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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

Honorable George M. McFaddin, Circuit Court Judge

TRENTON M. BARNES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001267

PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Does a prior holding by the Court of Appeals on direct appeal of harmless error regarding the impact of the testimony from prison informants regarding the identity of the "Trigg and Trap" assailants involved in a murder prevent the assertion of ineffective assistance of counsel on handling that improper admission of the testimony when it was both inadmissible as hearsay and improper under Rule 602, SCRE, when additional evidence is submitted during the PCR evidentiary hearing surrounding prejudice?

STATEMENT

During a joint trial from November 10 – 19, 2014, Trenton Barnes and Lorenzo Young were convicted by a jury of murder, kidnapping, second-degree burglary, and attempted armed robbery. State v. Barnes, 421 S.C. 47, 51, 804 S.E.2d 301, 303–04 (Ct. App. 2017). At trial before the Honorable Robert E. Hood, petitioner was represented by Mark Schnee while Young was represented Tracey Pinnick, Stephen Krzyston, and Jacqueline Bambach. App. 1. Dolly Garfield, Luck Campbell, and Nicole Simpson prosecuted the case. App. 1. At the time of trial, petitioner was sixteen years old.[1]

By order of this Court, petitioner's trial counsel Mark Schnee was disbarred due to "numerous instances of misconduct combined with [Schnee]'s deception of his clients, the courts, and ODC . . ." Matter of Schnee, 432 S.C. 500, 514–15, 854 S.E.2d 840, 847 (2021). This fact was not brought to the attention of the PCR court during the evidentiary hearing before the Honorable George M. McFaddin. Joshua Edwards, appearing on behalf of the state, told the PCR court that Schnee was no longer practicing law in South Carolina and could not be served for appearance. App. 1954, ll. 8 – 19.

During trial, Schnee failed to object to the state's two prison informants providing hearsay testimony regarding the identity of "Trigg" and "Trap" as persons committing the crimes with Young. Due to his failure to object, the issue was not preserved as noted by the Court of

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[1]During trial, the guidelines for sentencing minors changed due to Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). Consequently, Barnes was sentenced during a subsequent hearing on December 12, 2014, to allow consideration of the Aiken factors. In fact, there was no mental health evidence, nor any other expert testimony offered during the sentencing hearing. App. 1974 25, ll. 2 – 22. The "extensive" sentencing hearing referenced by Garfield consisted of testimony of a teacher from Alvin S. Glenn who had petitioner in class for 50 days, petitioner's mother, a written DJJ intake evaluation, and school records the court had to obtain for counsel Schnee since his effort to obtain the records was not in the proper form. App. 1889, ll. 9 – 18.

Appeals in with petitioner's direct appeal. *See* State v. Barnes, 421 S.C. 47, n.1, 804 S.E.2d 301, n.1 (Ct. App. 2017).

At the original PCR hearing, Petitioner testified "the actual identities of the two individuals from an unknown source that was never mentioned, and Mark Schnee never objected to that." App. 1959, l. 17 – 1960, l. 1. The issue surrounding the introduction of "Trigg" and "Trap" had also been listed as an aspect of trial counsel's ineffective assistance in petitioner's original PCR application, but the specific page containing those allegations had been improperly scanned and were not available at the original PCR hearing. Judge McFaddin originally denied relief and dismissed the application by written order but failed to address the issue regarding the identity of "Trigg" and "Trap." App. 1982 - 2014.

This Court, upon motion of Respondent, remanded the matter to Judge McFaddin for a hearing on the claims of ineffective assistance of counsel by written order dated August 13, 2024. A supplemental evidentiary hearing was held before Judge McFaddin on January 16, 2025. App. 2040. Petitioner's appellant counsel, Gary Johnson, appeared on his behalf and D. Russell Barlow represented the state. App. 2041.

Evidence presented at the January 16, 2025, hearing centered on the prejudicial impact of the admission of "Trigg" and "Trap" with testimony being provided by both petitioner and Latoya Barnes, petitioner's mother. Judge McFaddin filed an additional order of dismissal dated August 15, 2025. App. 2089. Petitioner filed a Rule 59, SCRCP, motion seeking reconsideration dated August 21, 2025. App. 2105. Judge McFaddin denied reconsideration by written order dated October 27, 2025. App. 2113. An additional notice of appeal was filed seeking a petition for certiorari.

This petition follows.

