

Ben Robert Stewart, 223006
100-200 Prison Road
Enoree, S.C. 29335

RECEIVED
OCT 27 2025
S.C. SUPREME COURT

October 22, 2025

Patricia Howard, Clerk,
South Carolina Supreme Court
1231 Gervais Street
Columbia, S.C. 29201

Re: 2023-001478 Appellate Case; Review for Justices
Pursuant to 14-3-350 S.C. Code Ann; S.C. Const Art
V section 4:5; please present.

Dear Clerk:

In regards to the enclosed Petition for review for an
Individual Justice, can you please clock stamp and
return to the above address? Thank you for your
time as to this matter



Ben Robert Stewart, 223006

100-200 Prison Rd.

Enoree, S.C, 29335

October 27, 2025

Supreme Court of South Carolina

1231 Gervais Street

Columbia, S.C, 29201

Re: Appellate Case No: 2023-001478

Dear Justice:

I am a appellant who appeal was denied Jan 14, 2025, before the Supreme Court, I have enclosed a copy of the Order for your review. Also, enclosed is a Order pursuant to S.C. Const. Art V Sec. 4; 5; S.C. code ann, 14-3-350; If you agree, respectively.

1 of 2

The Petition is filed to save judicial income and time spent on matters that could be quickly resolved.

I hope the Court approve these procedures to discover that material facts been overlooked and disregarded in this instant case. see Enclosers,

Exh #4 Order of dismissal,
(Exhibit P.1 - Index to Appendix to Supreme Court dated
June 3, 2024 and Index to PCR hearing April 17,
2023) (Exh P.1.A - Supreme Court of South Carolina
Order of Certiorari, denied Jan. 14, 2024) and
Master Exhibits that should have been admitted (9 pgs)

Sworn before me 


10/22/25

Commission exp

4/14/26

2 of 2

Respectfully Submitted


Ben Robert Stewart, 223006
100-200 Prison Rd.
Enoree, S.C. 29335

RECEIVED

OCT 27 2025

S.C. SUPREME COURT

In The Supreme Court of South Carolina

Appellate Case No:
2023-001478

Eugene C. Griffith Jr. Circuit Judge

ORDER FOR REVIEW

Ben Robert Stewart, 223006

v.

State of South Carolina

Ben Robert Stewart 223006
100-200 Prison Rd.
Enoree, S.C. 29335

1 of 6

ORDER FOR REVIEW

The Appellant, Ben Robert Stewart, seeks an review of an appeal by a justice because the rules of appellate procedure was violated. see SCACR Rule 243 (f):

"Content of Appendix. The Appendix shall contain:

- (1) The entire lower court record.
- (2) A copy of the final order entered after the post-conviction proceeding.
- (3) An index setting forth the principal matters contained in the Appendix. This index shall be in the same form required for a Record on Appeal under Rule 210 (e)."

Here, the attorney submitted (1544) pgs.) but the lower court record is only (106) pgs) including (1 pg) that was actually entered into the record.

In, Atkinson v. Atkinson, 279 S.C. 454, 309

S.E.2d 14 (1983) The Court of Appeals held that remand was appropriate for de novo hearing as trial court failed to comply with rules of practice for the family courts and record was insufficient to permit adequate review on appeal.))

The Appellant attached an Exhibit P.1 that reveals that the Appendix filed June 3, 2024 with the South Carolina Supreme Court was improperly submitted due to the evidence not being admitted in the PCR trial court.

see; South Carolina Rules of Civil Procedure Rule 43 (a) Conduct of Trial. it provides;

" All evidence shall be admitted which is admissible under the statute or rules of evidence heretofore applied in the courts of this State";

Further, the fact that the Order contained evidence that was ~~not~~ admitted into the PCR court in the first instant conclude that final judgement pursuant 17-27-80 was not had. see; Order of dismissal, (attached)

(Exh #4) Therefore a remand as in Atkinson supra

is also appropriate because of the facts and circumstances warrant the need to comply with the rules of the court. see; S.C. Const Art 1. Section 3; U.S. Const 14th Amend.

John W. Kittredge C.J.,

It is Ordered

John Cannon Few .J.,

George C. James Jr .J.,

D. Garrison Hill .J.,

Letitia H. Verdin .J.,

Date _____ / .

