

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Jan 14 2026

S.C. SUPREME COURT

CERTIORARI TO CHARLESTON COUNTY

Court of Common Pleas

The Honorable Jocelyn Newman, Circuit Court Judge

Case No. 2022-CP-10-00798

Gregory K. Green, #299039,

PETITIONER,

v.

State of South Carolina,

RESPONDENT.

Appellate Case No.: 2025-000800

JOHNSON PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

1. DID THE PCR COURT ERR IN FINDING COUNSEL EFFECTIVE WHEN COUNSEL FAILED TO REQUEST A FRANKS¹ HEARING WHEN THE DETECTIVE INDICATED HE HAD MORE INFORMATION THAN HE DID ON THE AFFIDAVIT FOR THE WARRANT?

¹ Franks v. Delaware, 438 U.S. 154, 98 S.Ct.2674 (1978).

STATEMENT OF THE CASE

During the June 2017, term the Charleston County Grand Jury indicted the Petitioner for murder (2017-GS-10-06993); arson, second degree (2017-GS-10-06995); and possession of a weapon during the commission of a violent crime (2017-GS-10-06994). Assistant Public Defenders Taylor J. Stewart and Teresa L. Norris represented the Petitioner. (Trial Counsel) Assistant Solicitors Thomas R. Waring, II, and John W. Sowards prosecuted the case. (App. p. 1.)

On November 4-7, 2017, Petitioner proceeded to trial before the Honorable Perry M. Buckner. Petitioner was convicted on murder and possession of a weapon during the commission of a violent crime. Petitioner was acquitted of the arson charge. Petitioner was concurrently sentenced to forty years for the murder and five years on the weapon charge. (App. pp. 1-800; 1223-1226.)

A timely Notice of Appeal was filed and an appeal was perfected. Deputy Chief Appellate Defender Wanda H. Carter represented the Petitioner and filed an Anders² brief on his behalf. (App. p. 820.) Petitioner filed briefs in support of his appeal on or about October 9, 2020. (App. p. 834.) The South Carolina Court of Appeals affirmed the Petitioner's conviction and sentence in an unpublished opinion. State v. Green, 2022-UP-034. (App. p. 962.) The Remittitur was sent on March 3, 2022. (App. p. 964.)

On February 17, 2022, Petitioner timely filed his post-conviction relief application. (App. pp. 966-974.) Respondent filed its Return on or about August 16, 2024, requesting an evidentiary hearing. (App. pp. 975-984.) The post-conviction

² Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967).

relief hearing was held on December 17, 2024, before the Honorable Jocelyn Newman at the Charleston County Courthouse. Petitioner was represented by Christopher L. Murphy, Esquire. Assistant Attorney General Danielle Dixon represented the State. (App. p. 985-1093) Judge Newman denied the Petitioner's application by written order filed on April 11, 2025. (App. pp. 1198.) This petition follows.

STANDARD OF REVIEW

The reviewing court defers to the PCR court's factual findings and will uphold them if supported by any evidence in the record. Smalls v. State, 422 S.C. 174, 179–181, 810 S.E.2d 836, 839 (2018). Furthermore, the reviewing court affords great deference to a PCR court's credibility findings. Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012). Questions of law are reviewed *de novo*, and this court will reverse the PCR court if its decision is controlled by an error of law. Jamison v. State, 410 S.C. 456, 465, 765 S.E.2d 123, 127 (2014).

STATEMENT OF THE FACTS

Summary of the Facts from the Anders Brief of Appellant (App. p. 826)

On June 8, 2017, Freeman Rivers was found dead in his home. The autopsy report revealed that Rivers died from four bullet wounds to his head. At trial, Terrance Doucet testified that he received a message from the Petitioner that he needed a ride so he went to a house in North Charleston to pick him up. When Petitioner got into Doucet's car, Doucet noticed that Petitioner had blood on his shirt and had a gun in his hand. Doucet admitting to suggesting to setting fire to Rivers' house after Petitioner said he left a "blunt lit" in the home.

Rivers' neighbors, Johnathan Seabrook and Kendyl Rice both state that they saw people going in and out of Rivers' house around 3am that morning and then saw Rivers' house on fire. Seabrook added that he saw a car that belonged to Doucet driving in the neighborhood at the same time. Seabrook referenced the name "Kone" in connection with the car he saw.

Lanica Walker testified that Doucet told her he was going to pick someone up around 3:45am on the morning Rivers was killed and that Doucet told her the guy he picked up was bloody when they got into the car. At some point Doucet was shown a line-up and he picked Petitioner out of the photographs.

Ultimately, a cigarette butt was found in the trash outside Rivers' residence. It was analyzed for DNA and the results indicated that the DNA of both Petitioner and Rivers were on it.

ARGUMENT

The PCR court erred in finding trial counsel was effective when counsel failed to request a Franks hearing when the detective indicated he had more information than he actually did on the affidavit for the warrant.

When reviewing a claim for ineffective assistance of counsel, the "court proceeds from the rebuttable presumption that counsel 'rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.'" Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (*quoting* Strickland v. Washington, 466 U.S. 668, 690 (1984)). To rebut this presumption and succeed on an ineffective assistance claim, a PCR applicant must show (1) trial counsel's performance was deficient, and (2) trial counsel's deficient performance prejudiced the outcome of the trial. Strickland, 466 U.S. at 687.

"To prove trial counsel's performance was deficient, a [PCR] applicant must show '[trial] counsel's representation fell below an objective standard of reasonableness.'" Smalls, 422 S.C. at 181, 810 S.E.2d at 840 (*quoting* Williams v. State, 363 S.C. 341, 343, 611 S.E.2d 232, 233 (2005)). In Petitioner's case, had trial counsel requested a Franks hearing, the Detective's underlying credibility would have been more thoroughly challenged. In Franks, the Court set forth the following test:

1. To mandate an evidentiary hearing, the challengers' attack must be more than conclusory and must be supported by more than a mere desire to cross-examine. There must be allegations of deliberate falsehood or reckless disregard for the truth, and those allegations must be accompanied by an offer of proof; and
2. If these requirements are met, and if, when material that is subject of

the alleged falsity or reckless disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required.

Id at 554, 524 S.E. 2d at 397.

Trial counsel testified at the PCR hearing that she felt the detective had credibility issues and wanted to impeach him at trial. (App. p. 1051, l. 10-14.) Regardless, Detective Sanchez showed a reckless disregard for the truth when he was signing off on an affidavit that showed false information or information not in his possession, and when he stated he was just writing down what another officer was telling him to put in the affidavit. (App. pp. 600-606; 607-615; and 622.) Had counsel requested a Franks hearing, the warrant would have been suppressed and the Solicitor would have had to dismiss the case or attempt to reindict using only the information that was available at the time the arrest warrant was requested.

Therefore, this Court should grant the application for post-conviction relief and order a new trial.

CONCLUSION

For the foregoing reasons, Petitioner submits this Court should grant the Petition for Writ of Certiorari and reverse the convictions and sentence and the case remanded for a new trial.

Respectfully submitted,



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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Gregory K. Green states:

1. She is a member of the South Carolina Bar and was appointed to represent the Petitioner.
2. She has reviewed the records and transcripts of Petitioner's post-conviction relief hearing which was held on December 17, 2024. In her opinion seeking certiorari from the Order of Dismissal is without merit.
3. She has, pursuant to Johnson v. State, 294 SC 310, 364 SE2d 201 (1998), briefed the one arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Mr. Hunter.

Respectfully submitted,



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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of her ability this Johnson Petition for a Writ of Certiorari complies with SCACR 11(b) and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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