ARGUMENT

A prior holding by the Court of Appeals on direct appeal of harmless error regarding the impact of the testimony from prison informants regarding the identity of the "Trigg and Trap" assailants involved in a murder does not prevent the assertion of ineffective assistance of counsel on handling that improper admission of the testimony when it was both inadmissible as hearsay and improper under Rule 602, SCRE, when additional evidence is submitted during the PCR evidentiary hearing surrounding prejudice.

"A criminal defendant is guaranteed the right to effective assistance of counsel under the Sixth Amendment to the United States Constitution." Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). To establish a claim for ineffective assistance of counsel, a PCR applicant must show (1) counsel's performance was deficient because it fell below an objective standard of reasonableness and (2) there is a reasonable probability that, but for counsel's errors, the result of the proceeding would have been different. Strickland v. Washington, 466 U.S. 668 (1984). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997).

The identity of "Trig" and "Trapp" at trial.

A key element of the case against petitioner came in the form of the identity of "Trigg" and "Trap." Two prison informants provided testimony at trial that co-defendant Young admitted he committed the murder with the aid of "Trigg" and "Trapp."

Alfred Wright testified as follows:

> That [Young] was with two other individuals that [Young] called Trigg and Trap, *and I later got their names from somebody else, but not from him. He just gave me their nicknames*. He said they went to rob a club, but the club was closed, so they went next door to a bakery where Trap stayed outside as a look out and he and

Trigg went in. A woman resisted when they demanded for money and swung a knife at them, and he shot her two times.

App. 936, ll. 5 – 13 (emphasis added).

Without objection, Wright then testified as to who "Trig" and "Trap" were:

Q. Did you learn who Trigg was?

A. *I was told by someone else, not him, that Trigg was Troy Stevenson and Trap was Trenton Barnes* and they were both brothers.[2]

Q. They were both brothers?

App. 936, ll. 17 – 21 (emphasis added).

A second prison informant, Michael Schaefer, also relayed testimony about conversations with co-defendant Young:

Q And specifically did [Young] ever talk to you about why he was in jail?

A Yes.

Q And specifically did he give you any details concerning a murder that occurred at a particular bakery?

A Yes.

Q Can you share with the jury what he told you?

A He told me that ---

MR. SCHNEE: Judge, I'm going to object based on the prior hearsay objections.

THE COURT: All right. Overruled. Go ahead.

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[2] There are inconsistent connections to petitioner being "Trigg" or "Trapp" due to the lack of foundation and personal knowledge. As such, petitioner is identified at times as "Trigg" as in the PCR court's order. App. 1989. At other times, petitioner is associated with "Trapp" as in Wright's testimony. App. 936, ll. 17 – 21. Regardless of which nickname was connected to petitioner, the prejudicial impact would be the same.

App. 1109, l. 20 – 1110, l. 6.

> Okay, he said him and two other people by the name of Trap and Trigg went out to rob a nightclub in the area, but it was closed. They saw the bakery was opened. They took that as an opportunity to go in. The woman was in there. He said she went for a knife and she was struggling so she shot her twice. He fled the scene. He said he was wearing a red hoodie and jeans.

App. 1110, ll. 10 – 17.

Again, without additional objection Schaefer was allowed to provide the identity of "Trap" and "Trigg":

> Q. And you just mentioned Trap and Trigg. Did you know who those individuals were?
>
> A. No, it wasn't until later on. I just knew them by their nicknames.
>
> Q. And did you determine later who Trap and Trigg were?
>
> A. Yeah.
>
> Q. Who was Trap?
>
> A. A 16-year-old kid named Troy. Yeah, Troy.
>
> Q. A 16-year-old?
>
> A. Yes.
>
> Q. Did you understand who Trigg was?
>
> A. That's Trenton, Trenton Stevens.[3]

App. 1111, ll. 3 – 15.

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[3] Due to the witness's lack of personal knowledge, we are left to assume he is referring to petitioner Trenton Barnes and not his brother Troy Stevenson as to which is in fact "Trigg" or "Trap."

How the issue was raised at PCR.

During the original evidentiary hearing, petitioner testified as to the prejudicial impact of having two separate witnesses confirm his identity through a nickname as being associated with Young during commission of the crimes:

> Mark Schnee, he basically failed to test the credibility of the witness testimony when the witness was allowed to testify stating that co-defendant Young confessed -- confessed the crime to him, stating that he was alongside two defendants -- two individuals in a crime by the name of Trigg and Trap, but the trial judge allowed him to testify that he got the name -- *the actual identities of the two individuals from an unknown source that was never mentioned, and Mark Schnee never objected to that.*

App. 1959, l. 17 – 1960, l. 1.