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OCT 27 2025

S.C. SUPREME COURT

Exhibit

P. 1.

Index to Appendix to Supreme Court
dated June 3, 2024, and Index to
PCR hearing April. 17, 2023

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to York County

Honorable Eugene C. Griffith, Circuit Court Judge

BEN ROBERT STEWART,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001478

APPENDIX

SARAH E. SHIPE
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

ZACHARY W. JONES
Assistant Attorney General
P.O. Box 11629
Columbia, SC 29211

KEVIN S. BRACKETT
Solicitor, Sixteenth Judicial Circuit
1675 York Highway
York, SC 29745
(803) 628-3020

ATTORNEYS FOR RESPONDENT

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PAGES 1500-1544

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STATE OF SOUTH CAROLINA.

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CLERK, COLUMBIA, SC

2025 MAY 19 PM 3:13

BEN ROBERT STEWART,

Case numbers

Applicant,

2007-GS-46-2526

-against-

2007-GS-46-2528

STATE,

2007-GS-46-2530-32

Respondent.

2007-GS-46-2535

-----x

York, S.C.

April 17, 2023

B E F O R E:

HONORABLE EUGENE GRIFFIN

A P P E A R A N C E S:

OLA JOHNSON,

Attorney for the Applicant

ZACHARY JONES

Attorney for the Respondent

Aileen Butler

Official Court Reporter

215,

I N D E X

2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Ben. Stewart				
4	Mr. Johnson	3			
5	Mr. Jones		12		
6	Monday Bishop				
7	Mr. Johnson	14		27	
8	Mr. Jones		19		
9	Willy Thompson				
10	Mr. Jones				
11	Mr. Johnson				
12	Kenneth Snow				
13	Mr. Jones				
14	Mr. Johnson				
15	Kevin Brackett				
16	Mr. Jones				
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD</u>
S-1	Notes		45

The Supreme Court of South Carolina

Ben Robert Stewart, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2023-001478

ORDER

Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY Patricia A. Howard

CLERK

Columbia, South Carolina
January 14, 2025

cc:

Zachary William Jones

Sarah Elizabeth Shipe

Exhibit #4

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
Ben Robert Stewart, #223006,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE SIXTEENTH JUDICIAL CIRCUIT
Case No.: 2013-CP-46-3731
ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief filed by Ben Robert Stewart (“Applicant”) on December 9, 2013, and amended on November 29, 2021 and again on November 29, 2022. The Court convened an evidentiary hearing into the matter on April 17, 2023, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and represented by Ola A. Johnson, Esquire. Assistant Attorney General Zachary W. Jones, of the South Carolina Attorney General’s Office, represented Respondent.

The Court has before it Applicant’s records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the York County Clerk of Court regarding the subject convictions, the records of Applicant’s direct appeal, the pleadings and all attachments thereto. After reviewing all records and evidence before this Court, this Court finds as follows:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted at the July 2007 term of the York County Grand Jury for accessory before the fact to murder (2007-GS-46-2526), accessory before the fact to armed robbery (2007-GS-46-2528); accessory before the fact to kidnapping (2007-GS-46-2530), criminal conspiracy (2007-GS-46-2531), possession of a firearm during the commission of a violent crime (2007-GS-46-

