his witnesses that were objectively discredited. Petitioner testified that the victim had accidentally shot him days prior to the incident and rather than seek medical attention, he went home to remove the bullet from his arm and proceeded to tell various stories to explain his wound. Considering

Petitioner's version of events, it does not follow that a cartridge casing from days prior would be discovered at the scene (and in the very place victim described) in light of Petitioner's assertion that the victim did not want him to disclose that he had accidentally shot Petitioner. Either the cartridge would have been disposed of in an effort to protect the victim or another cartridge with additional DNA would have been discovered. No evidence of additional DNA from another individual was presented.

There is an understandable presumption of bias when the only corroborating testimony is from friends or family members but here, there was testimony that specifically indicated that the mother of Petitioner's child – and alibi witness - indicated that she would not tell the truth at trial and made threatening statements to another of Petitioner's witnesses in an apparent attempt to secure his favorable testimony for Petitioner. The limit in credibility was separate and apart from any forensic evidence. Further yet, an additional alibi witness testified that he felt that Petitioner was trying to manipulate him, and that he was scared to testify against him. Once again, that testimony does not relate to the forensic evidence and as discussed above, when Petitioner testified at trial, he did not contest that his DNA was found at the crime scene.

“Even if a defendant shows that particular errors of counsel were unreasonable, [ ] the defendant must show that they actually had an adverse effect on the defense.” *Strickland* at 693. Trial counsel attacked the blood evidence, but again, it does not affect the alibi. *Strickland* expressly states that it is not enough for the defendant to identify a “conceivable effect on the outcome of the proceeding” and that “not every error that conceivably could have influenced the outcome undermines the reliability of the result of the proceeding.” *Strickland* at 693. Here, the fact trial counsel did not challenge the solicitor's reference to the blood on the wall is not inconsistent with the alibi and does not denigrate the remaining evidence, including DNA

evidence. Thus, this evidence considered together with the victim's testimony shows no reasonable probability of a different result, just as the PCR court concluded. This panel's opinion fails to follow *Strickland's* established test.

Respondent respectfully submits that this Court overlooked the nature of the evidence presented in this case supporting Petitioner's conviction, and that Petitioner failed to show the outcome of his trial would have been different had trial counsel objected in the manner identified by this Court.

### CONCLUSION

For all the above reasons, Respondent petitions for rehearing pursuant to Rule 221(a), SCACR, and requests this Court grant rehearing and reinstate Petitioner's convictions.

Respectfully submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

KAYLEE C. KEMP  
Assistant Attorney General  
SC Bar No: 107073

RYAN T. KOWALSKI  
Assistant Attorney General

By:   
KAYLEE C. KEMP

P.O. Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6307

ATTORNEYS FOR RESPONDENT

August 28, 2025  
Columbia, South Carolina

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RESPONDENT.

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**PROOF OF SERVICE**

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I, **Kaylee C. Kemp**, attorney for Respondent, hereby certify that the **Petition for Rehearing** been forwarded to Petitioner's counsel, Joanna Delany, Esq., and her legal assistant, Sara McInnis via email today, August 28, 2025, at [jdelany@sccid.sc.gov](mailto:jdelany@sccid.sc.gov) and [smcinnis@sccid.sc.gov](mailto:smcinnis@sccid.sc.gov).

I further certify that all parties required by Rule to be served have been served.

This 28th day of August 2025.

**Kaylee C. Kemp**

s/

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KAYLEE C. KEMP  
Assistant Attorney General

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6307  
[kayleekemp@scag.gov](mailto:kayleekemp@scag.gov)

## Kaylee Kemp

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**From:** Kaylee Kemp  
**Sent:** Thursday, August 28, 2025 8:12 PM  
**To:** Delany, Joanna  
**Cc:** Mcinnis, Sara; Brandy Rankin; Ryan Kowalski  
**Subject:** Swofford, Ronnie - Petition for Rehearing & Proof of Service - August 28, 2025  
**Attachments:** Swofford, Ronnie - Petition for Rehearing - August 28, 2025.pdf; Proof of Service.pdf

Good evening –

Attached is the Petition for Rehearing in the matter of Ronnie Swofford along with the Proof of Service. It will be sent to the Court for filing this evening.

Kind regards,

Kaylee C. Kemp, Assistant Attorney General  
South Carolina Attorney General's Office  
Capital and Collateral Litigation Section | 803-734-6307  
P.O. Box 11549 | Columbia, SC 29211  
[kayleekemp@scag.gov](mailto:kayleekemp@scag.gov)



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