

Terrell McCoy 256070  
BRCI WAA # 241  
4460 Broadriver Rd  
Columbia SC 29210

February 9, 2026

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FEB 13 2026  
SC Court of Appeals

The South Carolina Court of Appeals  
Post office Box 11629  
Columbia SC 29211

RE: Terrell McCoy v. The State of SC  
Appellate Case No. 2024-00060

Dear clerk, Enclose please find McCoy's  
Supplemental Citation to support petition pursuant to  
Rule 208 (7) SCACR. I have also enclosed proof  
of service as evidence of service upon the parties.

2-9-26

/s/ Terrell McCoy 256070  
BRCI WAA # 241  
4460 Broadriver Rd  
Columbia SC 29210

I sent two copies of Supplemental Citation, Can you return  
me a file copy. Thank you

/s/ Terrell McCoy

## SUPPLEMENTAL CITATION

Al-shabazz v. State 338 S.C. 354, 527 S.E. 2d 742 (2000)

Ard v. Catoe 372 S.C. 318, 331, 642 S.E. 2d 590, 596 (2007)

Case v. Nebraska 381 U.S. 336, 85 S.Ct. 1486, 14 L.Ed. 2d 422

Cherry v. State, 300 S.C. 115, 386 S.E. 2d 624 (1989)

Dempsey v. State 363 S.C. 365, 369, 610 S.E. 2d 812 2005

Eberhardt v. Integrate Design & Constr. Inc. 167 F. 3d 861, 871 (4th Cir. 1999)

Ford v. State 314 S.C. 245, 442 S.E. 2d 604 (1989)

Gatling v. Beach Palace, Inc., 294 S.C. 464, 365 S.E. 2d 736 (Ct. App. 1988)

Glover v. State 318 S.C. 496, 458 S.E. 2d 538 (1995)

Lewis v. State 439 S.C. 635, 889 S.E. 2d 570 (2023)

McDaniel v. U.S. Fidelity and Guar. Co. 324 S.C. 639, 478 S.E. 2d 868 (1996)

Moorehead v. State 329 S.C. 329, 446 S.E. 2d 415 (1988)

Riddle v. State, 308 S.C. 361, 418 S.E. 2d 308 (1992)

Strickland v. Washington 466 U.S. 668, 687

Thomas & Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291, 457 S.E. 2d 2d 340  
343, (1995)

Underwood v. State 309 S.C. 560, 425 S.E. 2d 20 (1992)

Walker v. State 407 S.C. 406, 756 S.E. 2d 144 (2014)

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON  
Court of Common Pleas

Roger Young, Circuit Court Judge

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Appellate Case No 2024-000601

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Terrell McCoy

Appellant

v.

State of South Carolina  
Respondent

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Supplemental Citation

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Pursuant to Rule 208 (7), the following significant authorities has come to the attention of Appellant:

Case V. Nebraska 381 U.S. 336, 85 S.Ct 1486, 14 L.Ed. 2d 422

Appellant was denied a PCR hearing on his pretrial counsel ineffective assistance of pretrial counsel claim. The PCR court deprived Appellant of his due process of law under the Fourteenth Amendment, S.C. Code Ann. §§ 17-27-10-160. Pursuant to Rule 208(7) SCACR, these supplemental citation support the issue the judgment is void under Rule 60 (B)(4), SCRCP in Appellant's petition. See: Eberhardt v. Integrate Design and Constr., Inc, 167 F.3d 861, 871 (4th Cir. 1999.)

(An order is void "For purpose of Rule 60(B)(4) only if the Court rendering the decision lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process of law.)

Medaniel v. U.S. Fidelity and Guar. Co. 324 S.C. 639, 478 S.E. 2d 868 (1996) (The definition of "void" under the rule only encompasses Judgment from Courts which failed to provide proper due process...)

Gatling v. Beach Palace, Inc., 294 S.C. 464, 365 S.E. 2d 736 (Ct. App. 1988) (percuriam) (Holding that the reasonable time requirement does not apply to 60(b)(4) because a void judgment is a nullity and thus may be attacked at any time); "A void judgment is one that, from its inception, is a complete nullity and is without legal effect"

Thomas & Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291, 457 S.E. 2d 340, 343 (1995)

Alshabazz v. State 338 S.C. 354, 527 S.E. 2d 742 (Post Conviction relief process created by the states are the result of the United States Supreme Court's determination that the fourteenth Amendment may require the states to afford state prisoners some adequate corrective process for the hearing and determination of claims of violation of federal constitutional guarantees. See Case v. Nebraska, supra. (After the Court granted Certiorari to determine this question, the Judgment in Case was vacated and remanded to be heard in light of new statute providing a post-conviction proceeding.

Here, the September 14<sup>th</sup> 2015 order is evidence no evidentiary hearing was held regarding claims against pretrial Counsel Lorelle Proctor. During the Sept. 9<sup>th</sup> 2015 Summary Judgment hearing, Judge Hyman granted PCR Counsel permission to file an Amended PCR. (See Record on Appeal, Sept. 9<sup>th</sup> 2015 Summary hearing transcript pg 20 through page 21) PCR Counsel filed the Amended PCR on Dec. 4, 2015. (Record on Appeal, Dec. 4, 2015 Amended PCR application)

On Dec. 14, 2015, during the start of PCR hearing, PCR Counsel called Lorelle Proctor as a witness and the state objected. (Record on Appeal, Dec. 14, 2015 PCR hearing transcript pages 4 through pages 7)

McCoy never waived his opportunity to be heard on claims against pre-trial Counsel during PCR. Nevertheless, the PCR Judge ruled he did and denied relief. (Record on Appeal, June 14, 2019 Amended Order of dismissal page 10 of 21) The June 14, 2019 order is void under Rule 60(B)(4) for due process of law violation.