1. Appellate counsel was ineffective for failing to cite trial court error in denying a directed verdict because guilt beyond a reasonable doubt could not be established on the evidence adduced.
2. Appellate counsel was ineffective for failing to raise the issue that no rational jury could have found guilt beyond a reasonable doubt on the evidence adduced at trial.
3. Appellate counsel was ineffective for failing to argue due process was denied because the evidence adduced at trial violated the *Winship* rule of establishing every element of the crime charged beyond a reasonable doubt.
4. Trial counsel was ineffective on the sufficiency of the evidence motion when he failed to argue that the DNA evidence excluded Applicant, rendering it physically impossible for him to have been present to commit the crimes charged.
5. Trial counsel was ineffective for failing to conduct a proper investigation when he failed to interview Monday Bishop and Val Hudson, who would have testified that Reed Allen was lying when he stated Applicant gave Allen the murder weapon and told him to hide it, and who would have contradicted testimony that Applicant's co-defendants Davorious Mack and Terrell Addison came to Bishop's apartment on the night in question.
6. Trial counsel was ineffective for failing to use compulsory process to call witnesses on Applicant's behalf to offer relevant, material, pertinent and exculpatory evidence. To wit: Trial counsel failed to call Val Hudson, who also would have testified that Applicant's co-defendants did not come to Bishop's apartment and that Applicant never spoke to Allen or gave him a bag to hide.
7. Trial counsel was ineffective for failing to put the prosecution's case to meaningful adversarial testing, such that there was an actual breakdown of the adversarial process during trial.
8. Applicant was denied effective assistance of trial counsel and a fair trial due to the cumulative effects of counsel's ineffectiveness.
9. Trial counsel was ineffective in misstating the evidence when he stated Monday Bishop's house was Reed Allen's house, bolstering Allen's testimony and giving the false impression that Applicant had a close relationship with Allen.
10. Withdrawn.
11. Withdrawn.
12. The solicitor knowingly used perjured testimony.
13. It was prosecutor misconduct in suppressing *Brady* material, i.e., Monday Bishop's exculpatory statement to the solicitor.
14. The solicitor knowingly misstated the evidence to mislead the jury and the court during closing argument when he falsely conflated the absence of Applicant's DNA and fingerprints in the vehicle with the absence of Dontavious Mack's DNA and fingerprints.

On November 29, 2021, Applicant, through counsel, filed an amended application raising the following issues:

1. Counsel failed to discuss a defense strategy with Applicant.
2. Counsel failed to review evidence with Applicant or provide a copy of the evidence.



submitted to it by the parties, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

Ineffective Assistance of Counsel, Generally

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons

1. Allegations related to Applicant's claim that the DNA evidence obtained from the vehicle exonerated him;
2. Allegations related to Applicant's claim that Monday Bishop's story contradicted Reed Allen's testimony implicating Applicant as an accomplice to the murder.²

The Court finds that all these allegations can be resolved based on the fact that the DNA evidence did *not* exonerate Applicant and that Monday Bishop's story was *not* materially inconsistent with Reed Allen's testimony at trial.

1. DNA evidence did not exonerate Applicant

Applicant's criminal charges stem from the shooting of Ned Marshall, a clerk at a convenience store, during an armed robbery. According to the State's theory of the case, on October 10, 2006, Applicant and three co-conspirators—Davorius Mack, Dontavious Mack, and Terrell Addison—drove to Rock Hill from Hartsville looking for a place to rob. They settled on the BP convenience store. After parking the car nearby, the group decided that Terrell and Dontavious would go into the store to rob it, while Applicant and Davorius waited in the car. Dontavious did not have a gun, so Applicant gave him his gun, a 0.380 semi-automatic pistol. Dontavious and Terrell, wearing masks, entered the store and demanded cash from the clerk, Marshall. Eventually, Marshall produced a revolver and exchanged shots with Dontavious. Marshall was ultimately killed by two shots from the 0.380 Applicant had given to Dontavious. Dontavious was shot in the back-left shoulder as he and Terrell fled from the store.

² Applicant's original application and Allegation 5 of his first amended application also mention Val Hudson as a potential witness Trial Counsel allegedly failed to interview. However, Applicant did not produce her testimony at the evidentiary hearing. Therefore, he has failed to prove Trial Counsel was ineffective for failing to interview or call her. *See, e.g., Martin v. State*, 427 S.C. 450, 455, 832 S.E.2d 277, 279–80 (2019) (holding a PCR applicant who claims trial counsel was ineffective for failing to call certain witnesses must produce those witnesses or their testimony at the PCR hearing).

the shooting, he, Davorius, and Applicant went to Monday Bishop's apartment. Reed Allen was at the apartment and was given a brown bag.

Applicant did not testify. Following deliberations, the jury found Applicant guilty of criminal conspiracy; possession of a weapon during the commission of a violent crime; and accessory, before and after the fact, to murder, armed robbery, and kidnapping.

Applicant now claims he could not have been present in the car with the other conspirators because he was excluded as a contributor to a DNA sample obtained from the car. Specifically, Applicant contends he was excluded as a contributor to DNA on items 26 and 30.2, namely, a yellow straw and a cigarette butt taken from the vehicle. (Trial Tr. p.750). Applicant contends this evidence incontrovertibly proves that he could not have been present in the car, contradicting the testimony of Dontavious, Davorius, and Terrell.