In addition, petitioner's original PCR application referenced this as hearsay within hearsay testimony as a denial of his rights under the confrontation clause. App. 1929. In discussing the "Trigg" and "Trap" issue during the original evidentiary hearing, Solicitor Garfield stated Schnee had objected to such hearsay.

> Q. Okay. And you don't have any recollection of Mr. Schnee attempting to block that testimony or make an objection regarding his testimony about statements made by a co-defendant identifying people, Trigg and Trap, and all that testimony? You don't remember Mr. Schnee –
>
> A. I felt like there was extensive objections from Mr. Schnee to exclude such hearsay. That's my memory.

App. 1976, ll. 16 – 22.

During the remanded evidentiary hearing, the State focused on the concept that trial counsel's objection to "hearsay" as both prison informants began their testimony had preserved this issue on appeal and that it was in fact addressed during direct appeal:

> And Your Honor, it was objected to it just wasn't objected to under 602, it was objected to under Rule 804 B, believe I'm correct three.

> And he objected each time that they went to speak on what someone told them and, in each instance, it was the informant telling them the Court who told them what -- about Trig and Trapp.
>
> There's three instances of it. He objected each and every time just under 804B3 not under 602. So, the argument here today is more on the lines of -- it should be more on the lines of was trial counsel ineffective first for not objecting under rule 602 as well.

App. 2064, ll. 8 – 19.

Counsel for the state argued the matter was addressed during direct appeal:

> And Your Honor, in the Court of Appeals opinion they stated in the last paragraph of Subsection 'Even if Wright and Shafer's testimony have been limited to Young's inculpatory statements. The State overwhelmingly proved Barnes was one of the people who entered the kitchen and shot at victim.'

App. 2065, ll. 5 – 10.

Counsel for petitioner showed the PCR court how trial counsel's initial objection to hearsay was insufficient to cover the later testimony from the witnesses regarding the identity of "Trigg" and "Trap." Trial counsel did, in fact, raise an initial objection when the informants began to relate what co-defendant Young told them:

> Q So Mr. Young actually asked you for some help with the legal portion of his case?
>
> A Yes, ma'am.
>
> Q In that process, tell us what occurred and what you learned.
>
> A He told me that he was with two other individuals and that ---
>
> *MR. SCHNEE: Objection, Your Honor. My prior hearsay objection.*
>
> *THE COURT: Overruled.*

App. 935, ll. 16 – 25.

Certainly, this objection preserved the general objection that any testimony from Wright as to what Young told him was hearsay as to petitioner and this issue was raised on direct appeal and ruled upon by the Court of Appeals.

> The portions of Wright and Schaefer's testimony that relate Young's mention of "Trigg" and "Trap" as his accomplices were not admissible as statements against Young's interest. To be sure, "a statement is not per se inadmissible simply because the declarant names another person." Fuller, 337 S.C. at 245, 523 S.E.2d at 172. Nevertheless, we have never found a statement in which a declarant implicates—rather than merely names—another admissible under Rule 804(b)(3). The rule only grants admission of statements against the declarant's penal interest. Statements that are against the penal interest of an accomplice do not qualify for the simple fact that the accomplice is not the declarant.

State v. Barnes, 421 S.C. 47, 55–56, 804 S.E.2d 301, 306 (Ct. App. 2017). Notably, the Court of Appeals stated that "it is unclear how Wright and Schaefer's testimony concerning how they learned the identities of "Trigg" and "Trap" complied with Rule 602, SCRE." Barnes, 421 S.C. 47, fn. 1, 804 S.E.2d 301 fn. 1. Admittedly, the Court of Appeals ultimately held that the trial court erred in admitting the testimony regarding "Trigg" and "Trap" but that any such error was harmless: "Even if Wright and Schaefer's testimony had been limited to Young's self-inculpatory statements, the State overwhelmingly proved Barnes was one of the people who entered the kitchen and shot at Victim." Id., 421 S.C. at 56, 804 S.E.2d at 306.