Under *Al-Shabazz*, supra. PCR Counsel introduced affidavit of Kriston Neely to show a genuine issue of material fact exist requiring an evidentiary hearing. (Record on Appeal, Dec. 14, 2015 PCR hearing transcript pages 39 line 4-25, pg 40 line 1-10, affidavit of Kriston Neely) See also *Lewis v. State* 439 S.C. 635, 889 S.E.2d 570, 2023

McCoy claims against pretrial counsel failure to investigate was not mere speculation but supported by affidavit of Kriston Neely. (Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result. *Moorehead v. State* 329 S.C. 329 446 S.E.2d 415 (1988) *Glover v. State* 318 S.C. 496, 458 S.E.2d 538 (1995) *Cherry v. State* 300 S.C. 115, 386 S.E.2d 624 (1989) Applicant's allegation alone will not support a finding of prejudice when applicant claims counsel was ineffective for failing to investigate witnesses, instead, applicant must show the result of an investigation would have resulted in a different outcome at trial. *Strickland v. Washington*, 466 U.S. 668, 687

The facts that pretrial counsel last administrative act to subpoena witness decided by Judge Dennis is not mere speculation, but supported by the January 27, 2009 waiver hearing record, page 29 line 8-25)

Pretrial counsel did not subpoena Jenie Fowler, nor Terence Prizzie. McCoy was unable to correct pretrial counsel error. *Lewis v. State*, supra During trial pretrial counsel stated that there were two person's name Jenie Fowler and that she subpoena the wrong person. Appellant stated he believed there was only one. (Record on Appeal, Feb. 2, 2009 T.T pages 632 line 10-15)

McCoy after discovered a evidence reveal it was only person name Jenie Fowler employed at NCPD during his trial. (Record on Appeal, August 2, 2013 Letter of Beth Woodall, legal department) SCRE Rule 901(a)

During Summary Judgment, PCR Counsel explained pretrial counsel failed to subpoena Appellant's witness as directed by Judge Dennis. (Record on

Appeal, Sept. 9<sup>th</sup> 2015 Summary Judgment transcript page 16 through pages 21)

See Affidavit of Terence Prizzie, dated April 27, 2023.

Ms. Proctor did not investigate nor Subpoena Terence Prizzie. The ~~Solicitor~~ & Mrs. Proctor were aware Appellant gave an alibi statement to police on March 27, 2006. (Record on Appeal, Feb. 2, 2009 T.T. page 83 line 22-25, page 84 line 1-5)

Without an evidentiary hearing, Appellant was deprived of the right to present evidence and witnesses to prove prejudice under Strickland v. Washington, *Supra*. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E. 2d 590, 596 (2007) "A PCR applicant cannot show that he was prejudiced by counsel's failure to call a favorable witness to testify at trial if that witness does not later testify at the PCR hearing or otherwise offer testimony within the rules of evidence." Dempsey v. State 363 S.C. 365, 369, 610 S.E. 2d 812, 814 (2005). "The Applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, 318 S.C. 496, 499, 458 S.E. 2d 538, 546 (1995) Underwood v. State 309 S.C. 560, 425 S.E. 2d 20 (1992)

As shown above, PCR counsel called Loretta Proctor as a witness, and the State objected. The PCR court granted the State's objection. When McCoy attempted to comment on Loretta Proctor failure to obtain discovery the State objected again. (Record on Appeal, Dec. 14, 2015 PCR hearing transcript pages 45)

Affidavit of Terence Prizzie, show McCoy was not in North Charleston on March 25, 2006 at 5:45 am, but was in Blakeney, Georgia. Making it physically impossible for him to have committed the crime. Riddle v. State, 308 S.C. 361, 418 S.E. 2d 308 (1992) Pretrial failure to give an alibi defense under Rule 5(e) SCR Crimp, Ford v. State 314 S.C. 245, 442 S.E. 2d 604 (1994) Walker v. State 407 S.C. 400 756 S.E. 2d 144 (2014) (counsel has a duty to make reasonable investigation or to make reasonable decision that make particular investigation unnecessary, one component of that duty is to investigate alibi ~~identified~~ identified by defendant)

THE STATE OF SOUTH CAROLINA  
IN The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

SC Court of Appeals

Roger Young, Circuit Court Judge

Appellate Case No. 2024-000601

Terrell McCay,  
Appellant

v.

State of South Carolina  
Respondent

Proof of Service

I certify that I have served the Supplemental Citation on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on February 9, 2026 addressed to the attorney general's office at SC Attorney general's office PCR Division, PO Box 11549, Columbia SC 29211

2-9-2026

s/ Terrell McCay  
BRCI WAA #241  
4460 Broadriver Rd  
Columbia SC 29210

LEGAL MAIL

Terrell McCay 256070  
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Columbia SC 29210



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