On the contrary, the Court finds this portion of the DNA report cannot be construed as incontrovertible proof that Applicant was not present in the car. Investigator Mike Williams testified that only two items from the vehicle, a yellow straw and a cigarette butt, were tested against the DNA sample taken from Applicant. The mere fact that Applicant was excluded as a contributor to those items does not mean Applicant was not in the car at all; it only means the DNA that was recovered from those items did not belong to Applicant. It is possible that Applicant was in the car but simply did not touch the items from which the DNA samples were taken.³ In other words, the DNA evidence was not necessarily inconsistent with the testimony of Dontavious,

³ There was evidence introduced at trial that the conspirators were wearing gloves at the time of the robbery and that Applicant gave some gloves to Reed Allen to hide along with the murder weapon. From this evidence, it is inferable that Applicant could have been in the car wearing gloves, which would easily explain why his fingerprints and touch DNA were not found inside the car. Regardless, fingerprints and DNA could only be found in the parts of the car where investigators checked for such evidence; therefore, even if Applicant was not wearing gloves, he could have been in the car without leaving any fingerprints or DNA evidence in those places.

Trial Counsel testified at the evidentiary hearing that he spoke extensively with Monday Bishop prior to the trial because she is Applicant's sister. He testified that she never told him anything that would have made her a useful witness for the defense. Walter W. Thompson, who prosecuted Applicant, testified at the evidentiary hearing that he did not remember speaking to Monday Bishop except briefly at the courthouse just before Applicant's trial. He testified she told him that she did not know anything about what happened on the night of the murder, that she was asleep, and that she did not hang around with Applicant's associates. Thompson recorded his conversation with Bishop in a handwritten note.

The Court finds, based on the credible testimony of Trial Counsel and Thompson, that Trial Counsel had no reason to believe Monday Bishop's testimony would have been helpful to the defense. Both testified consistently that Bishop did not appear to know anything material about what happened the night of the murder. Monday Bishop admitted that she was asleep, just as she had told Thompson; therefore, naturally, she would not have noticed what happened at her apartment after she fell asleep. Therefore, even if she had testified at Applicant's trial, it is not likely that the result of Applicant's trial would have changed. Accordingly, Applicant has failed to establish either ineffective assistance on the part of Trial Counsel from failing to properly interview Monday Bishop or call her as a witness. Applicant has also failed to establish a *Brady*⁴ violation by the prosecution related to Monday Bishop's pre-trial conversation with the solicitor, which contained nothing exculpatory or favorable to the defense.

Applicant also complains that Trial Counsel "misstated the evidence" because he referred to Monday Bishop's house as Reed Allen's house. However, Reed Allen was concededly staying

⁴ *Brady v. Maryland*, 373 U.S. 83 (1963).

deficient as to this allegation. In addition, Applicant has failed to explain what other defense strategies he could have pursued had Trial Counsel discussed the matter more thoroughly with him or how those strategies might have led to a different outcome. Therefore, Applicant has failed to prove he was prejudiced by Trial Counsel's alleged deficiency. Accordingly, the Court finds Applicant has not met his burden of proving ineffective assistance of counsel as to this allegation.

2. Failure to review evidence with Applicant or to provide evidence

Trial Counsel credibly testified that Applicant received a copy of the evidence and that Trial Counsel went over the evidence with him. Therefore, the Court finds Applicant has failed to prove Trial Counsel was deficient. In addition, to prove prejudice from failure to review discovery, a PCR applicant must present some new evidence or defenses that could have been discovered by counsel's further review of the discovery. *Harris v. State*, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), *abrogated on other grounds by Smalls*, 422 S.C. 174, 810 S.E.2d 836. Furthermore, an applicant must also show how the new evidence or defenses would have resulted in a different outcome. *Id.* (citing *David v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Id.*, 377 S.C. at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)). In this case, Applicant has not explained how further review of the evidence would have resulted in a different outcome at trial. The strongest evidence against Applicant, ultimately, was the testimony of his co-conspirators, rather than any physical or photographic evidence. Therefore, the Court also finds Applicant has not met his burden of proving prejudice.

gell

The Court finds that the questions were not leading. Therefore, Trial Counsel was not deficient for failing to object to those questions.