Petitioner, during the remanded evidentiary hearing, sought to address two aspects of this holding by the Court of Appeals before the PCR court: the lack of personal knowledge from the informants regarding the identity of "Trigg" and "Trap" and the alleged harmless impact of this testimony before the jury. Specifically, petitioner argued counsel was ineffective in basing his objection solely on hearsay grounds and not renewing the objection when the informants

expanded their testimony regarding the identities of "Trigg" and "Trap" beyond their own personal knowledge. App. 2061, l. 14 – 2062, l. 12.

Petitioner also admitted new evidence surrounding the quality of the identification of petitioner by his mother and the explanation for the handwritten "confession" by petitioner. Ms. Barnes testified that she felt coerced into picking out one of her sons from the video and the video was shown to the PCR court during Ms. Barnes' testimony to confirm the grainy quality that raised doubts regarding the overwhelming nature of this evidence from the original trial. App. 851, l. 2 – 852, l. 18; 884, ll. 16 – 23; 2047, l. 15 – 2048, l. 7; State's Ex. 323.[4]

Ms. Barnes testified that the video in question, played during the remanded hearing, was not of sufficient quality to identify anyone.

> Q. Okay. And did they show you a video at trial? Did you see the video at trial that they sent you to pick your son out of from the head down to toes?
>
> A. No. Yes, that's what they said but I didn't pick a video out.
>
> Q. Right. Could you identify your child on that video?
>
> A. No, sir.
>
> Q. Okay. Now the clothing, there was issues about clothing that night, the color of the clothing, that type. That may be similar on that video but the actual quality of the video, would you have been able to pick anyone out?
>
> A. No, sir.
>
> MR. JOHNSON: Okay. Thank you. Your Honor that was the video introduced as a part of the trial just for the Court's purpose.
>
> THE COURT: Yes, sir.
>
> MR. JOHNSON: The two individuals are seen coming in.

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[4] State's Ex. 323 has been transported and is available for review by this Court.

THE COURT: All right, sir.

App. 2047, l. 15 – 2048, l. 7.

Petitioner testified regarding the source of the information for his alleged confession and his motivation in protecting his older brother and incorrect belief that his youth insulated him from the full impact of the alleged "confession."

> Q. Very quickly, Mr. Barnes. Your letter but Troy's words?
>
> A. Correct, sir. I was also informed by my brother how to go about doing that.
>
> Q. And at the time you were 16?
>
> A. Correct, sir?
>
> Q. Is it in the back of your mind that you were going to be treated as a juvenile?
>
> MR. BARLOW: Your Honor, I'm going to object to leading, Your Honor.
>
> THE COURT: Sustained.
>
> BY: MR. JOHNSON.
>
> Q. Okay. Did your age play a factor in writing that letter?
>
> A. I mean, of course my brother told me I wasn't going to get in trouble because I was 16 and I felt the same way like I was a child so I listened to him.

App. 2057, l. 18 – 2058, l. 9.

Due to his youth, petitioner felt family pressure to write the letter to assist his older brother under the mistaken belief his youth was a shield. App. 2051, l. 13 – 2052, l. 18; App. 2058, ll. 7 – 9.

Petitioner asserted that this evidence, combined with the lack of overwhelming evidence of guilt, justified granting a new trial. App. 2062, l. 24 – 2063, l. 22. The impact of the

"harmless error" finding on direct appeal was addressed, with petitioner arguing that the evidence admitted during remand specifically addressed those aspects of the record on direct appeal that the Court of Appeals relied upon in making that finding. App. 2067, l. 14 – 2068, l. 15.

How the PCR court ruled.

Ultimately, the PCR court found that while a Rule 602, SCRE, objection regarding the identity of "Trigg" and "Trap" would have been proper, trial counsel made a sufficient objection regarding the hearsay nature of the testimony to allow appellate review. App. 2102. According to the PCR court, trial counsel's handling of the "Trigg" and "Trap" testimony was imperfect but competent under Strickland v. Washington, 466 U.S. 668 (1984). App. 2102. Moreover, the PCR court ruled that since the Court of Appeals had already deemed the admission of the evidence harmless, prejudice could not be established. App. 2102-2103.

How the PCR Court erred.

In essence, the PCR court has ruled that once an appellate court rules on the impact of improperly admitted evidence, issues surrounding the admission of that evidence may never be addressed in the PCR setting. However, this finding ignores the change in circumstances that surround a PCR application from a direct appeal. During direct review, the Record of trial has been closed and review is only on how the trial proceeded. *See* Fountain v. Fred'S, Inc., 436 S.C. 40, 51, 871 S.E.2d 166, 172 (2022)(noting the "evidence to support this finding is not included in the record on appeal, and under our de novo standard of review, we are unable to reach the same conclusion."); Rule 210(h), SCACR ("Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.").