9. Failure to object to hearsay by Davorius Mack

Applicant claims Trial Counsel should have objected to the following testimony by Davorius Mack as hearsay: “[Dontavious] told me to come to his girlfriend’s house . . . and take Terrell Addison home.” (Trial Tr. p.333). The Court finds this testimony is not hearsay because hearsay is a statement offered to prove the truth of the matter asserted, and Dontavious’s words cited in this portion of Davorius’s testimony do not constitute an assertion. *See* Rule 801(c), SCRE. Trial Counsel, therefore, had no grounds to object to this testimony as hearsay. Similarly, Terrell Addison’s statement “Let’s stick” was not an assertion, and therefore was not objectionable on hearsay grounds. (Trial Tr. p.338). In addition, Applicant has not proved he was prejudiced by the failure to object because the challenged testimony is not material to any of the substantive issues at Applicant’s trial; in fact, Applicant is not even mentioned anywhere in the statements, and neither of the statements refer to the robbery or murder of Ned Marshall. Therefore, the Court finds this allegation is without merit.

10, 11, 12, and 13. Failure to object to hearsay by Reed Allen

Applicant contends Trial Counsel should have objected to the following statements by Reed Allen as inadmissible hearsay:

- “[Applicant] told me to put it up” (i.e., to hide the murder weapon—Trial Tr. p.515); this is not an assertion, but a verbal act by Applicant constituting the crime of accessory after the fact to murder. *See, e.g., N.L.R.B. v. Lexington Chair Co.*, 361 F.2d 283, 288 n.5 (4th Cir. 1966). In addition, these words by Applicant are

finds Applicant has not met his burden of proving either deficiency or prejudice as to this allegation.

15. Failure to move to sever the trials of Applicant and Terrell Addison

Applicant claims Trial Counsel was ineffective for failing to move to sever his trial from the trial of his co-defendant, Terrell Addison. The Court finds that there was no prejudice from failing to sever the trials, because all the evidence that was presented against Applicant at the joint trial could have been presented at an independent trial. *See Hughes v. State*, 346 S.C. 554, 552 S.E.2d 315 (2001) (holding counsel was not ineffective for failing to sever a defendant's trial from his co-defendant's trial where the same evidence would have been presented at an independent trial). In this case, as in *Hughes*, Applicant's co-defendant took the stand and was, therefore, subject to cross-examination. Therefore, there was no confrontation clause violation from trying both co-defendants together. Accordingly, the Court finds Applicant has failed to prove ineffective assistance of counsel as to this issue.

16 and 17. Failure to object to jury instruction that malice may be inferred from the use of a deadly weapon.

Applicant claims Trial Counsel should have objected to the trial court's jury instruction that malice may be inferred from the use of a deadly weapon; Applicant also claims Appellate Counsel was ineffective for failing to challenge that instruction on appeal. This instruction was not held to be improper until *State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019), more than ten years after Applicant's trial.⁵ Trial Counsel, therefore, had no grounds to object to the trial

⁵ *State v. Belcher*, 385 S.C. 597, 685 S.E.2d 802 (2009), predated *Burdette*, but its holding was limited to cases in which there was evidence to excuse, justify, or mitigate the homicide, such as self-defense or adequate legal provocation; no such evidence existed in this case. Regardless, *Belcher* came out in October 2009, whereas Applicant's trial was held in February 2009, so *Belcher* was also not in effect at the time of Applicant's trial.

SEM

time served for the duration of his Pennsylvania sentence. Applicant has not explained why he should receive credit for that entire time, contrary to the express intent of the trial court. Accordingly, this Court finds Trial Counsel not ineffective as to this allegation.

2. Failure to challenge removal under the Interstate Agreement on Detainers

Applicant contends his removal from Pennsylvania to South Carolina was barred by the Interstate Agreement on Detainers ("IAD"), S.C. Code Ann. § 17-11-10 Art. VI(b), which prohibits removal of persons adjudged to be mentally insane. Applicant did not provide any evidence supporting his claim to have been adjudged "mentally insane" as that term is defined by the IAD. Regardless, the Court finds that, after Applicant was actually removed to South Carolina, the IAD did not bar his prosecution. Therefore, Trial Counsel's alleged failure to properly challenge Applicant's removal did not affect the result of Applicant's trial. Accordingly, Applicant has failed to prove either deficiency or prejudice as to this allegation.

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MASTER Exhibits Numbers

9 pgs total

Exhibits

- #1. Post Conviction Relief Application filed, Dec. 9, 2013,
- #2. Memorandum of law Support of Post Conviction Relief, Dec. 9, 2013,
- #3^A. First Amendment to PCR Application, November, 24, 2011,
- #3^B. Second Amendment to PCR Application, November, 25, 2011,
- #4. Order of Dismissal, filed August 25, 2023,
- #5. Order Granting Post Conviction Relief Application,
- #6. Amended Return, filed July 2015, Conditional Order of Dismissal April
- #7. Notice Affidavit And Motion For Expedited PCR, Jan 8, 2016
- #8. Petition For Writ of Habeas Corpus, Nov 6, 2012 - Dec. 12, 2012,
- #9. Verified Complaint, For Writ of Mandamus, Prohibition, Expedited Review filed Jan 2015.
- #10. Applicants Return to Conditional Motion to Dismiss, filed May 2014.
- #11. Request for Contempt to Circuit Judge, Eugene C. Griffith regarding Attorney Ola A. Johnson dated
- #12. Request for Appellate Defender, Sarah E. Shipe for Certiorari, pursuant to Fishburn v. State, 71.1(g), 17-27-80 sccode ann and 28 USC 2254 (b) and (c)
- #13. Request for Solicitor, Kevin S. Brackett, to sanction Deputy Solicitor Walter Thompson for conspiring and intentionally committing misconduct.
- #14. Request for Appeal Claims proper and secondary adjudication at Department of Corrections pursuant to G.A. 01-10. Defense of Indigent, 17-3-10 et. seq. I.A.D. appeal claims argued pursuant to SCDC policies, State, Federal

Exhibits

- #14. cont., dated March 19, 2024, Also Request to Attorney Sarah E. Shipe, Esquire, from Exh #12 Request, a Rule 60 b motion request dated March 13, 2024
- #15. Power of Attorney re; Cases) Appellate case No: 2009-142106; PCR No: 2010-CP-46-0661; PCR No: 2013-CP-46-3731; Appellate case No: 2023-001478, dated March 31, 2024 (for competency)
- #16. Notice to York County Clerk office for filing criminal charges against (Monday Bishop, James Blakney) (obstruction of justice etc.) dated April 1, 2024
- #17 Appellate Attorney Sarah E. Shipe request for A.G. file request re; Fishburn v. State PCR transcripts request
- #18. PCR Attorney ~~General~~ ^{General}, Ola Johnson request, correcting my case re; Fishburn v. State.
- #19 Attorney General, Zachary Jones, request re Fishburn v. State, 427 S.C. 505, 832 S.E.2d 584 (2019), request to agreement for remand.
- #20. The Honorable Eugene C. Griffith, (PCR Judge) request - inquest, judicial notice re; Fishburn v. State, 427 S.C. 505, 832 S.E.2d 584 (2019).
- #21. Inmate Grievance Step 1.
- #22. PCR hearing, April 17, 2023 (105 pgs not including note)
- #6. Return from the State 2014
- #23. Affidavit and Limited, Power of Attorney, Darlene Lee,
- #24. Affidavit Motion For Default And Cause for Dismissal Rule 55(e) SCRCP, Rule 55(a) filed July 3, 2024 Motion To Relieve Counsel, Affidavit and Motion to Proceed without Cost filed July 3, 2024

Master Exhibits Number



Exhibits

#25. Affidavit and Declarations of Facts for Exhibit dated June 28, 2024,

#25. Affidavit Motion To Relieve Counsel And Vacate or Remand For Default.