By contrast, in the PCR setting the purpose of the evidentiary hearing is to allow the submission of relevant evidence that establishes the applicant is entitled to the relief sought. "The court may receive proof by affidavits, depositions, oral testimony or other evidence and may order the applicant brought before it for hearing." S.C. Code Ann. § 17-27-80 (1976 as amended). In fact, this Court will remand a matter to the PCR court for failing to address a properly raised issue from the evidentiary hearing. *See* Fishburne v. State, 427 S.C. 505, 516, 832 S.E.2d 584, 590 (2019) (holding the "PCR judge must carefully review the proposed order to ensure it includes appropriate findings of fact and conclusions of law as to all issues raised.").

Here, the PCR court erred as a matter of law in finding trial counsel could not have been ineffective surrounding the admission of this testimony as a matter of law due to the conclusion from the Court of Appeals *on direct appeal* that the admission of testimony regarding the identity of "Trigg" and "Trap" was harmless error. This is an improper application of *res judicata* and requires reversal. *See* State v. Gilbert, 277 S.C. 53, 58, 283 S.E.2d 179, 181 (1981) (noting "allegations that their confessions should have been suppressed have been considered by this Court and resolved adversely to the appellants. These matters are therefore *res judicata*."); Brown v. State, 343 S.C. 342, n. 1, 540 S.E.2d 846, n. 1 (2001)[5] (noting "in a PCR action, the doctrine of *res judicata* does not apply to issues of subject matter jurisdiction.").

Petitioner would concede the logic and holding in Gilbert would prohibit argument on the prejudicial impact of the admission of the identity of "Trigg" and "Trap" *had the record before this Court remained static*. However, the entire purpose of an action in the PCR setting is to expand the record and evidence before the Court so that claims of ineffective assistance of counsel and resulting prejudice can be viewed in the context of evidence presented during the

[5] Overruled by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005) regarding the impact on challenges to an indictment based upon subject matter jurisdiction claims.

PCR evidentiary hearing as well as the review of the original trial record. The PCR court failed to properly consider the additional evidence presented regarding the prejudicial impact of the admission of this testimony, as noted below. In fact, the PCR court found the evidence submitted on petitioner's behalf regarding prejudice to be "outside the scope of remand" and therefore considered it "relevant" only to credibility. App 2101 n. 1. As noted below, this finding should be reversed and the prejudicial impact of the improperly admitted evidence acknowledged.

Prejudice.

During closing, solicitor Simpson went back to the identity of "Trig" and "Trapp."

> You heard from Alfred Wright who testified that Young approached him in the law library. I believe he was researching this stand your ground for another inmate. At that point he said he learned that three people went to rob a club. Three people, but it was closed, so they went to rob the bakery next door. Young and Stevenson, A/K/A Trigg entered with guns. She resisted and Young shot two times. They didn't get any money. Said Little Trap, A/K/A Trenton was the lookout. It's 1 here I'll remind you because this is the testimony that will become important. It doesn't matter if Trenton was just the lookout. Although, I submit the other evidence in this case shows that he actually is the one, by his own admission, that went into that bakery, but either way, it doesn't matter. The hand of one is the hand of all.

App. 1745, l. 17 – 1746, l. 8.

> Michael Schaefer, Young. Same dorm, played cards. Young told them that he *along Trap and Trigg, we later learned their names*, went out to rob a club, said he was wearing a red hoodie. . .

App. 1747, ll. 11 – 14.

> Young and Stevenson A/K/A Trigg, entered with guns, she resisted and Young shot two times. They didn't get any money. Little Trap A/K/A Trenton was the lookout. Again, three individuals, the hand of one is the hand of all. It doesn't matter if it was Trenton or Troy, but in this case I submit supports Trenton as the shooter.

App. 1757, ll. 11 – 17.

The state even relied upon the identity of Trigg and Trap in their statement of facts to the PCR court. App. 1941-1942. The PCR court used the identity of "Trigg" and "Trap" in its order. App. 1989.