#25. Subpoena Duces tecum June 27, 2024

#25 Petition For Leave To file Motion 60(b)
June 24, 2024

#25 Motion For Substitution of Parties
July 18, 2024

STATE OF SOUTH CAROLINA

County of YORK

Ben Robert Stewart, HK-9369

V.
State of South Carolina

) IN THE COURT OF COMMON PLEAS

) 2013 CP 46, 373, 1

) CONCLUSION OF FACTS AND
) MEMORADUM OF LAW IN SUPPORT
) OF APPLICATION FOR
) POST-CONVICTION RELIEF
)
)

TABLE OF EXHIBITS

~~1 of 2~~

PG

EXHIBIT

A-1 Monday Bishop Affidavit Dated January 4, 2013 (three pages)21,22,23,28,30

A-2 Lawanda (Val) Hudson Affidavit Dated February 22, 2013 (two pages)21, 23

A-3 Reed Allen Statement dated 27 October 2006..... 25

A-4 South Carolina Law Enforcement Division Forensic Services Laboratory Report
(six pages)9,13,18-20

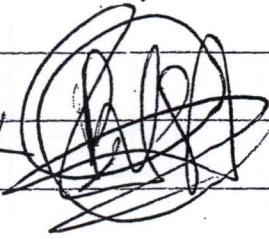
A-5 Letter from Counsel Kenneth Snow dated *February 17, 2009*27.

A-6 SCI-Frackville agreeing to host Video Conferencing for the South Carolina Court.....32

FILED-RECEIVED
 2013 DEC 9 PM 3:42
 DAVID HAMILTON
 C.C.P. & GS
 YORK COUNTY, SC

B- Table of Exhibits

- B1 Pennsylvania Bureau of Disability Determination, Dated, 1-20-06
- B2 Pretrial Prose Emergence Writ of Habeas Corpus, Dated, 2-6-09, filed, 2-12-09
- B3 Direct Indictments, Dated, July 19, 2009 nine total
- B4 Philadelphia District Attorney office letter Dated, 2-6-07
- B5 Extradition Forms filed with South Carolina Governor's office. Dated, 3-17-08
- B6 York County Clerk of Court letters Dated, 9-16-09/9-24-09/10-29-09
and Receipt for general session file Dated, 10-20-09
- B7 South Carolina Department of Mental Health
- B8 Pennsylvania Sentencing Sheet, for completion of term, 1-27-23
- B9 Judge, John C. Hayes, III, letter scheduling Habeas Corpus, 2-11-09
- B10 February 11, 2009 Pretrial hearing, York County, 23 pgs. transcript
- B11 September 17, 2008 Pretrial hearing, Union County, 29 pgs. transcript
- B12 Lawanda (Val) Hudson, Obituary Dated, July 12, 2019.
- B13 Ola A. Johnson, Esquire, letter - Notice of Appeal Dated Sep. 24, 2023.
- B14 Applicants Post Conviction Relief Proposal nonfiled
- B15 Receipt of Applicant's Post Conviction Relief Proposal shipped via
mail on 4-19-23/4-21-23 to Ola A. Johnson for, 4-17-23 - April 17,
2023 Post Conviction Relief hearing at York County, Postage \$9.80
- B16 Pretrial Habeas Corpus, transcript - pgs 31-54, February 23, 2009
- B17 Clerk of Court, Angie Bryant, returned filings notices, Dated,
October 25, 2023 and November 17, 2023 and July 19, 2024
- B18 South Carolina Department of Corrections Policies OP. 21-04, Section(s)
28.4.6/ 28.4.7 and 28.4.9
- B19 Petition For Rehearing and Memorandum in Support
- B20 SCDC Form 19-14. Request to Staff Member, Dec. 7, 2023

- B-21 State Order of Continuance, April 11, 2022
- B-22 Ola Johnson, Esq., Letter dated October 22, 2020
- B-23 South Carolina Law Enforcement Division, DNA
Analysis Report September 12, 2008
- B-24 Motion For Limited Discovery dated December 26,
2019
- B-25 Ola Johnson, Esq., Letter dated December 7,
2021
- B-26 ~~Declaration of Peter Coffey dated,~~ 

~~304~~

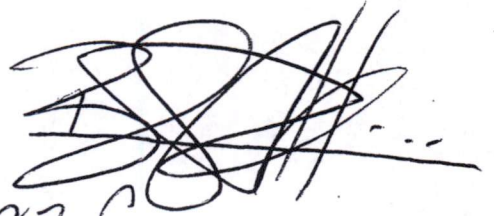
C-Table of Exhibits

- C1 Rule 59 Motion, Prose, nonfiled
- C2 Complaint to Disciplinary Counsel Case No: 23-DE-L-1670 against Ola A. Johnson, Esquire, Robert M. Dudek, Esquire, Walter Thompson, Solicitor, Kenneth D. Snow, Esquire, Angie Bryant, Clerk of Court York County.
- C3 Letter to Appellate Attorney Robert M. Dudek dated
- C4 Notice of Appeal
- C5 Ola A. Johnson letter to the Appellate Defense, Indigent Division dated
- C6 Motion for Appointment of outside Counsel, Amended Petition against Attorney Dudek conflict of interest, Motion Affidavit and Cause for Appointment of Counsel and Declaration and Affidavit of facts for Cause.
- C7 Cash Slip Receipt for Postage to Wanda Carter, Re; Appeal claims extradition. #5¹⁰
- C8 Anders Brief filed by Wanda Carter, dated
- C9 Letter from Disciplinary Counsel Daniel Hayes dated
- C10 Inspector General Complaint filed
- C11 Indigent Defender Letter dated Nov. 30, 2023 by,
- C12 Indigent Defender Letter dated Jan. 9, 2024 by,
- C13 Order from South Carolina Supreme Court, Re; Appointment of Counsel dated January 10, 2023 actual date year 2024 regarding Exh C6
- C14 Notice of Appeal
- C15 Letter From Ola A. Johnson dated April 3, 2022 Re; Discovery
- C16 Order From South Carolina Supreme Court, Re; Review denial of Counsel appointment for outside representation, Jan 29, 2024 regarding Exh C6
- C17 Order From South Carolina Supreme Court, Re; Motion Affidavit of fact for Cause. January 31, 2024 regarding Exh C6

- C-18 General Counsel notice and Request to Staff 19-11 Form, Re; Interstate Agreement on Detainers, SCDC policy violation, ADA unlawful transfer notice, dated February 19, 2024
- C-19 Governor's office notice for invalid I.A.D proceedings dated February 17, 2024
- C-20 Social Security inquire for misconduct from State officials.
- C-21 Notice dated and Respond to Supreme Court of South Carolina re: procedural errors. April 18, 2024 Fishburn proposal

Exhibit D. Tower v. Glover Case Law 469 U.S. 914 (1984)

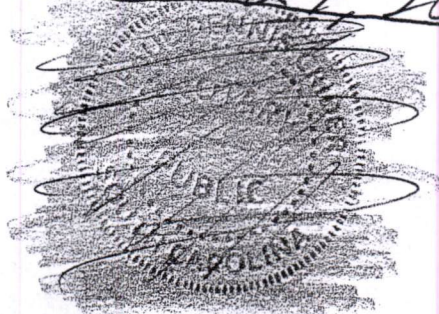
I, Ben Robert Stewart, hereby swear that the motions presented herein are included in this table of exhibit.



SWORN before me on MAY 15, 2025

Paul Dennis Curo

Expires on JAN 24 2035



I, swear Ben Robert Stewart, upon adding exhibits they are:

1. Exhibit P1 (Index to Appendix to Supreme Court dated June 3, 2024 and Index to PCR hearing April 17, 2023)
2. Exhibit E. (Petition Affidavit for leave to file Amendment July 30, 2025 with Affidavit)
3. Exhibit E. 1 (Affidavit Motion For Issuance of Execution of Judgment 30, 2025, July)
4. Exhibit P. 1. A. (Supreme Court of South Carolina Order of Certiorari, denied January 14, 2025) Letter Affidavit re; CANDAR Toward Tribunal violation dated July 10, 2025 and SUPreme Court of South Carolina letter dated July 21, 2025 denying jurisdiction)

Ben Robert Stewart, 223006
100-200 Proven Rd
Eunee S.C. 29335



US POSTAGE
ZIP 29335 \$003.28⁰
02 48
0000373866 OCT 23 2025

RECEIVED
OCT 27 2025
S.C. SUPREME COURT

South Carolina Supreme Court
1231 Gervaw Street
Columbia, S.C. 29201

RECEIVED
OCT 23 2025
TIGER RIVER MAILROOM

3.21