While the statements from petitioner's mother provided to investigators implicated petitioner, she denied the truth of those statements during trial and relayed the pressure she was placed under by authorities who indicated one of her two sons was going to need to take the fall. App. 851, l. 2 – 852, l. 18; 884, ll. 16 – 23. A letter, written in handwriting both petitioner's mother and the state's expert connected to petitioner, may properly be read as solely an attempt to protect petitioner's brother Troy.[6]

The state's case was built around the statements Young made to prison informants implicating himself and "Trig" and "Trapp" along with the letter trying to protect petitioner's brother Troy. This case does not present overwhelming evidence of guilt that would support a finding that trial counsel's failure to object to witnesses identifying petitioner and his brother as "Trigg" and "Trap" was not prejudicial. *See* Smalls v. State, 422 S.C. 174, 189, 810 S.E.2d 836, 844 (2018) (holding for overwhelming evidence to serve as a categorical bar to preclude a finding of prejudice, the "evidence must include something conclusive, such as a confession, DNA evidence demonstrating guilt, or a combination of physical and corroborating evidence so strong" that the prejudice test cannot possibly be met.). The PCR court's outright rejection of the evidence presented during the evidentiary hearing to overcome the "harmless" impact of the

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[6] Petitioner at the PCR hearing denied writing the letter introduced during his trial and testified that Schnee failed to contest the validity of the letter or properly deal with its admission during his trial. App.1963, ll. 12 – 25. At the time the letter was written, petitioner was 16 years old, and his mother had been told one of her sons needed to take the fall to save the other. App. 884, ll. 16 – 23. The letter should be viewed in that context.

improperly admitted evidence requires reversal. This error was addressed to the PCR court in the motion to reconsider. App. 2105 - 2111. The evidentiary record before the PCR Court and now before this Court was expanded to address the two key elements of "overwhelming" evidence noted by the Court of Appeals on direct appeal: the handwritten confession and petitioner's identification by his mother. *See* State v. Barnes, 421 S.C. 47, 56, 804 S.E.2d 301, 306 (Ct. App. 2017) (noting the impact of "Barnes' letter to his mother confessing to the crime; his mother's identification of him as the person wearing the gray sweatshirt in the surveillance video; and the timeline of Barnes' whereabouts on the night of the shooting.").

During the PCR evidentiary hearing, petitioner addressed the handwritten letter. Petitioner acknowledged writing the letter to assist his older brother who was also being charged for the same offense. App. 2051, l. 16 – 2052, l. 18. This pressure by law enforcement for the family to pick one of the brothers finds support in the original trial transcript and during the remanded PCR evidentiary hearing. App. 2046, l. 7 – 4047, l. 21. The note certainly worked in favor of petitioner's brother, since it was admitted during his separate trial which resulted in an acquittal. App. 2048, ll. 9 – 21. As to the identification issue, the PCR court watched the surveillance video and heard the testimony from petitioner's mother regarding the "quality" of her alleged identification. App. 851, l. 2 – 852, l. 18; 884, ll. 16 – 23; 2047, l. 15 – 2048, l. 7; State's Ex. 323.[7]

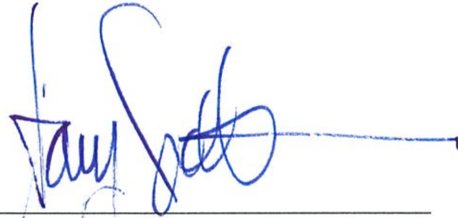
Combined, this new evidence addressed the harmless error holding regarding the improper admission of the "Trigg" and "Trap" evidence. The PCR court erred in simply applying res judicata on the original finding by the Court of Appeals of harmless error. The prejudicial nature of allowing prison informants to identify petitioner as "Trigg" and his brother

[7] State's Ex. 323 has been transported and is available for review by this Court.

Troy as "Trap" without objection by trial counsel requires the reversal of the PCR court and granting of a new trial. *See* Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 745 S.E.2d 97 (2013).

CONCLUSION

Based upon the foregoing, petitioner respectfully requests that this Court grant the writ of certiorari to allow full briefing on this issue, or remand for further findings of fact and conclusions of law under Fishburne v. State, 427 S.C. 505, 832 S.E.2d 584 (2019).



Gary H Johnson
Appellate Defender

ATTORNEY FOR PETITIONER

This 5th day of February, 2026.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of his ability this Johnson Petition for Writ of Certiorari complies with Rule 211(b), SCACR, 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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This 5th day of February, 2026.